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CHAPTER 1—OFFICE OF EDUCATION

§§ 1, 2. Repealed. Pub. L. 92–318, title III, § 301(b)(2)(A), June 23, 1972, 86 Stat. 332

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

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

EFFECTIVE DATE OF REPEAL

Section 301(b)(2)(A) of Pub. L. 92–318 provided that the repeal is effective July 1, 1972.

EXECUTIVE ORDER NO. 11185

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 No. 11661, Mar. 24, 1972, 37 FR 6281, which provided for the coordination of federal education programs, was superseded by Ex.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

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 Repealed.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

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

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 Repealed.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

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

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

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 Repealed.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

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

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 Repealed.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

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

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

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

Section 11, acts Feb. 23, 1917, ch. 114, § 1, 39 Stat. 929; Ex. Ord. No. 6166, § 15, June 10, 1933; 1939 Reorg. Plan No. I, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, § 301, title V, § 507, 93 Stat. 677, 692, related to annual appropriations for payments to States for teaching agricultural, trade, home economics, and industrial subjects.

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

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

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

SHORT TITLE

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

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

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

§§ 15 to 15g. Omitted

CODIFICATION

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

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

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

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

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

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

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

Section 15j, acts June 8, 1936, ch. 541, § 3, 49 Stat. 1489; Aug. 1, 1946, ch. 725, title I, § 101, 60 Stat. 775; Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 925; Aug. 8, 1956, ch. 1039, § 2, 70 Stat. 1126, authorized appropriations for programs in vocational education in agriculture, home economics, trades and industry, distributive occupations, and fishery trades.

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

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

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

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

EFFECTIVE DATE OF REPEAL

Section 103 of Pub. L. 90–576 provided that the repeal is effective July 1, 1969.

§ 15n. Omitted

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

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

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

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

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

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

EFFECTIVE DATE OF REPEAL

Section 103 of Pub. L. 90–576 provided that the repeal is effective July 1, 1969.

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

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

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

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

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

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

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

Section 15gg, act Aug. 1, 1946, ch. 725, title II, § 207, as added Aug. 2, 1956, ch. 871, title III, § 301, 70 Stat. 928, provided that amounts paid under sections 15aa to 15jj of this title should in no way affect the availability of funds for practical nurse training under sections 11 to 15, 16, and 18 to 28 and sections 15i to 15m and 15*o* to 15q of this title.

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

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

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

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

EFFECTIVE DATE OF REPEAL

Section 103 of Pub. L. 90–576 provided that the repeal is effective July 1, 1969.

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

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

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

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

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

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

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

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

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

EFFECTIVE DATE OF REPEAL

Section 103 of Pub. L. 90–576 provided that the repeal is effective July 1, 1969.

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

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

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

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

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

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

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

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

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

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

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

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

Section 25, acts Feb. 23, 1917, ch. 114, § 15, 39 Stat. 936; Ex. Ord. No. 6166, § 15, June 10, 1933; 1939 Reorg. Plan No. I, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424;

1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Oct. 17, 1979, Pub. L. 96–88, title III, §301, title V, §507, 93 Stat. 677, 692, provided for deductions from allotments when preceding allotments have not been expended for the purposes provided in this chapter.

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

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

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

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

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

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

EFFECTIVE DATE OF REPEAL

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

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

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

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

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

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

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

EFFECTIVE DATE OF REPEAL

Section 103 of Pub. L. 90–576 provided that the repeal is effective July 1, 1969.

§§35 to 35n. Omitted

CODIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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SUBCHAPTER I—CHARTER PROVISIONS

§ 41. Incorporation of institution

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

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

CODIFICATION

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

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

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

AMENDMENTS

1894—Act Mar. 12, 1894, substituted ''the Chief Justice, and heads of executive departments'' for ''the Secretary of State, the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, the Postmaster-General, the Attorney General, the Chief Justice, the Commissioner of Patents, the governor of the District of Columbia, and other such persons as they may elect honorary members''.

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

SHORT TITLE OF 2003 AMENDMENT

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

SHORT TITLE OF 1966 AMENDMENT

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

§ 42. Board of Regents; members

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

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

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

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

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

CODIFICATION

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

AMENDMENTS

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

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

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

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

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

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

CODIFICATION

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

AMENDMENTS

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

§ 44. Organization of board; expenses; gratuitous services

The Board of Regents shall meet in the city of Washington and elect one of their number as chancellor, who shall be the presiding officer of the Board of Regents, and called the chancellor of the Smithsonian Institution, and a suitable person as Secretary of the institution, who shall also be the secretary of the Board of Regents. The board shall also elect three of their own body as an executive committee, and shall fix the time for the regular meetings of the board;

and, on application of any three of the regents to the Secretary of the institution, it shall be his duty to appoint a special meeting of the Board of Regents, of which he shall give notice, by letter, to each of the members; and, at any meeting of the board, eight shall constitute a quorum to do business. Each member of the board shall be paid his necessary traveling and other actual expenses, in attending meetings of the board, which shall be audited by the executive committee, and recorded by the Secretary of the board; but his service as regent shall be gratuitous.

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

CODIFICATION

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

AMENDMENTS

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

§ 45. Special meetings of members

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

(R.S. § 5585.)

CODIFICATION

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

§ 46. Duties of Secretary

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

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

CODIFICATION

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

AMENDMENTS

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

§ 46a. Employment of aliens by Secretary

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

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

§ 47. Acting Secretary

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

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

PRIOR PROVISIONS

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

§ 48. Salary and removal of Secretary and assistants

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

(R.S. § 5584.)

CODIFICATION

R.S. § 5584 derived from act Aug. 10, 1846, ch. 178, § 7, 9 Stat. 105.

Provisions which related to semi-annual payments on the first day of January and July have been omitted.

§ 49. Omitted

CODIFICATION

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

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

Whenever suitable arrangements can be made from time to time for their reception, all objects of art and of foreign and curious research, and all objects of natural history, plants, and geological and mineralogical specimens belonging to the United States, which may be in the city of Washington, in whosesoever custody they may be, shall be delivered to such persons as may be authorized by the Board of Regents to receive them, and shall be so arranged and classified in the building erected for the institution as best to facilitate the examination and study of them; and whenever new specimens in natural

history, geology, or mineralogy are obtained for the museum of the institution, by exchanges of duplicate specimens, which the Regents may in their discretion make, or by donation, which they may receive, or otherwise, the Regents shall cause such new specimens to be appropriately classed and arranged. The minerals, books, manuscripts, and other property of James Smithson, which have been received by the Government of the United States, shall be preserved separate and apart from other property of the institution.

(R.S. § 5586.)

CODIFICATION

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

VERITAS ASTROPHYSICAL OBSERVATORY PROJECT; AUTHORIZATION OF CONSTRUCTION AND APPROPRIATIONS

Pub. L. 108–331, Oct. 16, 2004, 118 Stat. 1281, provided that:

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

''The Board of Regents of the Smithsonian Institution is authorized to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

''SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

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

COLLECTION AND PRESERVATION OF ARTIFACTS RELATING TO SEPTEMBER 11TH ATTACKS

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

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

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

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

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

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

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

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

SMITHSONIAN ASTROPHYSICAL OBSERVATORY SUBMILLIMETER ARRAY; AUTHORIZATION OF CONSTRUCTION AND APPROPRIATIONS

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

''SECTION 1. FACILITY AUTHORIZED.

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

''SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

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

SMITHSONIAN INSTITUTION TRANSPORTATION PROGRAM

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

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

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

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

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

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

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

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

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

NATIONAL HEALTH MUSEUM

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

WEST COURT OF NATIONAL MUSEUM OF NATURAL HISTORY BUILDING

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

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

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

''SEC. 2. FUNDING.

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

EAST COURT OF NATIONAL MUSEUM OF NATURAL HISTORY BUILDING

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

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

''The Board of Regents of the Smithsonian Institution is authorized to plan, design, construct, and equip approximately 80,000 square feet of space in the East Court of the National Museum of Natural History building.

''SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

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

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

CHARLES MCC. MATHIAS, JR. LABORATORY FOR ENVIRONMENTAL RESEARCH

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

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

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

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

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

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

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

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

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

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

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

FRED LAWRENCE WHIPPLE OBSERVATORY; PURCHASE OF LAND

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

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

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

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

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

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

SMITHSONIAN INSTITUTION; DEVELOPMENT OF PROPERTY ADJACENT TO ORIGINAL BUILDING

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

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

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

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

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

''SEC. 2. The museum support facilities referred to in section 1 shall be located on federally owned land with-

in the metropolitan area of Washington, District of Columbia. Any Federal agency is authorized to transfer land under its jurisdiction to the Smithsonian Institution for such purposes without reimbursement.

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

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

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

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

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

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

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

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

NATIONAL MUSEUM

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

NATIONAL MUSEUM EXHIBIT

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

TRANSPORTATION OF PROPERTY

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

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

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

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

§ 51. Library

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

(R.S. §5587.)

CODIFICATION

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

PUBLIC USE OF RESEARCH AND STUDY FACILITIES OF CERTAIN INSTITUTIONS

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

§ 52. Evidence of title to site and buildings

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

(R.S. §5588.)

CODIFICATION

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

§ 53. Protection of property

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

(R.S. §5589.)

CODIFICATION

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

§ 53a. Authorization of appropriations

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

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

§ 54. Appropriation of interest

So much of the property of James Smithson as has been received in money, and paid into the Treasury of the United States, being the sum of $541,379.63, shall be lent to the United States Treasury and invested in public debt securities with maturities requested by the Smithsonian Institution bearing interest at rates determined by the Secretary of the Treasury, based upon current market yields on outstanding marketable obligations of the United States of com-

parable maturities, and this interest is hereby appropriated for the perpetual maintenance and support of the Smithsonian Institution; and all expenditures and appropriations to be made, from time to time, to the purposes of the Institution shall be exclusively from the accruing interest, and not from the principal of the fund. All the moneys and stocks which have been, or may hereafter be, received into the Treasury of the United States, on account of the fund bequeathed by James Smithson, are hereby pledged to refund to the Treasury of the United States the sums hereby appropriated.

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

CODIFICATION

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

AMENDMENTS

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

EFFECTIVE DATE OF 1982 AMENDMENT

Section 2 of Pub. L. 97–199 provided that: ''The amendment made by the first section [amending this section] shall apply with respect to fiscal years beginning after September 30, 1982.''

§ 55. Acceptance of other sums

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

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

CODIFICATION

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

AMENDMENTS

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

§ 56. Disposal of unappropriated money

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

(R.S. § 5592.)

CODIFICATION

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

§ 57. Disbursements

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

(R.S. § 5593.)

CODIFICATION

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

TERMINATION OF REPORTING REQUIREMENTS

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

§ 58. Omitted

CODIFICATION

Section, act Mar. 3, 1899, ch. 424, § 1, 30 Stat. 1085, which required that the salaries of officers and employees paid from appropriations under the Smithsonian Institution be reported to Congress annually, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 192 of House Document No. 103–7.

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

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

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

CODIFICATION

Words ''Coast and Interior Survey'' appearing in act Mar. 3, 1879, were in prior editions of the Code changed

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

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

CHANGE OF NAME

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

NATIONAL MUSEUM

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

NATIONAL MUSEUM OF AMERICAN HISTORY

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

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

MUSEUM OF HISTORY AND TECHNOLOGY FOR THE SMITHSONIAN INSTITUTION

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

§ 60. Army articles furnished to National Museum

The Secretary of the Army is authorized to furnish to the National Museum, for exhibition, upon request therefor by the administrative head thereof, such articles of arms, materiel, equipment, or clothing as have been issued from time to time to the United States Army, or which have been or may hereafter be produced for the United States Army, and which are objects of general interest or of foreign or curious research, provided that such articles can be spared.

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

AMENDMENTS

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

CHANGE OF NAME

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

SECRETARY OF AIR FORCE

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

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

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

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

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

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

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

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

§ 65a. Director of the National Museum

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

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

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

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

(3) prepare and distribute significant museum publications;

(4) perform research on, and otherwise contribute to, the development of museum tech-

niques, with emphasis on museum conservation and the development of a national institute for museum conservation;

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

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

(b) Authorization of appropriations

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

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

AMENDMENTS

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

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

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

Subsec. (b). Pub. L. 93–345, § 2, substituted provisions limiting to $1,000,000 the amount which may be appropriated annually through fiscal year 1977, with no less than $200,000 annually to be allocated and used to carry out the purposes of subsection (a)(4) of this section for provisions limiting to $1,000,000 the amount which could be appropriated annually through fiscal year 1974, of which $300,000 annually had to be allocated and used according to the formula of 33⅓ per centum for purposes of subsec. (a)(2), 33⅓ per centum for assistance to museums under section 954(c) of this title, and 33⅓ per centum for assistance to museums under section 956(c) of this title.

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

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

TERMINATION OF REPORTING REQUIREMENTS

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

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

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

§ 67. Right of repeal

Congress may alter, amend, add to, or repeal any of the provisions of sections 41 to 46, 48, 50, 51 to 53, and 54 to 57, of this title; but no contract or individual right made or acquired under such provisions shall be thereby divested or impaired.

(R.S. § 5594.)

CODIFICATION

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

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

Section, act Feb. 11, 1927, ch. 104, § 1, 44 Stat. 1081, related to advertisements for proposals for purchases and services. See section 5 of Title 41, Public Contracts.

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

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

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

AMENDMENTS

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

§ 70. Authorization of appropriations; cooperative work

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $20,000, which shall be available until expended for the purposes stated in section 69 of this title: *Provided*, That at such time as the Smithsonian Institution is satisfied that any State, educational institution, or scientific organization in any of the United States is prepared to contribute to such investigation and when, in its judgment such investigation shall appear meritorious, the Secretary of the Smithsonian Institution may direct that an amount from this sum equal to that contributed

by such State, educational institution, or scientific organization, not to exceed $2,000, to be expended from such sum in any one State during any calendar year, be made available for cooperative investigation: *Provided further*, That all such cooperative work and division of the result thereof shall be under the direction of the Secretary of the Smithsonian Institution: *Provided further*, That where lands are involved which are under the jurisdiction of the Bureau of Indian Affairs or the National Park Service, cooperative work thereon shall be under such regulations and conditions as the Secretary of the Interior may provide.

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

SUBCHAPTER II—NATIONAL GALLERY OF ART

§ 71. Designation of site

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

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

SMITHSONIAN AMERICAN ART MUSEUM

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

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

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

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

''SEC. 2. EFFECTIVE DATE.

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

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

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

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

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

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

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

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

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

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

''(d) Upon accomplishment of the relocation required by subsection (a) of this section, the Administrator shall declare the property referred to in the first sec-

tion of this Act to be excess property as defined in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472) [now 40 U.S.C. 102].

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

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

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

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

CODIFICATION

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

TRANSFER OF JURISDICTION

Section 4 of Pub. L. 90–376 provided that: ''The Commissioner [Mayor] of the District of Columbia is authorized to transfer to the United States such jurisdiction as the District of Columbia may have over any of the property within the area referred to in the first section of this Act [this section].''

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

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

§ 71b. Status of completed addition

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

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

CODIFICATION

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

§ 72. Board of Trustees

(a) Establishment

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

(b) Method of selection; term of office

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

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

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

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

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

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

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

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

§ 74. Maintenance

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

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

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

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

(c) Appointment and compensation of officers and employees

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

(d) Review of actions of board

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

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

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (c), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

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

AMENDMENTS

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

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

REPEALS

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

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

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

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

CODIFICATION

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

AMENDMENTS

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

§ 75. Authority and functions of the board

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

The board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations, as it

deems necessary for the administration of its functions under this subchapter, including, among other matters, bylaws, rules, and regulations relating to the acquisition, exhibition, and loan of works of art, the administration of its trust funds, and the organization and procedure of the board. The board may function notwithstanding vacancies, and three members of the board shall constitute a quorum for the transaction of business.

(b) Quality of works of art

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

(c) Powers and obligations

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

(d) Annual reports

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

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

SUBCHAPTER III—NATIONAL PORTRAIT GALLERY

§ 75a. Definitions

For the purposes of this subchapter—

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

(b) The term ''Commission'' means the National Portrait Gallery Commission as provided for in this subchapter.

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

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

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

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

AMENDMENTS

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

SHORT TITLE

Pub. L. 87–443, § 1, provided: ''That this Act [enacting this subchapter] may be cited as the 'National Portrait Gallery Act'.''

§ 75b. Establishment of National Portrait Gallery; functions

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

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

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

REFERENCES IN TEXT

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

PATENT OFFICE BUILDING IMPROVEMENTS

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

''(a) AUTHORIZATION OF USE OF FUNDS.—

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

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

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

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

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

''(c) AUTHORITY OF HISTORIC PRESERVATION AGENCIES.—

''(1) IN GENERAL.—The Secretary shall—

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

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

''(2) STATUS OF SMITHSONIAN.—In carrying out this subsection, and in carrying out other projects in the District of Columbia which are subject to the review and approval of the National Capital Planning Commission in accordance with section 16 of the Act of June 20, 1938 (sec. 6–641.15, D.C. Official Code), the Smithsonian Institution shall be deemed to be an agency for purposes of compliance with regulations promulgated by the Advisory Council on Historic Preservation pursuant to section 106 of the National Historic Preservation Act (16 U.S.C. 470f).''

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

There is created the National Portrait Gallery Commission. The number, manner of appointment and tenure of the members of the Commission shall be such as the Board may from time to time prescribe. The Board may delegate to the Commission any function of the Gallery or

any function of the Board with respect to the Gallery. The Board may make rules and regulations for the conduct of the affairs of the Commission and the operation of the Gallery, and to the extent and under such limitations as the Board deems advisable, the Board may delegate to the Commission the power to make such rules and regulations.

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

§ 75d. Acceptance of gifts; title to property

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

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

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

§ 75e. Powers of Board

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

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

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

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

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

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

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

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

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

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

REFERENCES IN TEXT

The civil-service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

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

§ 75g. Authorization of appropriations

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

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

SUBCHAPTER IV—SMITHSONIAN GALLERY OF ART

§§ 76, 76a. Omitted

CODIFICATION

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

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

§ 76b. Functions of Regents

(a) Solicitation of construction funds

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

(b) Construction of building

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

(c) Name of building; supervision and control

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

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

TRANSFER OF FUNCTIONS

Functions of Federal Works Agency and of all agencies thereof, together with functions of Federal Works

Administrator, transferred to Administrator of General Services, and Federal Works Agency and office of Federal Works Administrator abolished by section 103 of act June 30, 1949. See text of, and Historical and Revision Notes under, section 303(b) of Title 40, Public Buildings, Property, and Works.

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

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

(a) Solicitations of private donations

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

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

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

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

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

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

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

TRANSFER OF FUNCTIONS

Functions of Federal Works Agency and of all agencies thereof, together with functions of Federal Works Administrator, transferred to Administrator of General Services, and Federal Works Agency and office of Federal Works Administrator abolished by section 103 of act June 30, 1949. See text of, and Historical and Revision Notes under, section 303(b) of Title 40, Public Buildings, Property, and Works.

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

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

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

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

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

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

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

§ 76g. Authorization of appropriations

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

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

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

§ 76h. Board of Trustees

(a) Establishment

(1) In general

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

(2) Membership

The Board shall be composed of—

(A) the Secretary of Health and Human Services;

(B) the Librarian of Congress;

(C) the Secretary of State;

(D) the Chairman of the Commission of Fine Arts;

(E) the Mayor of the District of Columbia;

(F) the Superintendent of Schools of the District of Columbia;

(G) the Director of the National Park Service;

(H) the Secretary of Education;

(I) the Secretary of the Smithsonian Institution;

(J)(i) the Speaker and the Minority Leader of the House of Representatives;

(ii) the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives; and

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

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

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

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

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

(b) General trustees

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

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

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

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

(c) Advisory Committee on the Arts

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

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

AMENDMENTS

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

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

Subsec. (a). Pub. L. 103–279, § 2(b)(1)(A), inserted heading, in first sentence inserted ''as the National Center for the Performing Arts, a living memorial to John Fitzgerald Kennedy,'' after ''and site thereof'', and in second sentence substituted ''Superintendent of Schools of the District of Columbia'' for ''Chairman of the District of Columbia Recreation Board'' and ''the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives and 3 additional Members of the House of Representatives appointed by the Speaker of the House of Representatives, and the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate and 3 additional Members of the Senate appointed by the President of the Senate'' for ''three Members of the Senate appointed by the President of the Senate, and three Members of the House of Representatives appointed by the Speaker of the House of Representatives''.

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

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

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

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

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

CHANGE OF NAME

Committee on Public Works and Transportation of House of Representatives treated as referring to Committee on Transportation and Infrastructure of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 2(b)(2) of Pub. L. 103–279 provided that:

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

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

SHORT TITLE OF 2004 AMENDMENT

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

SHORT TITLE OF 2002 AMENDMENT

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

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–226, §1, Aug. 12, 1998, 112 Stat. 1513, provided that: ''This Act [amending sections 76j, 76*l*, and 76r of this title] may be cited as the 'John F. Kennedy Center for the Performing Arts Authorization Act of 1998'.''

SHORT TITLE OF 1997 AMENDMENT

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

SHORT TITLE OF 1994 AMENDMENT

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

SHORT TITLE OF 1984 AMENDMENT

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

SHORT TITLE OF 1963 AMENDMENT

Section 5 of Pub. L. 88–100 provided that: ''This Act [amending this section and sections 76*l* and 76m of this title] may be cited as the 'National Cultural Center Amendments Act of 1963'.''

SHORT TITLE

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

TERMS OF OFFICE FOR NEW GENERAL TRUSTEES

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

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

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

NATIONAL CULTURAL CENTER; DESIGNATION OR REFERENCES

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

CONGRESSIONAL FINDINGS

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

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

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

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

''(4) it is fitting and proper that a living institution of the performing arts, designated as the National Center for the Performing Arts, named in the memory and honor of this great leader, shall serve as the sole national monument to his memory within the District of Columbia and its environs;

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

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

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

(a) In general

The Board shall construct for the Smithsonian Institution, with funds raised by voluntary contributions, a building to be designated as the John F. Kennedy Center for the Performing Arts on a site in the District of Columbia bounded by the Inner Loop Freeway on the east, the Theodore Roosevelt Bridge approaches on the south,

Rock Creek Parkway on the west, New Hampshire Avenue and F Street on the north, which shall be selected for such purpose by the National Capital Planning Commission. The National Capital Planning Commission shall acquire by purchase, condemnation, or otherwise, lands necessary to provide for the John F. Kennedy Center for the Performing Arts and related facilities. Such building shall be in accordance with plans and specifications approved by the Commission of Fine Arts.

(b) Parking garage additions and site improvements

(1) In general

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

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

(B) site improvements and modifications.

(2) Availability

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

(3) Limitation on use of appropriated funds

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

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

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

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

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

AMENDMENTS

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

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

§ 76j. Duties of Board

(a) Programs, activities, and goals

(1) In general

The Board shall—

(A) present classical and contemporary music, opera, drama, dance, and other performing arts from the United States and other countries;

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

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

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

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

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

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

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

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

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

(H) provide—

(i) information and interpretation; and

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

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

(2) Administrative powers and duties

(A) Authority to enter into contracts

The Board, in accordance with applicable law, may enter into contracts or other ar-

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

(B) Preparation of budget

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

(C) Use of agency personnel

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

(D) Selection of contractors

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

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

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

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

(E) Maintenance of halls

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

(F) Maintenance of grounds

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

(b) Restriction on additional memorials

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

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

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

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

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

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

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

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

AMENDMENTS

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

1998—Subsec. (a)(1)(G). Pub. L. 105–226, §2, amended subpar. (G) generally. Prior to amendment, subpar. (G) read as follows: ''with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on July 21, 1994 (including a theater, the garage, the plaza, or a building walkway), plan, design, and construct each capital repair, replacement, improvement, rehabilitation, alteration, or modification necessary for the feature;''.

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

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

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

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

''(2) present lectures and other programs,

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

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

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

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

1964—Pub. L. 88–260 struck out ''and'' at end of par. (3), substituted ''John F. Kennedy Center for the Per-

forming Arts'' for ''Cultural Center'' in par. (4), and added par. (5).

ACCESS TO JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

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

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

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

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

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

§ 76k. Powers of Board

(a) Solicitation and acceptance of gifts

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

(b) Appointment of officers and employees

(1) Chairperson and Secretary

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

(2) Senior level executive and other employees

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

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

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

(c) Transfer of property

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

(d) Transfer of personnel

(1) In general

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

(2) Rights and benefits

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

(3) Park Police

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

(4) Costs

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

(5) Reorganization authority

Nothing contained in this section shall prohibit the Board from reorganizing functions at the John F. Kennedy Center for the Per-

forming Arts in accordance with laws governing reorganizations.

(e) Review of Board actions

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

(f) Collective bargaining

(1) "Theatrical employee" defined

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

(2) Collective bargaining

(A) In general

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

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

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

(B) Rights and obligations

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

(g) Pedestrian and vehicular access

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

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

REFERENCES IN TEXT

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

The provisions relating to the Federal competitive service, referred to in subsec. (d)(2), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

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

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

(c) Annual report of operations and finances

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

(d) Inspector General

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

(e) Property and personnel compensation

(1) In general

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

(2) Federal tort claims

For the purposes of chapter 171 of title 28, an employee of the Board shall be considered to be an ''employee of the government'' and the Board shall be considered to be a ''Federal agency''. No employee of the Board may bring suit against the United States or the Board under the Federal tort claims procedure of chapter 171 of title 28 for disability or death resulting from personal injury sustained while in the performance of the duties of the employee for the Board.

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

REFERENCES IN TEXT

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

Subsec. (f). Pub. L. 101–449, §2, amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''The General Accounting Office is authorized and directed to review and audit, regularly, the accounts of the Kennedy Center for the Performing Arts, for the purpose of determining the continuing ability of the Center to pay its share of future operating costs, and for the purpose of assuring that the cost-of-living formula fairly and accurately reflects the use of the building.''

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

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

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

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

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

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

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

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

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

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

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

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

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

TERMINATION OF REPORTING REQUIREMENTS

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

AWARD OF SERVICE CONTRACTS

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

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

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

Section 76n, Pub. L. 85–874, §8, as added Pub. L. 88–260, §1(6), Jan. 23, 1964, 78 Stat. 4; amended Pub. L. 91–90, §1(a), Oct. 17, 1969, 83 Stat. 135; Pub. L. 92–313, §9, June 16, 1972, 86 Stat. 222; Pub. L. 95–50, §1, June 20, 1977, 91 Stat. 232, authorized appropriations for construction, repair, renovation, and reconstruction of John F. Kennedy Center for the Performing Arts.

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

(a) Revenue bonds

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

(b) Interest

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

(c) Kennedy Center Revenue Bond Sinking Fund

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

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

AMENDMENTS

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

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

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

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

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

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

AMENDMENTS

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

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

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

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

§ 76q–1. John F. Kennedy Center Plaza

(a) Definitions

In this section, the following definitions apply:

(1) Air rights

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

(2) Center

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

(3) Green spaces

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

(4) Plaza

The term ''Plaza'' means improvements to the area surrounding the John F. Kennedy Center building carried out under the Project and comprised of transportation elements (including roadways, sidewalks, and bicycle lanes) and non-transportation elements (including landscaping, green space, open public space, water, sewer, and utility connections).

(5) Project

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

(6) Secretary

The term ''Secretary'' means the Secretary of Transportation.

(7) TEA–21 report

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

(b) Responsibilities of the Secretary

(1) In general

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

(2) Planning, design, engineering, and construction

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

(3) Agreements with the Board and other agencies

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

(4) Consultation with the Board

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

(5) Contracts

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

(6) Project Team

(A) Establishment

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

(B) Membership

The Project Team shall be composed of the following members:

(i) The Secretary (or the Secretary's designee).

(ii) The Administrator of General Services (or the Administrator's designee).

(iii) The Chairman of the Board (or the Chairman's designee).

(iv) Such other individuals as the Project Team considers appropriate.

(C) Project Director

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

(c) Responsibilities of the Board

(1) In general

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

(2) Receipt of transfers of air rights

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

(3) Construction of buildings

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

(4) Acknowledgment of contributions

(A) In general

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

(B) Applicability of other requirements

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

(5) Approval by Project Team

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

(d) Responsibilities of the District of Columbia

(1) Modification of highway system

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

(2) Conveyances

(A) Authority

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

(B) Conveyance to the Board

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

(3) Agreements with the Board

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

(e) Ownership

(1) Roadways and sidewalks

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

(2) Maintenance of green spaces

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

(3) Buildings and green spaces on the Plaza

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

(f) National highway boundaries

(1) Realignment of boundaries

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

(2) Access to Center from I–66

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

(g) GAO review

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

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

REFERENCES IN TEXT

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

PRIOR PROVISIONS

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

AMENDMENTS

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

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

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

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

§ 76r. Authorization of appropriations

(a) Maintenance, repair, and security

There are authorized to be appropriated to the Board to carry out section 76j(a)(1)(H) of this title—

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

(2) $18,000,000 for each of fiscal years 2005, 2006, and 2007.

(b) Capital projects

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

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

(2) $18,000,000 for each of fiscal years 2005, 2006, and 2007.

(c) John F. Kennedy Center Plaza

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

(d) Limitation on use of funds

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

(Pub. L. 85–874, §13, formerly §12, as added Pub. L. 103–279, §7, July 21, 1994, 108 Stat. 1415; amended Pub. L. 105–226, §5, Aug. 12, 1998, 112 Stat. 1513; renumbered §13 and amended Pub. L. 107–224, §§2(1), 3, Sept. 18, 2002, 116 Stat. 1340, 1342; Pub. L. 108–410, §2, Oct. 30, 2004, 118 Stat. 2303.)

PRIOR PROVISIONS

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

AMENDMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 76s. Definitions

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

file and available for public inspection under the preceding sentence.

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

AMENDMENTS

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

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

SUBCHAPTER VI—JOSEPH H. HIRSHHORN MUSEUM AND SCULPTURE GARDEN

§ 76aa. Site for museum and sculpture garden

(a) Appropriation and availability

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

(b) Powers and duties of Board of Regents

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

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

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

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

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

(b) Federal funds

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

(c) Uses

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

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

§ 76cc. Board of Trustees

(a) Establishment; powers and duties

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

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

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

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

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

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

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

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

REFERENCES IN TEXT

The civil service laws, referred to in text, are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

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

§ 76ee. Authorization of appropriations

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

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

SUBCHAPTER VII—NATIONAL AIR AND SPACE MUSEUM

§ 77. National Air and Space Museum

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

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

(b) Appointment and compensation of head of museum

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

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

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (b), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

AMENDMENTS

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

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

SHORT TITLE OF 1966 AMENDMENT

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

TRANSFER OF FUNCTIONS

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

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

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

tration in Department of Transportation. See section 106 of Title 49, Transportation.

APPROPRIATIONS

Section 6 of act Aug. 12, 1946, as amended by section 10 of Pub. L. 89–509, provided that: ''There is hereby authorized to be appropriated the sum of $50,000 for the purposes of this Act [this subchapter] and there are hereby authorized to be appropriated annually hereafter such sums as may be necessary to maintain and administer said national air and space museum including salaries and all other necessary expenses.''

CONSTRUCTION OF MUSEUM CENTER

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

''SECTION 1. CONSTRUCTION OF MUSEUM CENTER.

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

''SEC. 2. LIMITATION ON USE OF FUNDS.

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

EXTENSION AT WASHINGTON DULLES INTERNATIONAL AIRPORT

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

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

''The Board of Regents of the Smithsonian Institution shall have authority to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport.

''SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated for fiscal years beginning after September 30, 1993, a total of $8,000,000 to carry out this Act.''

RATIFICATION OF COMPENSATION PAID HEAD OF MUSEUM

Section 11 of Pub. L. 89–509 provided that: ''Payments of compensation heretofore made to the head of the National Air Museum at rates fixed by the Secretary of the Smithsonian Institution without regard to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees] are hereby ratified and affirmed.''

§ 77a. Functions of museum

The national air and space museum shall memorialize the national development of aviation and space flight; collect, preserve, and display aeronautical and space flight equipment of historical interest and significance; serve as a repository for scientific equipment and data pertaining to the development of aviation and space flight; and provide educational material for the historical study of aviation and space flight.

(Aug. 12, 1946, ch. 955, § 2, 60 Stat. 998; Pub. L. 89–509, pt. I, § 4, July 19, 1966, 80 Stat. 310.)

AMENDMENTS

1966—Pub. L. 89–509 substituted ''national air and space museum'' for ''national air museum'', inserted ''and space flight'' after ''aviation'' wherever appearing, and substituted ''aeronautical and space flight equipment'' for ''aeronautical equipment''.

§ 77b. Repealed. Pub. L. 89–509, pt. I, § 5, July 19, 1966, 80 Stat. 310

Section, act Aug. 12, 1946, ch. 955, § 3, 60 Stat. 998, directed Secretary of Smithsonian Institution to investigate and survey suitable lands and buildings for selection as a site for national air museum and to make recommendations to Congress.

CONSTRUCTION PLANS; LOCATION; DESIGN; SUPERVISION OF DRAWINGS AND SPECIFICATIONS; CONSTRUCTION; AUTHORIZATION AND TRANSFER OF APPROPRIATIONS

Pub. L. 85–935, Sept. 6, 1958, 72 Stat. 1794, as amended by Pub. L. 89–509, §§ 12, 13, July 19, 1966, 80 Stat. 311, 312, authorized and directed Regents of Smithsonian Institution to prepare plans and to construct a building for a National Air and Space Museum at a certain site with exact location to be approved by National Capital Planning Commission and design to be approved by Commission of Fine Arts and with supervision of work to be by Administrator of General Services Administration and also appropriated such sums as were necessary to carry out the work.

§ 77c. Museum board

(a) Seal; regulations; vacancies

The board is authorized to adopt an official seal which shall be judicially noticed and to make such bylaws, rules, and regulations as it deems necessary for the administration of its functions. The board may function notwithstanding vacancies and six members of the board shall constitute a quorum for the transaction of business.

(b) Annual report

The Smithsonian Institution shall include in its annual report of its operations to Congress a statement of the operations of said national air and space museum, including all public and private moneys received and disbursed.

(Aug. 12, 1946, ch. 955, § 4, 60 Stat. 998; Pub. L. 89–509, pt. I, §§ 6, 7, July 19, 1966, 80 Stat. 310, 311.)

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–509, § 6, raised from three to six the number of board members required to constitute a quorum.

Subsec. (b). Pub. L. 89–509, § 7, substituted ''national air and space museum'' for ''national air museum''.

§ 77d. Transfer or loan of aeronautical or space flight equipment to museum

The heads of executive departments and independent agencies of the Government are authorized to transfer or loan to said national air and space museum without charge therefor, aircraft, spacecraft, aircraft and spacecraft parts, instruments, engines, or other aeronautical and space flight equipment or records for exhibition, historical, or educational purposes.

(Aug. 12, 1946, ch. 955, § 5(a), 60 Stat. 998; Pub. L. 89–509, pt. I, § 8, July 19, 1966, 80 Stat. 311.)

CODIFICATION

Section consists of subsec. (a) of section 5 of act Aug. 12, 1946. Subsec. (b) of said section is set out as a note below.

AMENDMENTS

1966—Pub. L. 89–509 inserted ''and independent agencies'' after ''departments'', ''and space'' after ''national air'', ''spacecraft,'' after ''aircraft,'', ''and spacecraft'' after ''aircraft'' in phrase ''aircraft parts'', and ''and space flight'' after ''aeronautical''.

ACCEPTANCE OF STATUE OF GENERAL MITCHELL

Section 5(b) of act Aug. 12, 1946, as amended by section 9 of Pub. L. 89–509, provided that: ''The Secretary

of the Smithsonian Institution, with the advice of the Commission of Fine Arts, is authorized (1) to accept as a gift to the Smithsonian Institution from George H. Stephenson, of Philadelphia, Pennsylvania, a statue of Brigadier General William L. Mitchell of such character as may be deemed appropriate, and (2) without expense to the United States, to cause such statue to be erected at a suitable location on the grounds of the national air and space museum.''

SUBCHAPTER VIII—PALEONTOLOGICAL INVESTIGATIONS

§ 78. Cooperation of Smithsonian Institution with State institutions for continuing paleontological investigations

The Secretary of the Smithsonian Institution is authorized to cooperate with any State, educational institution, or scientific organization in the United States for continuing paleontological investigations, and the excavation and preservation of fossil remains, in areas which will be flooded by the construction of Government dams or otherwise be made unavailable for such investigations because of such construction: *Provided*, That such investigations and activities shall not duplicate nor affect adversely similar operations being conducted by the Department of Interior in cooperation with the Smithsonian Institution.

(Aug. 15, 1949, ch. 427, § 1, 63 Stat. 606.)

§ 78a. Authorization of appropriations; availability of funds; limit on use of funds during fiscal year; supervision; rules and regulations

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $65,000, which shall be available until expended for the above purposes: *Provided*, That at such time as the Smithsonian Institution is satisfied that any State agency, or any educational institution or scientific organization in any of the United States, is prepared to contribute to such investigation and when in its judgment such investigation shall appear meritorious, the Secretary of the Smithsonian Institution may make available for such investigation such amounts from this sum as shall be equal to the amounts contributed respectively by each such State agency, or educational institution or scientific organization: *Provided further*, That the amount to be made available from this sum for such investigation in cooperation with each such State agency, or educational institution or scientific organization, shall not exceed $10,000 in any fiscal year: *Provided further*, That all such cooperative work and division of the result thereof shall be under the direction of the Secretary of the Smithsonian Institution: *Provided further*, That where lands are involved which are controlled by the Government of the United States, cooperative work thereon shall be under the provisions of the Act of June 8, 1906 (16 U.S.C. 432, 433), and rules and regulations pertaining thereto.

(Aug. 15, 1949, ch. 427, § 2, 63 Stat. 606.)

SUBCHAPTER IX—CANAL ZONE BIOLOGICAL AREA

§ 79. Barro Colorado Island in Gatun Lake to be set aside

The President is authorized and directed to set aside within the Canal Zone an area in Gatun Lake known as Barro Colorado Island in which the natural features shall, except in event of declared national emergency, be left in their natural state for scientific observation and investigation.

(July 2, 1940, ch. 516, § 1, 54 Stat. 724.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in text, see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was formerly classified to section 1381 of Title 48, Territories and Insular Possessions.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 79a. Preservation of natural features for scientific observation and investigation

The purpose of setting aside such an area is to preserve and conserve its natural features, including existing flora and fauna, in as nearly a natural condition as possible, thus providing a place where duly qualified students can make observations and scientific investigations for increase of knowledge, under such conditions and regulations as may be prescribed by the Smithsonian Institution.

(July 2, 1940, ch. 516, § 2, 54 Stat. 724; 1946 Reorg. Plan No. 3, § 801, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1101.)

CODIFICATION

Section was formerly classified to section 1382 of Title 48, Territories and Insular Possessions.

TRANSFER OF FUNCTIONS

''Smithsonian Institution'' substituted in text for ''Board of Directors of the Canal Zone Biological Area'' by Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

§ 79b. Functions of Smithsonian Institution

The Smithsonian Institution shall (a) determine the policy, prescribe conditions under which studies may be pursued within the area, and promulgate regulations for carrying out the purposes of this subchapter; (b) be responsible for the construction and maintenance of laboratory and other facilities on the area provided for the use of students authorized to carry on studies within the confines of the area; (c) deposit into the Treasury of the United States sums donated or subscribed or collected to be expended for carrying out the purposes of this subchapter; (d) in its discretion, fixed[1] charges that may be

[1] So in original. Probably should be ''fix''.

made for use of laboratory or other facilities provided students authorized to make observations and investigations within the prescribed area and provide for the collection of such sums for deposit into the Treasury of the United States; (e) make such disposal of any moneys donated, subscribed, collected, or otherwise provided as in its judgment is to the best interest in carrying out the purpose of this subchapter: *Provided*, That sums contributed or appropriated for specific purposes shall be used for such purpose only; and (f) include in its annual report of its operations to Congress a statement of activities and operations during the preceding year.

(July 2, 1940, ch. 516, § 4, 54 Stat. 724; 1946 Reorg. Plan No. 3, § 801, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1101; Pub. L. 89–280, § 2, Oct. 20, 1965, 79 Stat. 1012.)

CODIFICATION

Section was formerly classified to section 1384 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1965—Pub. L. 89–280 substituted provisions in cl. (f) requiring the Smithsonian Institution to include in its annual report of its operations to Congress a statement of activities and operations during the preceding year for provisions which required the Smithsonian Institution to submit to the Congress of the United States not later than the 15th day of each January a report of activities and operations during the preceding year.

TRANSFER OF FUNCTIONS

''Smithsonian Institution'' substituted in text for ''Board of Directors of the Canal Zone Biological Area'' and former clause (a) which provided for annual meetings of Board was superseded by Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

§ 79c. Resident manager; powers and duties; compensation

The Smithsonian Institution may select and designate a resident manager to assist in carrying out the policy, conditions, and regulations approved by it in compliance with the purposes of this subchapter. The resident manager shall receive such compensation for his services as may be allowed by the Smithsonian Institution.

(July 2, 1940, ch. 516, § 5, 54 Stat. 725; 1946 Reorg. Plan No. 3, § 801, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1101.)

CODIFICATION

Section was formerly classified to section 1385 of Title 48, Territories and Insular Possessions.

TRANSFER OF FUNCTIONS

References to the ''Board of Directors of the Canal Zone Biological Area'' and its ''executive officer'' changed to ''Smithsonian Institution'' and provisions for the appointment and compensation of said executive officer were superseded by Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, Government Organization and Employees.

§ 79d. Deposit of receipts into Treasury; disbursements

All moneys received by donation, subscription, fees, or otherwise, except the moneys appropriated pursuant to section 79e of this title, for carrying out the purposes of this subchapter shall be deposited into the Treasury as trust funds and are appropriated for such purposes. Disbursements of such funds shall be made by the Secretary of the Treasury through the Fiscal Service on requisitions or vouchers signed by or on authority of the Smithsonian Institution.

(July 2, 1940, ch. 516, § 6, 54 Stat. 725; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; 1946 Reorg. Plan No. 3, § 801, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1101.)

CODIFICATION

Section was formerly classified to section 1386 of Title 48, Territories and Insular Possessions.

TRANSFER OF FUNCTIONS

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees.

''Smithsonian Institution'' substituted in text for ''executive officer of the Board of Directors of the Canal Zone Biological Area'' by Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5.

''Fiscal Service'' substituted in text for ''Division of Disbursement'' on authority of section 1(a)(1) of Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, which consolidated such division into Fiscal Service of Department of the Treasury. See section 306 of Title 31, Money and Finance.

§ 79e. Authorization of appropriations

There are authorized to be appropriated annually, from money in the Treasury of the United States not otherwise appropriated, such sums as are necessary for the administration of this subchapter and for the maintenance of laboratory or other facilities provided for carrying out the purposes of this subchapter.

(July 2, 1940, ch. 516, § 7, 54 Stat. 725; Pub. L. 89–280, § 1, Oct. 20, 1965, 79 Stat. 1012; Pub. L. 96–89, § 1, Oct. 19, 1979, 93 Stat. 697; Pub. L. 98–57, § 1, July 22, 1983, 97 Stat. 293.)

CODIFICATION

Section was formerly classified to section 1387 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1983—Pub. L. 98–57 struck out '', not to exceed $750,000'' after ''such sums''.

1979—Pub. L. 96–89 substituted ''$750,000'' for ''$350,000''.

1965—Pub. L. 89–280 substituted ''$350,000'' for ''$10,000''.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 2 of Pub. L. 98–57 provided that: ''The provision in the first section of this Act [amending this section] shall take effect on October 1, 1983.''

EFFECTIVE DATE OF 1979 AMENDMENT

Section 2 of Pub. L. 96–89 provided that: ''The provision in section 1 of this Act [amending this section] shall take effect on October 1, 1979.''

SUBCHAPTER X—NATIONAL ARMED FORCES MUSEUM ADVISORY BOARD

§ 80. National Armed Forces Museum Advisory Board

(a) Establishment; functions

There is established in the Smithsonian Institution a National Armed Forces Museum Advisory Board (hereinafter referred to as the Board), which shall provide advice and assistance to the Regents of the Smithsonian Institution on matters concerned with the portrayal of the contributions which the Armed Forces of the United States have made to American society and culture.

(b) Membership

The Board shall be composed of eleven members, as follows:

(1) The Secretary of Defense, who shall serve as an ex officio member;

(2) The Secretary of the Smithsonian Institution, who shall serve as an ex officio member;

(3) Nine members appointed by the President, (A) three of whom shall be appointed from persons recommended by the Secretary of Defense to represent the Armed Forces, and (B) two of whom shall be appointed from among persons recommended by the Regents of the Smithsonian Institution. Not less than two members appointed by the President shall be from civilian life.

(c) Term of office; vacancies

Members of the Board appointed by the President shall be appointed to serve for a period of six years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and the terms of office of the members first appointed shall expire, as designated by the President at the time of appointment, three at the end of two years, three at the end of four years, and three at the end of six years.

(d) Quorum

Five members of the Board shall constitute a quorum and any vacancy in the Board shall not affect its power to function.

(e) Compensation, travel and other expenses

The members of the Board shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Board.

(f) Biennial organization; rules and regulations

The Board shall select officers from among its members biennially and shall make such bylaws, rules, and regulations as it deems necessary for the furtherance of its business.

(Pub. L. 87–186, § 1, Aug. 30, 1961, 75 Stat. 414.)

§ 80a. Display of contributions of Armed Forces

(a) Study center; historical collections

The Smithsonian Institution shall commemorate and display the contributions made by the military forces of the Nation toward creating, developing, and maintaining a free, peaceful, and independent society and culture in the United States of America. The valor and sacrificial service of the men and women of the Armed Forces shall be portrayed as an inspiration to the present and future generations of America. The demands placed upon the full energies of our people, the hardships endured, and the sacrifice demanded in our constant search for world peace shall be clearly demonstrated. The extensive peacetime contributions the Armed Forces have made to the advance of human knowledge in science, nuclear energy, polar and space exploration, electronics, engineering, aeronautics, and medicine shall be graphically described. The Smithsonian Institution shall interpret through dramatic display significant current problems affecting the Nation's security. It shall be equipped with a study center for scholarly research into the meaning of war, its effect on civilization, and the role of the Armed Forces in maintaining a just and lasting peace by providing a powerful deterrent to war. In fulfilling its purposes, the Smithsonian Institution shall collect, preserve, and exhibit military objects of historical interest and significance.

(b) National Air and Space Museum provisions unaffected

The provisions of this subchapter in no way rescind subchapter VII of this chapter, which established the National Air and Space Museum of the Smithsonian Institution, or any other authority of the Smithsonian Institution.

(Pub. L. 87–186, § 2, Aug. 30, 1961, 75 Stat. 414; Pub. L. 89–509, pt. I, § 2, July 19, 1966, 80 Stat. 310.)

CHANGE OF NAME

"National Air and Space Museum" substituted for "National Air Museum" in subsec. (b) pursuant to section 2 of Pub. L. 89–509, which is classified to section 77 of this title.

§ 80b. Selection of site

(a) Authorization of Board of Regents; submission of recommendations to Congress

The Board of Regents of the Smithsonian Institution is authorized and directed, with the advice and assistance of the Board, to investigate and survey lands and buildings in and near the District of Columbia suitable for the display of military collections. The Board of Regents of the Smithsonian Institution shall, after consulting with and seeking the advice of the Commission on Fine Arts, the National Capital Planning Commission, and the General Services Administration, submit recommendations to the Congress with respect to the acquisition of lands and buildings for such purpose.

(b) Public exhibits and study collections; exhibits of military and naval operations

Buildings acquired pursuant to recommendations made under subsection (a) of this section shall be used to house public exhibits and study collections that are not appropriate for the military exhibits of the Smithsonian Institution on the Mall in the District of Columbia. Facilities shall be provided for the display of large military objects and for the reconstruction, in an

appropriate way, on lands acquired pursuant to recommendations made under subsection (a) of this section, of exhibits showing the nature of fortifications, trenches, and other military and naval facilities characteristic of the American colonial period, the War of the Revolution, and subsequent American military and naval operations.

(Pub. L. 87–186, § 3, Aug. 30, 1961, 75 Stat. 415.)

§ 80c. Transfer or loan of objects, equipment and records to Smithsonian Institution

The heads of executive departments and independent agencies of the Government are authorized to transfer or loan to the Smithsonian Institution for its use without charge therefor military, naval, aeronautical, and space objects, equipment and records for exhibition, historical, or other appropriate purposes.

(Pub. L. 87–186, § 4, Aug. 30, 1961, 75 Stat. 415.)

§ 80d. Authorization of appropriations

There are authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the purposes of this subchapter.

(Pub. L. 87–186, § 5, Aug. 30, 1961, 75 Stat. 415.)

SUBCHAPTER XI—WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

§ 80e. Congressional declaration of policy

The Congress hereby finds and declares—

(1) that a living institution expressing the ideals and concerns of Woodrow Wilson would be an appropriate memorial to his accomplishments as the twenty-eighth President of the United States, a distinguished scholar, an outstanding university president, and a brilliant advocate of international understanding;

(2) that the Woodrow Wilson Memorial Commission, created by joint resolution of Congress, recommended that an International Center for Scholars be constructed in the District of Columbia in the area north of the proposed Market Square as part of the Nation's memorial to Woodrow Wilson;

(3) that such a center, symbolizing and strengthening the fruitful relation between the world of learning and the world of public affairs, would be a suitable memorial to the spirit of Woodrow Wilson; and

(4) that the establishment of such a center would be consonant with the purposes of the Smithsonian Institution, created by Congress in 1846 ''for the increase and diffusion of knowledge among men.''

(Pub. L. 90–637, § 2, Oct. 24, 1968, 82 Stat. 1357.)

SHORT TITLE

Section 1 of Pub. L. 90–637 provided: ''That this Act [enacting this subchapter] may be cited as the 'Woodrow Wilson Memorial Act of 1968'.''

§ 80f. Woodrow Wilson International Center for Scholars; Board of Trustees of the Center

(a) Establishment

There is hereby established in the Smithsonian Institution a Woodrow Wilson International Center for Scholars and a Board of Trustees of the Center (hereinafter referred to as the ''Center'' and the ''Board''), whose duties it shall be to maintain and administer the Center and site thereof and to execute such other functions as are vested in the Board by this subchapter.

(b) Composition of Board

The Board of Trustees shall be composed of 17 members as follows:

(1) the Secretary of State;

(2) the Secretary of Health and Human Services;

(3) the Secretary of Education;

(4) the Chairman of the National Endowment for the Humanities;

(5) the Secretary of the Smithsonian Institution;

(6) the Librarian of Congress;

(7) the Archivist of the United States;

(8) one member appointed by the President from time to time from within the Federal Government; and

(9) 9 members appointed by the President from private life.

(c) Appointment of alternate members by members of Board

Each member of the Board of Trustees specified in paragraphs (1) through (8) of subsection (b) of this section may designate another official to serve on the Board of Trustees in his stead.

(d) Terms of office; vacancies; reappointment

Each member of the Board of Trustees appointed under paragraph (10) of subsection (b) of this section shall serve for a term of six years from the expiration of his predecessor's term; except that (1) any trustee appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the trustees first taking office shall begin on October 24, 1968, and shall expire as designated at the time of appointment, two at the end of two years, three at the end of four years, and three at the end of six years. No trustee of the Board chosen from private life shall be eligible to serve in excess of two consecutive terms, except that a trustee whose term has expired may serve until his successor has qualified.

(e) Chairman and Vice Chairman of Board

The President shall designate a Chairman and a Vice Chairman from among the members of the Board chosen from private life.

(Pub. L. 90–637, § 3, Oct. 24, 1968, 82 Stat. 1357; Pub. L. 95–426, title II, § 206, Oct. 7, 1978, 92 Stat. 975; Pub. L. 101–268, Apr. 9, 1990, 104 Stat. 132; Pub. L. 105–277, div. G, subdiv. A, title XIII, § 1335(i), Oct. 21, 1998, 112 Stat. 2681–788.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277, § 1335(i)(1)(A), substituted ''17'' for ''19'' in introductory provisions.

Subsec. (b)(7) to (10). Pub. L. 105–277, § 1335(i)(1)(B)–(D), redesignated pars. (8) to (10) as (7) to (9), respectively, in par. (9) substituted ''9'' for ''10'', and struck out former par. (7) which read as follows: ''the Director of the United States Information Agency;''.

Subsec. (c). Pub. L. 105–277, § 1335(i)(2), substituted ''(8)'' for ''(9)''.

1990—Subsec. (b). Pub. L. 101–268, § 1, amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The Board of Trustees shall be composed of sixteen members as follows:

''(1) the Secretary of State;

''(2) the Director of the United States Information Agency;

''(3) the Secretary of Health and Human Services;

''(4) the Chairman of the National Endowment for the Humanities;

''(5) the Secretary of the Smithsonian Institution;

''(6) the Librarian of Congress;

''(7) the Archivist of the United States;

''(8) one appointed by the President from time to time from within the Federal Government; and

''(9) eight appointed by the President from private life.''

Subsec. (c). Pub. L. 101–268, § 2(1), substituted ''(9)'' for ''(8)''.

Subsec. (d). Pub. L. 101–268, § 2(2), substituted ''(10)'' for ''(9)''.

1978—Subsec. (b). Pub. L. 95–426, § 206(a)(1), substituted ''sixteen'' for ''fifteen''.

Subsec. (b)(2) to (9). Pub. L. 95–426, § 206(a)(2), (3), designated pars. (2) to (8) as (3) to (9), respectively, and added a new par. (2) ''the Director of the International Communication Agency''.

Subsec. (c). Pub. L. 95–426, § 206(b)(1), substituted ''(8)'' for ''(7)''.

Subsec. (d). Pub. L. 95–426, § 206(b)(2), substituted ''(9)'' for ''(8)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as a note under section 6531 of Title 22.

§ 80g. Powers and duties of Board

(a) Appointment of scholars; gifts, bequests, etc.; grants; location of Center; physical facilities; compensation of officers; plans and specifications for Center

In administering the Center, the Board shall have all necessary and proper powers, which shall include but not be limited to the power to—

(1) appoint scholars, from the United States and abroad, and, where appropriate, provide stipends, grants, and fellowships to such scholars, and to hire or accept the voluntary services of consultants, advisory boards, and panels to aid the Board in carrying out its responsibilities;

(2) solicit, accept, and dispose of gifts, bequests, and devises of money, securities, and other property of whatsoever character for the benefit of the Center; any such money, securities, or other property shall, upon receipt, be deposited with the Smithsonian Institution, and unless otherwise restricted by the terms of the gift, expenditures shall be in the discretion of the Board for the purposes of the Center;

(3) obtain grants from, and make contracts with, State, Federal, local, and private agencies, organizations, institutions, and individuals;

(4) acquire such site as a location for the Center as may subsequently be authorized by the Congress;

(5) acquire, hold, maintain, use, operate, and dispose of any physical facilities, including equipment, necessary for the operation of the Center;

(6) appoint and fix the compensation and duties of the director and such other officers of the Center as may be necessary for the efficient administration of the Center; the director and two other officers of the Center may be appointed and compensated without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and

(7) prepare plans and specifications for the Center, including the design and development of all buildings, facilities, open spaces, and other structures on the site in consultation with the President's Temporary Commission on Pennsylvania Avenue, or its successor, and with other appropriate Federal and local agencies, such plans to include an exterior classic frieze memorial to Woodrow Wilson.

(b) Relocation assistance and programs

The Board shall, in connection with acquisition of any site authorized by Congress, as provided for in paragraph (4) of subsection (a) of this section, provide, to businesses and residents displaced from any such site, relocation assistance, including payments and other benefits, equivalent to that authorized to displace businesses and residents under the Housing Act of 1949, as amended [42 U.S.C. 1441 et seq.]. The Board shall develop a relocation program for existing businesses and residents within the site and submit such program to the government of the District of Columbia for a determination as to its adequacy and feasibility. In providing such relocation assistance and developing such relocation program the Board shall utilize to the maximum extent the services and facilities of the appropriate Federal and local agencies.

(Pub. L. 90–637, § 4, Oct. 24, 1968, 82 Stat. 1358; Pub. L. 95–286, § 2, May 26, 1978, 92 Stat. 279.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a)(6), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The Housing Act of 1949, as amended, referred to in subsec. (b), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, which is classified principally to chapter 8A (§ 1441 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95–286 substituted ''devises'' for ''devices''.

§ 80g–1. Hubert H. Humphrey Fellowship in Social and Political Thought

(a) Establishment in Center

There is hereby established in the Center a Hubert H. Humphrey Fellowship in Social and Political Thought.

(b) Selection of Humphrey Fellow; term; compensation

Each year the Board shall select a distinguished scholar, statesman, or cultural figure,

from the United States or abroad, to serve at the Center for a period of up to one year as the Hubert H. Humphrey Fellow in Social and Political Thought (hereinafter in this section referred to as the ''Humphrey Fellow''). Each Humphrey Fellow shall receive compensation in an amount, determined by the Board, not to exceed the annual income of the trust fund established under subsection (d) of this section.

(c) Functions of Humphrey Fellow; publication and dissemination by Board of Memorial Lectures

Each Humphrey Fellow shall—

(1) deliver a Hubert H. Humphrey Memorial Lecture; and

(2) carry out such projects and work as are consistent with the Humphrey Fellowship.

The Board shall provide for the publication and dissemination of the Hubert H. Humphrey Memorial Lectures.

(d) Hubert H. Humphrey Fellowship Trust Fund; establishment, composition, investments, etc.

(1) There is hereby established in the Treasury of the United States a trust fund to be known as the Hubert H. Humphrey Fellowship Trust Fund (hereinafter in this section referred to as the ''fund''). The Secretary of the Treasury shall deposit in the fund such sums as may be appropriated to the fund under subsection (f) of this section and shall receive into the Treasury and deposit into the fund such sums as may be received as contributions to the fund.

(2) The Secretary of the Treasury shall invest amounts in the fund in public debt securities with maturities suitable for the needs of the fund and bearing interest at prevailing market rates; and the interest on such investments shall be credited to and form a part of the fund.

(3) Notwithstanding section 80g(a)(2) of this title any gift, bequest, or devise of money, securities or other property for the benefit of the Hubert H. Humphrey Fellowship in Social and Political Thought received by the Board shall, upon receipt, be deposited into the fund as provided by paragraph (1).

(e) Payments to Board from investments for implementation of Fellowship purposes

The Secretary of the Treasury shall pay to the Board from amounts received as interest on investments under subsection (d)(2) of this section such sums as the Board determines are necessary and appropriate for the purposes of the Humphrey Fellowship.

(f) Authorization of appropriations

There is authorized to be appropriated to the fund for the fiscal year beginning October 1, 1978, $1,000,000.

(Pub. L. 90–637, §5, as added Pub. L. 95–286, §1(2), May 26, 1978, 92 Stat. 278.)

§ 80h. Administration; quorum

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

(Pub. L. 90–637, §6, formerly §5, Oct. 24, 1968, 82 Stat. 1359, renumbered Pub. L. 95–286, §1(1), May 26, 1978, 92 Stat. 278.)

§ 80i. Authorization of appropriations; limitations

There are hereby authorized to be appropriated to the Board such funds as may be necessary to carry out the purposes of this subchapter: *Provided*, That no more than $200,000 shall be authorized for appropriation through fiscal year 1970 and no part of that appropriation shall be available for construction purposes.

(Pub. L. 90–637, §7, formerly §6, Oct. 24, 1968, 82 Stat. 1359, renumbered Pub. L. 95–286, §1(1), May 26, 1978, 92 Stat. 278.)

§ 80j. Audit of accounts

The accounts of the Board shall be audited in accordance with the principles and procedures applicable to, and as part of, the audit of the other Federal and trust funds of the Smithsonian Institution.

(Pub. L. 90–637, §8, formerly §7, Oct. 24, 1968, 82 Stat. 1359, renumbered Pub. L. 95–286, §1(1), May 26, 1978, 92 Stat. 278.)

SUBCHAPTER XII—MUSEUM OF AFRICAN ART

§ 80k. Donation and transfer of lands and improvements, works of art, and other assets and property of Museum of African Art to Smithsonian Institution

The Board of Regents of the Smithsonian Institution (hereinafter in this subchapter referred to as the ''Board'') is authorized to accept a deed or other instrument donating and transferring to the Smithsonian Institution, the land and improvements thereto, collections of works of art, and all other assets and property of the Museum of African Art.

(Pub. L. 95–414, §1, Oct. 5, 1978, 92 Stat. 911.)

EFFECTIVE DATE

Section 7 of Pub. L. 95–414 provided that: ''Except for the provisions in sections 1 and 6(b) [this section and section 80p(b) of this title], the provisions of this Act [this subchapter] shall take effect on the date of transfer of a deed or other instrument under the provisions of section 1 [this section].''

§ 80*l*. Establishment of Museum of African Art; functions

There is established in the Smithsonian Institution a bureau which shall be known as the ''Museum of African Art'' (hereinafter in this subchapter referred to as the ''Museum''). The functions of such bureau shall be those authorized by section 80m(a) of this title.

(Pub. L. 95–414, §2, Oct. 5, 1978, 92 Stat. 911.)

CONSTRUCTION OF NATIONAL MUSEUM OF AFRICAN ART

Regents of Smithsonian Institution authorized to construct building for National Museum of African Art,

see Pub. L. 97–203, June 24, 1982, 96 Stat. 129, set out as a note under section 50 of this title.

§ 80m. Powers of Board

(a) Acquisition, retention, and disposition of property; research and education programs

For the purpose of carrying out sections 80k and 80*l* of this title, the Board may—

(1) purchase, accept, borrow, or otherwise acquire additional works of art or any other real or personal property for the Museum;

(2) preserve, maintain, restore, display, loan, transfer, store, or otherwise hold any property of whatsoever nature acquired pursuant to section 80k of this title or paragraph (1) of this subsection;

(3) conduct programs of research and education; and

(4) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or otherwise dispose of any property of whatsoever nature acquired pursuant to the provisions of this subchapter: *Provided*, That the proceeds from the sale of any property acquired pursuant to section 80k of this title shall be designated for the benefit of the Museum.

(b) Recommendations of Commission

In carrying out the purposes of this subchapter, the Board shall consider the recommendations of the Commission established pursuant to section 80n of this title.

(Pub. L. 95–414, § 3, Oct. 5, 1978, 92 Stat. 911.)

§ 80n. Commission for the Museum of African Art

(a) Establishment; duties

There is established a Commission for the Museum of African Art (hereinafter the ''Commission'') which shall provide advice and assistance to the Board concerning the operation and development of the Museum, its collections and programs.

(b) Membership

The Commission shall consist of fifteen members to be appointed by the Board. In addition, the Secretary and an Assistant Secretary of the Smithsonian Institution shall serve as ex officio members. The Board shall appoint to the first term on the Commission no less than ten members of the Board of Trustees of the Museum of African Art who are serving on October 5, 1978. Each initial member so appointed shall serve for a three-year term. Thereafter, in appointing members of the Commission the Board shall continue to include representatives of African descendants in the United States, collectors of African Art, and scholars in the fields of African art and culture.

(c) Terms of office

Members of the Commission shall be appointed to serve for a three-year term, except that after the appointment of the first term of the Commission as specified in subsection (b) of this section, the terms of office of members next appointed shall expire, as designated by the Board at the time of appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(d) Quorum; vacancies

A majority of the appointed members of the Commission shall constitute a quorum and any vacancy in the Commission shall not affect its power to function.

(e) Travel, subsistence, and other expenses

Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(f) Selection of officers; bylaws

The Commission shall select officers, from among its members biennially and shall make bylaws to carry out its functions under this subchapter.

(Pub. L. 95–414, § 4, Oct. 5, 1978, 92 Stat. 911.)

§ 80*o*. Director, officers, and employees; appointment, compensation, and duties

The Board may appoint and fix the compensation and duties of the Director and such other officers and employees of the Museum as may be necessary for the efficient administration, operation, and maintenance of the Museum; the Director and two other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5; and all of the employees of the Museum who are serving on the date of the transfer authorized under section 80k of this title shall be offered employment by the Smithsonian under its usual terms of employment and may be appointed without regard to the provisions of title 5 governing appointments in the competitive service and chapter 51 and subchapter III of chapter 53 of title 5.

(Pub. L. 95–414, § 5, Oct. 5, 1978, 92 Stat. 912.)

REFERENCES IN TEXT

Provisions of title 5 governing appointments in the competitive service, referred to in text, are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 80p. Funding

(a) Federal funds for Museum

The faith of the United States is pledged that upon the completion of the acquisition in section 80k of this title, the United States will provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of works of art acquired by the Board, so the Museum shall at all times be properly maintained and works of art contained therein shall be exhibited regularly to the general public free of charge.

(b) Authorization of appropriations

There is authorized to be appropriated for the first fiscal year under this subchapter, the sum of $1,000,000 and such amounts as may be necessary for the succeeding fiscal years in order to carry out the provisions of this subchapter.

(Pub. L. 95–414, § 6, Oct. 5, 1978, 92 Stat. 912.)

EFFECTIVE DATE

Section effective, except for the provisions in subsec. (b) of this section, on the date of transfer of a deed or other instrument under the provisions of section 80k of this title, see section 7 of Pub. L. 95–414, set out as a note under section 80k of this title.

SUBCHAPTER XIII—NATIONAL MUSEUM OF THE AMERICAN INDIAN

§ 80q. Findings

The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to the Americas;

(2) although the Smithsonian Institution sponsors extensive Native American programs, none of its 19 museums, galleries, and major research facilities is devoted exclusively to Native American history and art;

(3) the Heye Museum in New York, New York, one of the largest Native American collections in the world, has more than 1,000,000 art objects and artifacts and a library of 40,000 volumes relating to the archaeology, ethnology, and history of Native American peoples;

(4) the Heye Museum is housed in facilities with a total area of 90,000 square feet, but requires a minimum of 400,000 square feet for exhibition, storage, and scholarly research;

(5) the bringing together of the Heye Museum collection and the Native American collection of the Smithsonian Institution would—

(A) create a national institution with unrivaled capability for exhibition and research;

(B) give all Americans the opportunity to learn of the cultural legacy, historic grandeur, and contemporary culture of Native Americans;

(C) provide facilities for scholarly meetings and the performing arts;

(D) make available curatorial and other learning opportunities for Indians; and

(E) make possible traveling exhibitions to communities throughout the Nation;

(6) by order of the Surgeon General of the Army, approximately 4,000 Indian human remains from battlefields and burial sites were sent to the Army Medical Museum and were later transferred to the Smithsonian Institution;

(7) through archaeological excavations, individual donations, and museum donations, the Smithsonian Institution has acquired approximately 14,000 additional Indian human remains;

(8) the human remains referred to in paragraphs (6) and (7) have long been a matter of concern for many Indian tribes, including Alaska Native Villages, and Native Hawaiian communities which are determined to provide an appropriate resting place for their ancestors;

(9) identification of the origins of such human remains is essential to addressing that concern; and

(10) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) is reserved for the use of the Smithsonian Institution and is available for construction of the National Museum of the American Indian.

(Pub. L. 101–185, § 2, Nov. 28, 1989, 103 Stat. 1336.)

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–278, § 1(a), Oct. 9, 1996, 110 Stat. 3355, provided that: ''This Act [enacting section 80q–9a of this title and amending sections 80q–3, 80q–9, and 80q–10 of this title] may be cited as the 'National Museum of the American Indian Act Amendments of 1996'.''

SHORT TITLE

Section 1 of Pub. L. 101–185 provided that: ''This Act [enacting this subchapter] may be cited as the 'National Museum of the American Indian Act'.''

§ 80q–1. National Museum of the American Indian

(a) Establishment

There is established, within the Smithsonian Institution, a living memorial to Native Americans and their traditions which shall be known as the ''National Museum of the American Indian''.

(b) Purposes

The purposes of the National Museum are to—

(1) advance the study of Native Americans, including the study of language, literature, history, art, anthropology, and life;

(2) collect, preserve, and exhibit Native American objects of artistic, historical, literary, anthropological, and scientific interest;

(3) provide for Native American research and study programs; and

(4) provide for the means of carrying out paragraphs (1), (2), and (3) in the District of Columbia, the State of New York, and other appropriate locations.

(Pub. L. 101–185, § 3, Nov. 28, 1989, 103 Stat. 1337.)

§ 80q–2. Authority of Board of Regents to enter into agreement providing for transfer of Heye Foundation assets to Smithsonian Institution

The Board of Regents is authorized to enter into an agreement with the Heye Foundation, to provide for the transfer to the Smithsonian Institution of title to the Heye Foundation assets. The agreement shall—

(1) require that the use of the assets be consistent with section 80q–1(b) of this title; and

(2) be governed by, and construed in accordance with, the law of the State of New York.

The United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over any cause of action arising under the agreement.

(Pub. L. 101–185, § 4, Nov. 28, 1989, 103 Stat. 1337.)

§ 80q–3. Board of Trustees of National Museum of the American Indian

(a) In general

The National Museum shall be under a Board of Trustees with the duties, powers, and authority specified in this section.

(b) General duties and powers

The Board of Trustees shall—

(1) recommend annual operating budgets for the National Museum to the Board of Regents;

(2) advise and assist the Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the National Museum;

(3) adopt bylaws for the Board of Trustees;

(4) designate a chairman and other officers from among the members of the Board of trustees;[1] and

(5) report annually to the Board of Regents on the acquisition, disposition, and display of Native American objects and artifacts and on other appropriate matters.

(c) Sole authority

Subject to the general policies of the Board of Regents, the Board of Trustees shall have the sole authority to—

(1) lend, exchange, sell, or otherwise dispose of any part of the collections of the National Museum, with the proceeds of such transactions to be used for additions to the collections of the National Museum or additions to the endowment of the National Museum, as the case may be;

(2) purchase, accept, borrow, or otherwise acquire artifacts and other objects for addition to the collections of the Natural Museum; and

(3) specify criteria for use of the collections of the National Museum for appropriate purposes, including research, evaluation, education, and method of display.

(d) Authority

Subject to the general policies of the Board of Regents, the Board of Trustees shall have authority to—

(1) provide for restoration, preservation, and maintenance of the collections of the National Museum;

(2) solicit funds for the National Museum and determine the purposes to which such funds shall be applied; and

(3) approve expenditures from the endowment of the National Museum for any purpose of the Museum.

(e) Initial appointments to Board of Trustees

(1) Membership

The initial membership of the Board of Trustees shall consist of—

(A) the Secretary of the Smithsonian Institution;

(B) an Assistant Secretary of the Smithsonian Institution appointed by the Board of Regents;

(C) 8 individuals appointed by the Board of Regents; and

(D) 15 individuals, each of whom shall be a member of the board of trustees of the Heye Museum, appointed by the Board of Regents from a list of nominees recommended by the board of trustees of the Heye Museum.

(2) Special rule

At least 7 of the 23 members appointed under subparagraphs (C) and (D) of paragraph (1) shall be Indians.

(3) Terms

The trustee appointed under paragraph (1)(B) shall serve at the pleasure of the Board of Regents. The terms of the trustees appointed under subparagraph (C) or (D) of paragraph (1) shall be 3 years, beginning on the date of the transfer of the Heye Foundation assets to the Smithsonian Institution.

(4) Vacancies

Any vacancy shall be filled only for the remainder of the term involved. Any vacancy appointment under paragraph (1)(D) shall not be subject to the source and recommendation requirements of that paragraph, but shall be subject to paragraph (2).

(f) Subsequent appointments to Board of Trustees

(1) Membership

Upon the expiration of the terms under subsection (e) of this section, the Board of Trustees shall consist of—

(A) the Secretary of the Smithsonian Institution;

(B) a senior official of the Smithsonian Institution appointed by the Board of Regents; and

(C) 23 individuals appointed by the Board of Regents from a list of nominees recommended by the Board of Trustees.

(2) Special rule

A[2] least 12 of the 23 members appointed under paragraph (1)(C) shall be Indians.

(3) Terms

The trustee appointed under paragraph (1)(B) shall serve at the pleasure of the Board of Regents. Except as otherwise provided in the next sentence, the terms of members appointed under paragraph (1)(C) shall be 3 years. Of the members first appointed under paragraph (1)(C)—

(A) 7 members, 4 of whom shall be Indians, shall be appointed for a term of one year, as designated at the time of appointment; and

(B) 8 members, 4 of whom shall be Indians, shall be appointed for a term of 2 years, as designated at the time of appointment.

(4) Vacancies

Any vacancy shall be filled only for the remainder of the term involved.

(g) Quorum

A majority of the members of the Board of Trustees then in office shall constitute a quorum.

(h) Expenses

Members of the Board shall be entitled (to the same extent as provided in section 5703 of title

[1] So in original. Probably should be capitalized.

[2] So in original. Probably should be ''At''.

5 with respect to employees serving intermittently in the Government service) to per diem, travel, and transportation expenses for each day (including travel time) during which they are engaged in the performance of their duties.

(Pub. L. 101–185, § 5, Nov. 28, 1989, 103 Stat. 1337; Pub. L. 104–278, § 2, Oct. 9, 1996, 110 Stat. 3355.)

AMENDMENTS

1996—Subsec. (f)(1)(B). Pub. L. 104–278 substituted ''a senior official'' for ''an Assistant Secretary''.

§ 80q–4. Director and staff of National Museum

(a) In general

The Secretary of the Smithsonian Institution shall appoint—

(1) a Director who, subject to the policies of the Board of Trustees, shall manage the National Museum; and

(2) other employees of the National Museum, to serve under the Director.

(b) Offer of employment to Heye Foundation employees

Each employee of the Heye Museum on the day before the date of the transfer of the Heye Foundation assets to the Smithsonian Institution shall be offered employment with the Smithsonian Institution—

(1) under the usual terms of such employment; and

(2) at a rate of pay not less than the rate applicable to the employee on the day before the date of the transfer.

(c) Applicability of certain civil service laws

The Secretary may—

(1) appoint the Director, 2 employees under subsection (a)(2) of this section, and the employees under subsection (b) of this section without regard to the provisions of title 5, governing appointments in the competitive service;

(2) fix the pay of the Director and such 2 employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates; and

(3) fix the pay of the employees under subsection (b) of this section in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, subject to subsection (b)(2) of this section.

(Pub. L. 101–185, § 6, Nov. 28, 1989, 103 Stat. 1339.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (c)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 80q–5. Museum facilities

(a) National Museum mall facility

The Board of Regents shall plan, design, and construct a facility on the area bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, Southwest, in the District of Columbia to house the portion of the National Museum to be located in the District of Columbia. The Board of Regents shall pay not more than ⅔ of the total cost of planning, designing, and constructing the facility from funds appropriated to the Board of Regents. The remainder of the costs shall be paid from non-Federal sources.

(b) National Museum Heye Center facility

(1) Lease of space from GSA

(A) Terms

Notwithstanding section 586(a) and (b) of title 40, the Administrator of General Services may lease, at a nominal charge, to the Smithsonian Institution space in the Old United States Custom House at One Bowling Green, New York, New York, to house the portion of the National Museum to be located in the city of New York. The lease shall be subject to such terms as may be mutually agreed upon by the Administrator and the Secretary of the Smithsonian Institution. The term of the lease shall not be less than 99 years.

(B) Reimbursement of Federal buildings fund

The Administrator of General Services may reimburse the fund established by section 592 of title 40 for the difference between the amount charged to the Smithsonian Institution for leasing space under this paragraph and the commercial charge under section 586(a) and (b) of title 40 which, but for this paragraph, would apply to the leasing of such space. There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out this subparagraph for fiscal years beginning after September 30, 1990.

(2) Construction

(A) Museum facility

The Board of Regents shall plan, design, and construct a significant facility for the National Museum in the space leased under paragraph (1).

(B) Auditorium and loading dock facility

The Administrator of General Services shall plan, design, and construct an auditorium and loading dock in the Old United States Custom House at One Bowling Green, New York, New York, for the shared use of all the occupants of the building, including the National Museum.

(C) Square footage

The facilities to be constructed under this paragraph shall have, in the aggregate, a total square footage of approximately 82,500 square feet.

(3) Repairs and alterations

After construction of the facility under paragraph (2)(A), repairs and alterations of the facility shall be the responsibility of the Board of Regents.

(4) Reimbursement of GSA

The Board of Regents shall reimburse the Administrator for the Smithsonian Institution's pro rata share of the cost of utilities, maintenance, cleaning, and other services in-

curred with respect to the space leased under paragraph (1) and the full cost of any repairs or alterations made by the General Services Administration at the request of the Smithsonian Institution with respect to the space.

(5) Cost sharing

(A) General rules

The Board of Regents shall pay ⅓ of the costs of planning, designing, and constructing the facility under paragraph (2)(A) from funds appropriated to the Board of Regents. The remainder of the costs shall be paid from non-Federal sources.

(B) Responsibilities of New York City and State

Of the costs which are required to be paid from non-Federal sources under this paragraph, the city of New York, New York, and the State of New York have each agreed to pay $8,000,000 or an amount equal to ⅓ of the costs of planning, designing, and constructing the facility under paragraph (2)(A), whichever is less. Such payments shall be made to the Board of Regents in accordance with a payment schedule to be agreed upon by the city and State and the Board of Regents.

(C) Limitation on obligations of Federal funds

Federal funds may not be obligated for actual construction of a facility under paragraph (2)(A) in a fiscal year until non-Federal sources have paid to the Board of Regents the non-Federal share of such costs which the Board of Regents estimates will be incurred in such year.

(6) Designation

The facility to be constructed under paragraph (2)(A) shall be known and designated as the ''George Gustav Heye Center of the National Museum of the American Indian''.

(c) Museum Support Center facility

The Board of Regents shall plan, design, and construct a facility for the conservation and storage of the collections of the National Museum at the Museum Support Center of the Smithsonian Institution.

(d) Minimum square footage

The facilities to be constructed under this section shall have, in the aggregate, a total square footage of at least 400,000 square feet.

(e) Authority to contract with GSA

The Board of Regents and the Administrator of General Services may enter into such agreements as may be necessary for planning, designing, and constructing facilities under this section (other than subsection (b)(2)(B)). Under such agreements, the Board of Regents shall transfer to the Administrator, from funds available for planning, designing, and constructing such facilities, such amounts as may be necessary for expenses of the General Services Administration with respect to planning, designing, and constructing such facilities.

(f) Limitation on obligation of Federal funds

Notwithstanding any other provision of this subchapter, funds appropriated for carrying out this section may not be obligated for actual construction of any facility under this section until the 60th day after the date on which the Board of Regents transmits to Congress a written analysis of the total estimated cost of the construction and a cost-sharing plan projecting the amount for Federal appropriations and for non-Federal contributions for the construction on a fiscal year basis.

(Pub. L. 101–185, § 7, Nov. 28, 1989, 103 Stat. 1339.)

CODIFICATION

''Section 586(a) and (b) of title 40'' substituted in subsec. (b)(1)(A) for ''section 210(j) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(j))'', ''section 592 of title 40'' substituted in subsec. (b)(1)(B) for ''section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f))'', and ''section 586(a) and (b) of title 40'' substituted in subsec. (b)(1)(B) for ''section 210(j) of such Act'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

NATIONAL NATIVE AMERICAN VETERANS' MEMORIAL

Pub. L. 103–384, Oct. 22, 1994, 108 Stat. 4067, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Native American Veterans' Memorial Establishment Act of 1994'.

''SEC. 2. FINDINGS.

''The Congress finds the following:

''(1) Native Americans across the Nation—Indians, Native Alaskans, and Native Hawaiians—have a long, proud and distinguished tradition of service in the Armed Forces of the United States.

''(2) Native Americans have historically served in the Armed Forces of the United States in numbers which far exceed their representation in the population of the United States.

''(3) Native American veterans count among themselves a number of Medal of Honor recipients. Their numbers are also conspicuous in the ranks of those who have received other decorations for valor and distinguished service.

''(4) Native Americans have lost their lives in the service of their Nation and in the cause of peace.

''(5) The National Museum of the American Indian was established as a living memorial to Native Americans. Its mission is to advance knowledge and understanding of Native American cultures, including art, history, language, and the contributions Native Americans have made to our society.

''(6) The National Museum of the American Indian is an extraordinary site and an ideal location to establish a National Native American Veterans' Memorial.

''(7) A National Native American Veterans' Memorial would further the purposes of the National Museum of the American Indian by giving all Americans the opportunity to learn of the proud and courageous tradition of service of Native Americans in the Armed Forces of the United States.

''SEC. 3. AUTHORITY TO ESTABLISH MEMORIAL.

''(a) IN GENERAL.—The National Museum of the American Indian (established by the National Museum of the American Indian Act (20 U.S.C. 80q et seq.)), in close consultation with the National Congress of American Indians and other Native American groups, is authorized to construct and maintain a National Native American Veterans' Memorial (hereafter in this Act referred to as the 'memorial').

''(b) LOCATION.—The memorial shall be located at a site determined to be suitable by the Museum within the interior structure of the facility provided for by section 7(a) of such Act (20 U.S.C. 80q–5(a)) (relating to

housing the portion of the Museum to be located in the District of Columbia).

''(c) DESIGN AND PLANS.—(1) The National Congress of American Indians, in consultation with the Museum, is authorized to hold a competition to select the design of the Memorial. Any design so selected shall be compatible with both the purpose of the Museum, as set forth in section 3(b) of the National Museum of the American Indian Act (20 U.S.C. 80q–1 [(b)]), and with any existing design plans for the Museum's structure and its surroundings.

''(2) Any design so selected shall be subject to the approval of the Board of Regents of the Smithsonian Institution.

''SEC. 4. PAYMENT OF EXPENSES AND USE OF NAME.

''(a) RESPONSIBILITY OF NATIONAL CONGRESS OF AMERICAN INDIANS.—The National Congress of American Indians shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

''(b) USE OF NAME.—Use of the name of the Smithsonian Institution or the National Museum of the American Indian in any material regarding the memorial produced by the National Congress of American Indians, other than in a manner simply describing the location of the memorial, shall be subject to consultation with, and the approval of, the Board of Regents of the Smithsonian Institution.''

§ 80q–6. Custom House office space and auditorium

(a) Repairs and alterations

The Administrator of General Services shall make such repairs and alterations as may be necessary in the portion of the Old United States Custom House at One Bowling Green, New York, New York, which is not leased to the Board of Regents under section 80q–5(b) of this title and which, as of November 28, 1989, has not been altered.

(b) Authorization of appropriation

There is authorized to be appropriated to the Administrator of General Services $25,000,000 from the fund established pursuant to section 592 of title 40 to carry out this section and section 80q–5(b)(2)(B) of this title.

(Pub. L. 101–185, § 8, Nov. 28, 1989, 103 Stat. 1341.)

CODIFICATION

''Section 592 of title 40'' substituted in subsec. (b) for ''section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f))'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

§ 80q–7. Audubon Terrace

(a) In general

The Board of Regents shall—

(1) assure that, on the date on which a qualified successor to the Heye Foundation at Audubon Terrace first takes possession of Audubon Terrace, an area of at least 2,000 square feet at that facility is accessible to the public and physically suitable for exhibition of museum objects and for related exhibition activities;

(2) upon written agreement between the Board and any qualified successor, lend objects from the collections of the Smithsonian Institution to the successor for exhibition at Audubon Terrace; and

(3) upon written agreement between the Board and any qualified successor, provide training, scholarship, technical, and other assistance (other than operating funds) with respect to the area referred to in paragraph (1) for the purposes described in that paragraph.

(b) Determination of charges

Any charge by the Board of Regents for activities pursuant to agreements under paragraph (2) or (3) of subsection (a) of this section shall be determined according to the ability of the successor to pay.

(c) Definition

As used in this section, the terms ''qualified successor to the Heye Foundation at Audubon Terrace'', ''qualified successor'', and,[1] ''successor'' mean an organization described in section 501(c)(3) of title 26, and exempt from tax under section 501(a) of title 26, that, as determined by the Board of Regents—

(1) is a successor occupant to the Heye Foundation at Audubon Terrace, 3753 Broadway, New York, New York;

(2) is qualified to operate the area referred to in paragraph (1) for the purposes described in that paragraph; and

(3) is committed to making a good faith effort to respond to community cultural interests in such operation.

(Pub. L. 101–185, § 9, Nov. 28, 1989, 103 Stat. 1342.)

§ 80q–8. Board of Regents functions with respect to certain agreements and programs

(a) Priority to be given to Indian organizations with respect to certain agreements

In entering into agreements with museums and other educational and cultural organizations to—

(1) lend Native American artifacts and objects from any collection of the Smithsonian Institution;

(2) sponsor or coordinate traveling exhibitions of artifacts and objects; or

(3) provide training or technical assistance;

the Board of Regents shall give priority to agreements with Indian organizations, including Indian tribes, museums, cultural centers, educational institutions, libraries, and archives. Such agreements may provide that loans or services to such organizations may be furnished by the Smithsonian Institution at minimal or no cost.

(b) Indian programs

The Board of Regents may establish—

(1) programs to serve Indian tribes and communities; and

(2) in cooperation with educational institutions, including tribally controlled community colleges (as defined in section 1801[1] of title 25), programs to enhance the opportuni-

[1] So in original. The comma probably should not appear.

[1] See References in Text note below.

ties for Indians in the areas of museum studies, management, and research.

(c) Indian Museum Management Fellowships

The Board of Regents shall establish an Indian Museum Management Fellowship program to provide stipend support to Indians for training in museum development and management.

(d) Authorization of appropriations

There is authorized to be appropriated $2,000,000 for each fiscal year, beginning with fiscal year 1991, to carry out subsections (b) and (c) of this section.

(Pub. L. 101–185, § 10, Nov. 28, 1989, 103 Stat. 1342; Pub. L. 105–244, title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1828.)

REFERENCES IN TEXT

Section 1801 of title 25, referred to in subsec. (b)(2), was subsequently amended, and no longer defines the term ''tribally controlled community college''.

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105–244 made technical amendment to reference in original act which appears in text as reference to section 1801 of title 25.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 80q–9. Inventory, identification, and return of Indian human remains and Indian funerary objects in possession of Smithsonian Institution

(a) Inventory and identification

(1) The Secretary of the Smithsonian Institution, in consultation and cooperation with traditional Indian religious leaders and government officials of Indian tribes, shall—

(A) inventory the Indian human remains and Indian funerary objects in the possession or control of the Smithsonian Institution; and

(B) using the best available scientific and historical documentation, identify the origins of such remains and objects.

(2) The inventory made by the Secretary of the Smithsonian Institution under paragraph (1) shall be completed not later than June 1, 1998.

(3) For purposes of this subsection, the term ''inventory'' means a simple, itemized list that, to the extent practicable, identifies, based upon available information held by the Smithsonian Institution, the geographic and cultural affiliation of the remains and objects referred to in paragraph (1).

(b) Notice in case of identification of tribal origin

If the tribal origin of any Indian human remains or Indian funerary object is identified by a preponderance of the evidence, the Secretary shall so notify any affected Indian tribe at the earliest opportunity.

(c) Return of Indian human remains and associated Indian funerary objects

If any Indian human remains are identified by a preponderance of the evidence as those of a particular individual or as those of an individual culturally affiliated with a particular Indian tribe, the Secretary, upon the request of the descendants of such individual or of the Indian tribe shall expeditiously return such remains (together with any associated funerary objects) to the descendants or tribe, as the case may be.

(d) Return of Indian funerary objects not associated with Indian human remains

If any Indian funerary object not associated with Indian human remains is identified by a preponderance of the evidence as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe, the Secretary, upon the request of the Indian tribe, shall expeditiously return such object to the tribe.

(e) Interpretation

Nothing in this section shall be interpreted as—

(1) limiting the authority of the Smithsonian Institution to return or repatriate Indian human remains or Indian funerary objects to Indian tribes or individuals; or

(2) delaying actions on pending repatriation requests, denying or otherwise affecting access to the courts, or limiting any procedural or substantive rights which may otherwise be secured to Indian tribes or individuals.

(f) Authorization of appropriations

There is authorized to be appropriated $1,000,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years to carry out this section and section 80q–9a of this title.

(Pub. L. 101–185, § 11, Nov. 28, 1989, 103 Stat. 1343; Pub. L. 104–278, § 3, Oct. 9, 1996, 110 Stat. 3355.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–278, § 3(a), designated existing provisions as par. (1), added pars. (2) and (3), and redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, of par. (1).

Subsec. (f). Pub. L. 104–278, § 3(b), inserted ''and section 80q–9a of this title'' after ''to carry out this section''.

§ 80q–9a. Summary and repatriation of unassociated funerary objects, sacred objects, and cultural patrimony

(a) Summary

Not later than December 31, 1996, the Secretary of the Smithsonian Institution shall provide a written summary that contains a summary of unassociated funerary objects, sacred objects, and objects of cultural patrimony (as those terms are defined in subparagraphs (B), (C), and (D), respectively, of section 3001(3) of title 25, based upon available information held by the Smithsonian Institution. The summary required under this section shall include, at a minimum, the information required under section 3004 of title 25.

(b) Repatriation

Where cultural affiliation of Native American unassociated funerary objects, sacred objects, and objects of cultural patrimony has been established in the summary prepared pursuant to

subsection (a) of this section, or where a requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion, then the Smithsonian Institution shall expeditiously return such unassociated funerary object, sacred object, or object of cultural patrimony where—

(1) the requesting party is the direct lineal descendant of an individual who owned the unassociated funerary object or sacred object;

(2) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the Indian tribe or Native Hawaiian organization; or

(3) the requesting Indian tribe or Native Hawaiian organization can show that the unassociated funerary object or sacred object was owned or controlled by a member thereof, provided that in the case where an unassociated funerary object or sacred object was owned by a member thereof, there are no identifiable lineal descendants of said member or the lineal descendants, upon notice, have failed to make a claim for the object.

(c) Standard of repatriation

If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony pursuant to this subchapter and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Smithsonian Institution did not have the right of possession, then the Smithsonian Institution shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

(d) Museum obligation

Any museum of the Smithsonian Institution which repatriates any item in good faith pursuant to this subchapter shall not be liable for claims by an aggrieved party or for claims of fiduciary duty, public trust, or violations of applicable law that are inconsistent with the provisions of this subchapter.

(e) Statutory construction

Nothing in this section may be construed to prevent the Secretary of the Smithsonian Institution, with respect to any museum of the Smithsonian Institution, from making an inventory or preparing a written summary or carrying out the repatriation of unassociated funerary objects, sacred objects, or objects of cultural patrimony in a manner that exceeds the requirements of this subchapter.

(f) "Native Hawaiian organization" defined

For purposes of this section, the term ''Native Hawaiian organization'' has the meaning provided that term in section 3001(11) of title 25.

(Pub. L. 101–185, § 11A, as added Pub. L. 104–278, § 4, Oct. 9, 1996, 110 Stat. 3355.)

§ 80q–10. Special committee to review inventory, identification, and return of Indian human remains and Indian funerary objects

(a) Establishment; duties

Not later than 120 days after November 28, 1989, the Secretary of the Smithsonian Institution shall appoint a special committee to monitor and review the inventory, identification, and return of Indian human remains and Indian funerary objects under section 80q–9 of this title and unassociated funerary objects, sacred objects, and objects of cultural patrimony under section 80q–9a of this title. In carrying out its duties, the committee shall—

(1) with respect to the inventory and identification, ensure fair and objective consideration and assessment of all relevant evidence;

(2) upon the request of any affected party or otherwise, review any finding relating to the origin or the return of such remains or objects;

(3) facilitate the resolution of any dispute that may arise between Indian tribes with respect to the return of such remains or objects; and

(4) perform such other related functions as the Secretary may assign.

(b) Membership

The committee shall consist of 7 members, of whom—

(1) 4 members shall be appointed from among nominations submitted by Indian tribes and organizations;

(2) at least 2 members shall be traditional Indian religious leaders; and

(3) the Secretary shall designate one member as chairman.

The Secretary may not appoint to the committee any individual who is an officer or employee of the Government (including the Smithsonian Institution) or any individual who is otherwise affiliated with the Smithsonian Institution.

(c) Access

The Secretary shall ensure that the members of the committee have full and free access to the Indian human remains and Indian funerary objects subject to section 80q–9 of this title and to any related evidence, including scientific and historical documents.

(d) Pay and expenses of members

Members of the committee shall—

(1) be paid the daily equivalent of the annual rate of basic pay payable for grade GS–18 of the General schedule under section 5332 of title 5; and

(2) be entitled (to the same extent as provided in section 5703 of such title, with respect to employees serving intermittently in the Government service) to per diem, travel, and transportation expenses;

for each day (including travel time) during which they are engaged in the performance of their duties.

(e) Rules and administrative support

The Secretary shall prescribe regulations and provide administrative support for the committee.

(f) Report and termination

At the conclusion of the work of the committee, the Secretary shall be so[1] certify by report to the Congress. The committee shall cease to exist 120 days after the submission of the report.

(g) Nonapplicability of Federal Advisory Committee Act

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the committee.

(h) Authorization of appropriations

There is authorized to be appropriated $250,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years to carry out this section.

(Pub. L. 101–185, § 12, Nov. 28, 1989, 103 Stat. 1344; Pub. L. 104–278, § 5, Oct. 9, 1996, 110 Stat. 3357.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–278, § 5(1), in first sentence, inserted ''and unassociated funerary objects, sacred objects, and objects of cultural patrimony under section 80q–9a of this title'' before period.

Subsec. (b). Pub. L. 104–278, § 5(2)(A), substituted ''7 members'' for ''five members'' in introductory provisions.

Subsec. (b)(1). Pub. L. 104–278, § 5(2)(B), substituted ''4 members'' for ''three members'' and struck out ''and'' at end.

Subsec. (b)(2), (3). Pub. L. 104–278, § 5(2)(C), (D), added par. (2) and redesignated former par. (2) as (3).

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 80q–11. Inventory, identification, and return of Native Hawaiian human remains and Native Hawaiian funerary objects in possession of Smithsonian Institution

(a) In general

The Secretary of the Smithsonian Institution shall—

(1) in conjunction with the inventory and identification under section 80q–9 of this title, inventory and identify the Native Hawaiian human remains and Native Hawaiian funerary objects in the possession of the Smithsonian Institution;

(2) enter into an agreement with appropriate Native Hawaiian organizations with expertise in Native Hawaiian affairs (which may include the Office of Hawaiian Affairs and the Malama I Na Kupuna O Hawai'i Nei) to provide for the return of such human remains nd[1] funerary objects; and

(3) to the greatest extent practicable, apply, with respect to such human remains and funerary objects, the principles and procedures set forth in sections 80q–9 and 80q–10 of this title with respect to the Indian human remains and Indian funerary objects in the possession of the Smithsonian Institution.

(b) Definitions

As used in this section—

(1) the term ''Malama I Na Kupuna O Hawai'i Nei'' means the nonprofit, Native Hawaiian organization, incorporated under the laws of the State of Hawaii by that name on April 17, 1989, the purpose of which is to provide guidance and expertise in decisions dealing with Native Hawaiian cultural issues, particularly burial issues; and

(2) the term ''Office of Hawaiian Affairs'' means the Office of Hawaiian Affairs established by the Constitution of the State of Hawaii.

(Pub. L. 101–185, § 13, Nov. 28, 1989, 103 Stat. 1345.)

§ 80q–12. Grants by Secretary of the Interior to assist Indian tribes with respect to agreements for return of Indian human remains and Indian funerary objects

(a) In general

The Secretary of the Interior may make grants to Indian tribes to assist such tribes in reaching and carrying out agreements with—

(1) the Board of Regents for the return of Indian human remains and Indian funerary objects under section 80q–9 of this title; and

(2) other Federal and non-Federal entities for additional returns of Indian human remains and Indian funerary objects.

(b) Authorization of appropriations

There is authorized to be appropriated $1,000,000 for fiscal year 1991 and such sums as may be necessary for succeeding fiscal years for grants under subsection (a) of this section.

(Pub. L. 101–185, § 14, Nov. 28, 1989, 103 Stat. 1345.)

§ 80q–13. Grants by Secretary of the Interior to assist Indian organizations with respect to renovation and repair of museum facilities and exhibit facilities

(a) Grants

The Secretary of the Interior may make grants to Indian organizations, including Indian tribes, museums, cultural centers, educational institutions, libraries, and archives, for renovation and repair of museum facilities and exhibit facilities to enable such organizations to exhibit objects and artifacts on loan from the collections of the Smithsonian Institution or from other sources. Such grants may be made only from the Tribal Museum Endowment Fund.

(b) Indian organization contribution

In making grants under subsection (a) of this section, the Secretary may require the organization receiving the grant to contribute, in cash or in kind, not more than 50 percent of the cost of the renovation or repair involved. Such contribution may be derived from any source other than the Tribal Museum Endowment Fund.

[1] So in original. Probably should be ''shall so''.

[1] So in original. Probably should be ''and''.

(c) Tribal Museum Endowment Fund

(1) Establishment

There is established in the Treasury a fund, to be known as the ''Tribal Museum Endowment Fund'' (hereinafter in this subsection referred to as the ''Fund'') for the purpose of making grants under subsection (a) of this section. The Fund shall consist of (A) amounts deposited and credited under paragraph (2), (B) obligations obtained under paragraph (3), and (C) amounts appropriated pursuant to authorization under paragraph (5).

(2) Deposits and credits

The Secretary of the Interior is authorized to accept contributions to the Fund from non-Federal sources and shall deposit such contributions in the Fund. The Secretary of the Treasury shall credit to the Fund the interest on, and the proceeds from sale and redemption of, obligations held in the Fund.

(3) Investments

The Secretary of the Treasury may invest any portion of the Fund in interest-bearing obligations of the United States. Such obligations may be acquired on original issue or in the open market and may be held to maturity or sold in the open market. In making investments for the Fund, the Secretary of the Treasury shall consult the Secretary of the Interior with respect to maturities, purchases, and sales, taking into consideration the balance necessary to meet current grant requirements.

(4) Expenditures and capital preservation

Subject to appropriation, amounts derived from interest shall be available for expenditure from the Fund. The capital of the Fund shall not be available for expenditure.

(5) Authorization of appropriations

There is authorized to be appropriated to the Fund $2,000,000 for each fiscal year beginning with fiscal year 1992.

(Pub. L. 101–185, § 15, Nov. 28, 1989, 103 Stat. 1345.)

CODIFICATION

Subsec. (d) of this section, which required the Secretary of the Interior, in consultation with the Secretary of the Treasury, to submit an annual report to Congress on activities under this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 108 of House Document No. 103–7.

NATIVE AMERICAN CULTURAL CENTER IN OKLAHOMA CITY, OKLAHOMA; FEASIBILITY STUDY AND REPORT

Pub. L. 102–196, Dec. 9, 1991, 105 Stat. 1620, directed Secretary of the Interior to conduct a study and make a report to Congress on the feasibility of establishing a Native American Cultural Center in Oklahoma City, Oklahoma, and made appropriations for that purpose.

§ 80q–14. Definitions

As used in this subchapter—

(1) the term ''Board of Regents'' means the Board of Regents of the Smithsonian Institution;

(2) the term ''Board of Trustees'' means the Board of Trustees of the National Museum of the American Indian;

(3) the term ''burial site'' means a natural or prepared physical location, whether below, on, or above the surface of the earth, into which, as a part of a death rite or ceremony of a culture, individual human remains are deposited;

(4) the term ''funerary object'' means an object that, as part of a death rite or ceremony of a culture, is intentionally placed with individual human remains, either at the time of burial or later;

(5) the term ''Heye Foundation assets'' means the collections, endowment, and all other property of the Heye Foundation (other than the interest of the Heye Foundation in Audubon Terrace) described in the Memorandum of Understanding between the Smithsonian Institution and the Heye Foundation, dated May 8, 1989, and the schedules attached to such memorandum;

(6) the term ''Heye Museum'' means the Museum of the American Indian, Heye Foundation;

(7) the term ''Indian'' means a member of an Indian tribe;

(8) the term ''Indian tribe'' has the meaning given that term in section 450b of title 25;

(9) the term ''National Museum'' means the National Museum of the American Indian established by section 80q–1 of this title;

(10) the term ''Native American'' means an individual of a tribe, people, or culture that is indigenous to the Americas and such term includes a Native Hawaiian; and

(11) the term ''Native Hawaiian'' means a member or descendant of the aboriginal people who, before 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

(Pub. L. 101–185, § 16, Nov. 28, 1989, 103 Stat. 1346.)

§ 80q–15. Authorization of appropriations

(a) Funding

There is authorized to be appropriated to the Board of Regents to carry out this subchapter (other than as provided in sections 80q–5(b)(1)(B), 80q–6, 80q–8, 80q–9, 80q–10, 80q–12, and 80q–13(c)(5) of this title)—

(1) $10,000,000 for fiscal year 1990; and

(2) such sums as may be necessary for each succeeding fiscal year.

(b) Period of availability

Funds appropriated under subsection (a) of this section shall remain available without fiscal year limitation for any period prior to the availability of the facilities to be constructed under section 80q–5 of this title for administrative and planning expenses and for the care and custody of the collections of the National Museum.

(Pub. L. 101–185, § 17, Nov. 28, 1989, 103 Stat. 1347.)

SUBCHAPTER XIV—NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY AND CULTURE

§ 80r. Findings

Congress finds that—

(1) since its founding, the United States has grown into a symbol of democracy and free-

dom around the world, and the legacy of African Americans is rooted in the very fabric of the democracy and freedom of the United States;

(2) there exists no national museum within the Smithsonian Institution that—

(A) is devoted to the documentation of African American life, art, history, and culture; and

(B) encompasses, on a national level—

(i) the period of slavery;

(ii) the era of Reconstruction;

(iii) the Harlem renaissance;

(iv) the civil rights movement; and

(v) other periods associated with African American life, art, history, and culture; and

(3) a National Museum of African American History and Culture would be dedicated to the collection, preservation, research, and exhibition of African American historical and cultural material reflecting the breadth and depth of the experiences of individuals of African descent living in the United States.

(Pub. L. 108–184, § 2, Dec. 16, 2003, 117 Stat. 2676.)

SHORT TITLE

Pub. L. 108–184, § 1, Dec. 16, 2003, 117 Stat. 2676, provided that: ''This Act [enacting this subchapter] may be cited as the 'National Museum of African American History and Culture Act'.''

§ 80r–1. Definitions

In this subchapter:

(1) Board of Regents

The term ''Board of Regents'' means the Board of Regents of the Smithsonian Institution.

(2) Council

The term ''Council'' means the National Museum of African American History and Culture Council established by section 80r–3 of this title.

(3) Museum

The term ''Museum'' means the National Museum of African American History and Culture established by section 80r–2 of this title.

(4) Secretary

The term ''Secretary'' means the Secretary of the Smithsonian Institution.

(Pub. L. 108–184, § 3, Dec. 16, 2003, 117 Stat. 2676.)

§ 80r–2. Establishment of Museum

(a) Establishment

There is established within the Smithsonian Institution a museum to be known as the ''National Museum of African American History and Culture''.

(b) Purpose

The purpose of the Museum shall be to provide for—

(1) the collection, study, and establishment of programs relating to African American life, art, history, and culture that encompass—

(A) the period of slavery;

(B) the era of Reconstruction;

(C) the Harlem renaissance;

(D) the civil rights movement; and

(E) other periods of the African American diaspora;

(2) the creation and maintenance of permanent and temporary exhibits documenting the history of slavery in America and African American life, art, history, and culture during the periods referred to in paragraph (1);

(3) the collection and study of artifacts and documents relating to African American life, art, history, and culture; and

(4) collaboration between the Museum and other museums, historically black colleges and universities, historical societies, educational institutions, and other organizations that promote the study or appreciation of African American life, art, history, or culture, including collaboration concerning—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections; and

(C) training of museum professionals.

(Pub. L. 108–184, § 4, Dec. 16, 2003, 117 Stat. 2677.)

§ 80r–3. Council

(a) Establishment

There is established within the Smithsonian Institution a council to be known as the ''National Museum of African American History and Culture Council''.

(b) Duties

(1) In general

The Council shall—

(A) make recommendations to the Board of Regents concerning the planning, design, and construction of the Museum;

(B) advise and assist the Board of Regents on all matters relating to the administration, operation, maintenance, and preservation of the Museum;

(C) recommend annual operating budgets for the Museum to the Board of Regents;

(D) report annually to the Board of Regents on the acquisition, disposition, and display of objects relating to African American life, art, history, and culture; and

(E) adopt bylaws for the operation of the Council.

(2) Principal responsibilities

The Council, subject to the general policies of the Board of Regents, shall have sole authority to—

(A) purchase, accept, borrow, and otherwise acquire artifacts for addition to the collections of the Museum;

(B) loan, exchange, sell, and otherwise dispose of any part of the collections of the Museum, but only if the funds generated by that disposition are used for additions to the collections of the Museum; or

(C) specify criteria with respect to the use of the collections and resources of the Museum, including policies on programming, education, exhibitions, and research with respect to—

(i) the life, art, history, and culture of African Americans;

(ii) the role of African Americans in the history of the United States from the period of slavery to the present; and

(iii) the contributions of African Americans to society.

(3) Other responsibilities

The Council, subject to the general policies of the Board of Regents, shall have authority—

(A) to provide for preservation, restoration, and maintenance of the collections of the Museum; and

(B) to solicit, accept, use, and dispose of gifts, bequests, and devises of personal property for the purpose of aiding and facilitating the work of the Museum.

(c) Composition and appointment

(1) In general

The Council shall be composed of 19 voting members as provided under paragraph (2).

(2) Voting members

The Council shall include the following voting members:

(A) The Secretary of the Smithsonian Institution.

(B) One member of the Board of Regents, appointed by the Board of Regents.

(C) Seventeen individuals appointed by the Board of Regents—

(i) taking into consideration individuals recommended by organizations and entities that are committed to the advancement of knowledge of African American life, art, history, and culture; and

(ii) taking into consideration individuals recommended by the members of the Council.

(3) Initial appointments

The Board of Regents shall make initial appointments to the Council under paragraph (2) not later than 180 days after December 16, 2003.

(d) Terms

(1) In general

Except as provided in this subsection, each appointed member of the Council shall be appointed for a term of 3 years.

(2) Initial appointees

As designated by the Board of Regents at the time of appointment, of the voting members first appointed under subparagraph (C) of subsection (c)(2) of this section—

(A) six members shall be appointed for a term of 1 year;

(B) six members shall be appointed for a term of 2 years; and

(C) five members shall be appointed for a term of 3 years.

(3) Reappointment

A member of the Council may be reappointed, except that no individual may serve on the Council for a total of more than 2 terms. For purposes of this paragraph, the number of terms an individual serves on the Council shall not include any portion of a term for which an individual is appointed to fill a vacancy under paragraph (4)(B).

(4) Vacancies

(A) In general

A vacancy on the Council—

(i) shall not affect the powers of the Council; and

(ii) shall be filled in the same manner as the original appointment was made.

(B) Term

Any member of the Council appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

(e) Compensation

(1) In general

Except as provided in paragraph (2), a member of the Council shall serve without pay.

(2) Travel expenses

A member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, while away from the home or regular place of business of the member in the performance of the duties of the Council.

(f) Chairperson

By a majority vote of its voting members, the Council shall elect a chairperson from its members.

(g) Meetings

(1) In general

The Council shall meet at the call of the chairperson or on the written request of a majority of the voting members of the Council, but not fewer than twice each year.

(2) Initial meetings

During the 1-year period beginning on the date of the first meeting of the Council, the Council shall meet not fewer than 4 times for the purpose of carrying out the duties of the Council under this subchapter.

(h) Quorum

A majority of the voting members of the Council holding office shall constitute a quorum for the purpose of conducting business, but a lesser number may receive information on behalf of the Council.

(Pub. L. 108–184, § 5, Dec. 16, 2003, 117 Stat. 2677.)

§ 80r–4. Director and staff of the Museum

(a) Director

(1) In general

The Museum shall have a Director who shall be appointed by the Secretary, taking into consideration individuals recommended by the Council.

(2) Duties

The Director shall manage the Museum subject to the policies of the Board of Regents.

(b) Staff

The Secretary may appoint two additional employees to serve under the Director, except that

such additional employees may be appointed without regard to the provisions of title 5 governing appointments in the competitive service.

(c) Pay

The employees appointed by the Secretary under subsection (b) of this section may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification of positions and General Schedule pay rates.

(Pub. L. 108–184, § 6, Dec. 16, 2003, 117 Stat. 2679.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (b), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

§ 80r–5. Educational and liaison programs

(a) In general

(1) Programs authorized

The Director of the Museum may carry out educational and liaison programs in support of the goals of the Museum.

(2) Specific activities described

In carrying out this section, the Director shall—

(A) carry out educational programs relating to African American life, art, history, and culture, including—

(i) programs using digital, electronic, and interactive technologies; and

(ii) programs carried out in collaboration with elementary schools, secondary schools, and postsecondary schools; and

(B) consult with the Director of the Institute of Museum and Library Services concerning the grant and scholarship programs carried out under subsection (b) of this section.

(b) Grant and scholarship programs

(1) In general

In consultation with the Council and the Director of the Museum, the Director of the Institute of Museum and Library Services shall establish—

(A) a grant program with the purpose of improving operations, care of collections, and development of professional management at African American museums;

(B) a grant program with the purpose of providing internship and fellowship opportunities at African American museums;

(C) a scholarship program with the purpose of assisting individuals who are pursuing careers or carrying out studies in the arts, humanities, and sciences in the study of African American life, art, history, and culture;

(D) in cooperation with other museums, historical societies, and educational institutions, a grant program with the purpose of promoting the understanding of modern-day practices of slavery throughout the world; and

(E) a grant program under which an African-American museum (including a nonprofit education organization the primary mission of which is to promote the study of African-American diaspora) may use the funds provided under the grant to increase an endowment fund established by the museum (or organization) as of May 1, 2003, for the purposes of—

(i) enhancing educational programming; and

(ii) maintaining and operating traveling educational exhibits.

(2) Authorization of appropriations

There are authorized to be appropriated to the Director of the Institute of Museum and Library Services to carry out this subsection—

(A) $15,000,000 for fiscal year 2004; and

(B) such sums as are necessary for each fiscal year thereafter.

(Pub. L. 108–184, § 7, Dec. 16, 2003, 117 Stat. 2679.)

§ 80r–6. Building for the National Museum of African American History and Culture

(a) In general

(1) Location

(A) In general

Not later than 12 months after December 16, 2003, the Board of Regents shall designate a site for the Museum.

(B) Sites for consideration

In designating a site under subparagraph (A), the Board of Regents shall select from among the following sites in the District of Columbia:

(i) The Arts and Industries Building of the Smithsonian Institution, located on the National Mall at 900 Jefferson Drive, Southwest, Washington, District of Columbia.

(ii) The area bounded by Constitution Avenue, Madison Drive, and 14th and 15th Streets, Northwest.

(iii) The site known as the ''Liberty Loan site'', located on 14th Street Southwest at the foot of the 14th Street Bridge.

(iv) The site known as the ''Banneker Overlook site'', located on 10th Street Southwest at the foot of the L'Enfant Plaza Promenade.

(C) Availability of site

(i) In general

A site described in subparagraph (B) shall remain available until the date on which the Board of Regents designates a site for the Museum under subparagraph (A).

(ii) Transfer to Smithsonian Institution

Except with respect to a site described in clause (i) of subparagraph (B), if the site designated for the Museum is in an area that is under the administrative jurisdiction of a Federal agency, as soon as practicable after the date on which the designation is made, the head of the Federal agency shall transfer to the Smithsonian Institution administrative jurisdiction over the area.

(D) Consultation

The Board of Regents shall carry out its duties under this paragraph in consultation with the following:

(i) The Chair of the National Capital Planning Commission.

(ii) The Chair of the Commission on Fine Arts.

(iii) The Chair and Vice Chair of the Presidential Commission referred to in section 80r–8 of this title.

(iv) The Chair of the Building and Site Subcommittee of the Presidential Commission referred to in section 80r–8 of this title.

(v) The Chair and ranking minority member of each of the following Committees:

(I) The Committee on Rules and Administration of the Senate.

(II) The Committee on House Administration of the House of Representatives.

(III) The Committee on Transportation and Infrastructure of the House of Representatives.

(IV) The Committee on Appropriations of the House of Representatives.

(V) The Committee on Appropriations of the Senate.

(2) Construction of building

The Board of Regents, in consultation with the Council, may plan, design, and construct a building for the Museum, which shall be located at the site designated by the Board of Regents under this paragraph.

(3) Nonapplicability of provisions relating to monuments and commemorative works

Chapter 89 of title 40 shall not apply with respect to the Museum.

(b) Cost sharing

The Board of Regents shall pay—

(1) 50 percent of the costs of carrying out this section from Federal funds; and

(2) 50 percent of the costs of carrying out this section from non-Federal sources.

(c) Authorization of appropriations

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

(Pub. L. 108–184, § 8, Dec. 16, 2003, 117 Stat. 2680.)

§ 80r–7. Congressional Budget Act compliance

Authority under this subchapter to enter into contracts or to make payments shall be effective in any fiscal year only to the extent provided in advance in an appropriations Act, except as provided under section 80r–9(b) of this title.

(Pub. L. 108–184, § 9, Dec. 16, 2003, 117 Stat. 2682.)

REFERENCES IN TEXT

The Congressional Budget Act, referred to in section catchline, probably means the Congressional Budget Act of 1974, which is titles I through IX of Pub. L. 93–344, July 12, 1974, 88 Stat. 297, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2, The Congress, and Tables.

§ 80r–8. Consideration of recommendations of Presidential Commission

In carrying out their duties under this subchapter, the Council and the Board of Regents shall take into consideration the reports and plans submitted by the National Museum of African American History and Culture Plan for Action Presidential Commission under the National Museum of African American History and Culture Plan for Action Presidential Commission Act of 2001 (Public Law 107–106).

(Pub. L. 108–184, § 10, Dec. 16, 2003, 117 Stat. 2682.)

REFERENCES IN TEXT

The National Museum of African American History and Culture Plan for Action Presidential Commission Act of 2001, referred to in text, is Pub. L. 107–106, Dec. 28, 2001, 115 Stat. 1009, which is not classified to the Code.

§ 80r–9. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the Smithsonian Institution to carry out this subchapter, other than sections 80r–5(b) and 80r–6 of this title—

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

(2) such sums as are necessary for each fiscal year thereafter.

(b) Availability

Amounts made available under subsection (a) of this section shall remain available until expended.

(c) Use of funds for fundraising

Amounts appropriated pursuant to the authorization under this section may be used to conduct fundraising in support of the Museum from private sources.

(Pub. L. 108–184, § 11, Dec. 16, 2003, 117 Stat. 2682.)

CHAPTER 4—NATIONAL ZOOLOGICAL PARK

Sec.

81. Administration by Regents of Smithsonian Institution.
82. Aid in acquisition of collections.
83. Omitted.
84. Plans for buildings and bridges.
85. Concessions.
(a) Authorization; use of proceeds for research and educational work.
(b) Voluntary services.

§ 81. Administration by Regents of Smithsonian Institution

The National Zoological Park is placed under the direction of the Regents of the Smithsonian Institution, who are authorized to transfer to it any living specimens, whether of animals or plants, in their charge, to accept gifts for the park at their discretion, in the name of the United States, to make exchanges of specimens, and to administer and improve the said Zoological Park for the advancement of science and the instruction and recreation of the people.

(Apr. 30, 1890, ch. 173, § 2, 26 Stat. 78; Pub. L. 87–360, Oct. 4, 1961, 75 Stat. 779.)

AMENDMENTS

1961—Pub. L. 87–360 inserted ''and improve'' after ''administer''.

ESTABLISHMENT OF PARKS

The National Zoological Park was established under provisions of the District of Columbia Appropriation

Act for the Fiscal Year 1890, act Mar. 2, 1889, ch. 370, § 4, 25 Stat. 808, which constituted a commission to select from a certain district along Rock Creek a tract of land, including a section of the creek, suitable for a zoological park, and to purchase the land so selected, or take proceedings for the condemnation thereof, the United States to have title to the land on payment therefor to the owners.

The Rock Creek Park was established by act Sept. 27, 1890, ch. 1001, 26 Stat. 492.

The Potomac Park was established by act Mar. 3, 1897, ch. 375, 29 Stat. 624.

ADDITION OF LANDS

Certain parcels of land were added to the National Zoological Park by acts June 5, 1920, ch. 235, § 1, 41 Stat. 892; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1384.

CONNECTING PARKWAY

Provisions for a parkway connecting Potomac Park with Zoological Park and Rock Creek Park were made by act Mar. 4, 1913, ch. 147, § 27, 37 Stat. 885.

§ 82. Aid in acquisition of collections

The heads of executive departments of the Government are authorized and directed to cause to be rendered all necessary and practicable aid to the said Regents in the acquisition of collections for the Zoological Park.

(Apr. 30, 1890, ch. 173, § 3, 26 Stat. 78.)

§ 83. Omitted

CODIFICATION

Section, act Aug. 18, 1894, ch. 301, § 1, 28 Stat. 384, which required that a detailed report of expenses on account of the National Zoological Park be made to Congress at the beginning of each regular session, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 192 of House Document No. 103–7.

§ 84. Plans for buildings and bridges

All plans and specifications for the construction of buildings and bridges in the National Zoological Park shall be prepared under the supervision of the Smithsonian Institution.

(Aug. 24, 1912, ch. 355, § 1, 37 Stat. 437; 1966 Reorg. Plan No. 4, eff. Aug. 23, 1966, 31 FR 11137, 80 Stat. 1611.)

REORGANIZATION PLAN NO. 4 OF 1966

Eff. Aug. 23, 1966, 31 F.R. 11137, 80 Stat. 1611

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 13, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see 5 U.S.C. 901 et seq.].

NATIONAL ZOOLOGICAL PARK BUILDINGS AND BRIDGES

All those functions of the Board of Commissioners of the District of Columbia which were vested in the municipal architect of the District of Columbia by the provisions of the Act of August 24, 1912, c. 355, 37 Stat. 437 (20 U.S.C. 84; D.C. Code [former] § 8–134), in respect of buildings of the National Zoological Park, and all functions of that Board which were vested in the engineer of bridges of the District of Columbia by those provisions in respect of bridges of the National Zoological Park, are hereby transferred to the Smithsonian Institution.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for a reorganization relating to the National Zoological Park located in the District of Columbia.

Today, all responsibilities for the administration of the park are vested in the Smithsonian Institution with one exception—the function of preparing plans and specifications for the construction of buildings and bridges at the zoo. That statutory responsibility is now conducted by the Board of Commissioners of the District of Columbia [now the Mayor].

Under the accompanying reorganization plan, the responsibility for the preparation of these plans and specifications would be transferred from the District of Columbia Board of Commissioners to the Smithsonian. The complete administration of the park would then be vested in one agency—the Smithsonian Institution. This will allow the more efficient and effective development and management of the park.

In 1912, the functions to be transferred were vested in the Municipal Architect of the District of Columbia and in the Engineers of the Bridges of the District of Columbia. In 1952, they were transferred to the Board of Commissioners.

When the 1912 act was passed, the District of Columbia shared the costs of capital improvements in the National Zoological Park. In 1961, it ceased sharing these costs, and the Federal Government assumed complete responsibility for financing the improvements. Accordingly, the District government retains no capital improvement responsibilities for the National Zoological Park except those functions relating to construction plans and specifications for buildings and bridges, as specified in the 1912 statute. Upon the transfer of these remaining functions to the Smithsonian Institution, the administration of the National Zoological Park will, at last, be fully centered in one agency. It is not practicable at this time, however, to itemize the resulting reduction in expenditures.

I have found, after investigation, that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, June 13, 1966.

§ 85. Concessions

(a) Authorization; use of proceeds for research and educational work

The Board of Regents of the Smithsonian Institution, in furtherance of the mission of the National Zoological Park to provide for the advancement of science and instruction and recreation of the people, is authorized to negotiate agreements granting concessions at the National Zoological Park to nonprofit scientific, educational, or historic organizations. The net proceeds of such organizations gained from such concessions granted under this subsection shall be used exclusively for research and educational work for the benefit of the National Zoological Park.

(b) Voluntary services

The Smithsonian Institution is authorized to accept the voluntary services of such organizations, and the voluntary services of individuals, for the benefit of the National Zoological Park.

(Pub. L. 89–772, Nov. 6, 1966, 80 Stat. 1322.)

CHAPTER 5—GOVERNMENT COLLECTIONS AND INSTITUTIONS FOR RESEARCH, AND MATERIAL FOR EDUCATIONAL INSTITUTIONS

Sec.
91. Literary and scientific collections accessible to investigators and students.
92. Admissions to marine biological station for pursuit of investigations.
93, 94. Repealed.

§ 91. Literary and scientific collections accessible to investigators and students

The facilities for study research and illustration in the Government departments and in the following and any other governmental collections now existing or hereafter to be established in the city of Washington for the promotion of knowledge shall be accessible, under such rules and restrictions as the officers in charge of each department or collection may prescribe, subject to such authority as is now or may hereafter be permitted by law, to the scientific investigators and to duly qualified individuals, students and graduates of any institution of learning in the several States and Territories and the District of Columbia, to wit:

One. Of the Library of Congress.

Two. Of the National Museum.

Three. Of the United States Patent and Trademark Office.

Four. Of the Department of Education.

Five. Of the Bureau of Ethnology.

Six. Of the Army Medical Museum.

Seven. Of the Department of Agriculture.

Eight. Of the United States Fish and Wildlife Service.

Nine. Of the Botanic Gardens.

Ten. Of the National Ocean Survey.

Eleven. Of the United States Geological Survey.

Twelve. Of the Naval Observatory.

Thirteen. Of the Zoological Park.

Fourteen. Of the Government Printing Office.

(Apr. 12, 1892, No. 8, 27 Stat. 395; Mar. 3, 1901, ch. 831, §1, 31 Stat. 1039; May 14, 1928, ch. 551, §1, 45 Stat. 531; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, §3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232; Aug. 8, 1956, ch. 1036, §3, 70 Stat. 1120; 1965 Reorg. Plan No. 2, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090; Pub. L. 96–88, title III, §301(b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692; Pub. L. 102–154, title I, Nov. 13, 1991, 105 Stat. 1000; Pub. L. 106–113, div. B, §1000(a)(9) [title IV, §4732(b)(10)], Nov. 29, 1999, 113 Stat. 1536, 1501A–584.)

CODIFICATION

Section is from a resolution adopted Apr. 12, 1892, the Deficiencies Appropriation Act of Mar. 3, 1901, and the Legislative Appropriations Act of May 14, 1928, providing that facilities for study and research be afforded to investigators, students, etc., in the several States and Territories as well as in the District of Columbia.

AMENDMENTS

1999—Pub. L. 106–113 substituted ''United States Patent and Trademark Office'' for ''Patent Office'' in par. Three.

CHANGE OF NAME

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

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

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106–113, set out as a note under section 1 of Title 35, Patents.

TRANSFER OF FUNCTIONS

Functions of all other officers of Department of Commerce and functions of all agencies and employees of such Department, with a few exceptions, transferred to Secretary of Commerce, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 5 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to Title 5, Government Organization and Employees. United States Patents and Trademark Office, and National Ocean Survey, referred to in this section, are agencies within Department of Commerce.

Functions of all other officers of Department of the Interior and functions of all agencies and employees of such Department, with two exceptions, transferred to Secretary of the Interior, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5.

Fish and Wildlife Service, created by Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, succeeded by United States Fish and Wildlife Service established by act Aug. 8, 1956, ch. 1036, §3, 70 Stat. 1120, which is classified to section 742b of Title 16, Conservation.

Bureau of Fisheries consolidated with Bureau of Biological Survey into Fish and Wildlife Service in Department of the Interior by Reorg. Plan No. III of 1940, set out in the Appendix to Title 5, Government Organization and Employees. The Bureau had been previously transferred to Department of the Interior by Reorg. Plan No. II of 1939, §4(e), also set out in the Appendix to Title 5.

For transfer of certain personal property and functions, insofar as they pertain to the Air Force, from Secretary of the Army and Department of the Army, to Secretary of the Air Force and Department of the Air Force, see Secretary of Defense Transfer Order Nos. 6, eff. Jan. 15, 1948; 39, May 18, 1949; 40 [App. B(69)], July 22, 1949.

''Department of Education'' substituted in text for ''Office of Education'' pursuant to sections 301(b)(2) and 507 of Pub. L. 96–88, which are classified to sections 3441(b)(2) and 3507 of this title and which transferred Office of Education to Department of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953,

18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Office of Education transferred to Federal Security Agency by Reorg. Plan No. I of 1939, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424, set out in the Appendix to Title 5.

Office of Education created and placed in Department of the Interior by act of July 20, 1868, ch. 176, 15 Stat. 106, which abolished Department of Education. In appropriation act of July 12, 1870, ch. 251, 16 Stat. 242, the Office was designated Bureau of Education. This designation was retained until the act of May 14, 1930, ch. 273, 46 Stat. 281, 319, which made appropriations for ''Office of Education''.

NATIONAL MUSEUM

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

§ 92. Admissions to marine biological station for pursuit of investigations

The professors, instructors, and students of the several land-grant, agricultural, and mechanical colleges of the United States shall be admitted to the marine biological station on the Gulf of Mexico on the coast of Florida, to pursue such investigation in fish culture and biology as may be practicable, without cost to the Government, under such rules and regulations as may be from time to time prescribed by the Secretary of Interior.

(Mar. 1, 1911, ch. 189, §2, 36 Stat. 964; Mar. 4, 1913, ch. 141, §1, 37 Stat. 736; Aug. 1, 1914, ch. 223, §1, 38 Stat. 665; 1939 Reorg. Plan No. II, §4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; 1940 Reorg. Plan No. III, §3, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231.)

CODIFICATION

Section consists of section 2 of act Mar. 1, 1911. Section 1 thereof authorizing the establishment of the marine biological station on the Gulf coast of the State of Florida, referred to in text, on the condition that the State of Florida donate the necessary land and water rights, is not classified to the Code. The provisions of said section 1 requiring donation of the required land and water rights by the State were amended by act Aug. 1, 1914, ch. 223, §1, 38 Stat. 665, which authorized the donation of the required land and water rights by a corporation, firm, or individual in addition to the State.

TRANSFER OF FUNCTIONS

Bureau of Fisheries in Department of Commerce which administered marine biological station referred to in text under supervision of Secretary of Commerce transferred to Department of the Interior under direction of Secretary of the Interior by Reorg. Plan No. II of 1939, set out in the Appendix to Title 5, Government Organization and Employees, and by Reorg. Plan No. III of 1940, set out in the Appendix to Title 5. Bureau of Fisheries consolidated with Bureau of Biological Survey into Fish and Wildlife Service in Department of the Interior and under supervision of Secretary of the Interior, which was succeeded by United States Fish and Wildlife Service, see section 742b of Title 16, Conservation.

''Secretary of Commerce'' substituted in text for ''Secretary of Commerce and Labor'' pursuant to act Mar. 4, 1913, which changed name of Department of Commerce and Labor to Department of Commerce.

STATION AT SARASOTA, FLORIDA

The Fish and Wildlife Service established a marine biological station at Sarasota, Florida, during the year 1948.

DISPOSAL OF STATION

Secretary of Commerce was authorized to dispose of the marine biological station at Key West, Fla., by act Apr. 29, 1929, ch. 2, 46 Stat. 2.

Under communication of the Fish and Wildlife Service dated Nov. 12, 1940, it was stated the land on which was situated this station was reconveyed to the Key West Realty Company by quit claim deed executed by the Secretary of Commerce.

§§ 93, 94. Repealed. Oct. 31, 1951, ch. 654, § 1(41), (42), 65 Stat. 703

Section 93, act Nov. 19, 1919, ch. 118, 41 Stat. 360, which related to sale of machine tools to trade, technical, and public schools and universities, had been transferred to section 1180a of former Title 10, Army and Air Force, and was later repealed by act Oct. 31, 1951.

Section 94, act May 26, 1928, ch. 760, 45 Stat. 753, which related to transfer of obsolete aeronautical equipment to museums, schools and colleges, had been transferred to section 1180b of former Title 10, Army and Air Force, was later repealed by act Oct. 31, 1951.

CHAPTER 6—AMERICAN PRINTING HOUSE FOR THE BLIND

Sec.

101. Annual appropriations.
102. Application of appropriations.
103. Publications for National Library for the Blind.
104. Annual reports by trustees.
105. Books for Library of Congress.
106. Purchases through the General Services Administration.
106a. Financial and program audit by Secretary.

§ 101. Annual appropriations

For the purpose of enabling the American Printing House for the Blind more adequately to provide books and apparatus for the education of the blind, there is hereby authorized to be appropriated annually to it, such sum as the Congress may determine; which sum shall be expended in accordance with the requirements of sections 101, 102, and 104 of this title, under rules and regulations prescribed by the Secretary of Education, to promote the education of the blind.

(Mar. 3, 1879, ch. 186, §§1, 2, 20 Stat. 468; June 25, 1906, ch. 3536, 34 Stat. 460; Aug. 4, 1919, ch. 31, 41 Stat. 272; Feb. 8, 1927, ch. 76, 44 Stat. 1060; Aug. 23, 1937, ch. 736, 50 Stat. 744; May 22, 1952, ch. 321, 66 Stat. 89; Aug. 2, 1956, ch. 882, §2, 70 Stat. 939; Pub. L. 87–294, §4, Sept. 22, 1961, 75 Stat. 627; Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692; Pub. L. 100–630, title IV, §§402(a), 403, Nov. 7, 1988, 102 Stat. 3316.)

CODIFICATION

Prior to amendment by Pub. L. 100–630, section was comprised of two sentences. The first sentence was based on provisions of acts Mar. 3, 1879, and June 25,

1906, and established a perpetual trust fund for purposes of aiding education of the blind in the United States through the American Printing House for the Blind and a permanent annual appropriation thereof, to be expended for purposes authorized by sections 101, 102, and 104 of this title. The second sentence was based on provisions of act Aug. 4, 1919, as amended. See 1988 Amendment note below.

AMENDMENTS

1988—Pub. L. 100–630, § 402(a), which provided that the perpetual trust fund and permanent annual appropriations thereof established by the Act of Mar. 3, 1879, as amended by the Act of June 25, 1906, are terminated, was executed by striking the first sentence of this section which read as follows: ''The sum of $250,000, set apart as a perpetual trust fund for the purpose of aiding the education of the blind in the United States, through the American Printing House for the Blind, shall be credited on the books of the Treasury Department as a perpetual trust fund for that purpose, to be held by the Secretary of the Treasury; and the sum of $10,000, being equivalent to 4 per centum on the principal of said trust fund, is appropriated, out of any moneys in the Treasury not otherwise appropriated, and such appropriation shall be deemed a permanent annual appropriation and shall be expended in the manner and for the purposes authorized by sections 101, 102, and 104 of this title.'' See Codification note above.

Pub. L. 100–630, § 403, struck out ''In addition to the permanent appropriation of $10,000, made in this section''.

1961—Pub. L. 87–294 struck out provisions which authorized an annual appropriation of not more than $400,000, inserted provisions authorizing an annual appropriation of such sum as the Congress may determine, and required expenditure of such sum under rules and regulations prescribed by the Secretary of Health, Education, and Welfare.

1956—Act Aug. 2, 1956, increased appropriation authorization from $250,000 to $400,000.

1952—Act May 22, 1952, amended second sentence generally, increasing appropriation authorization from $115,000 to $250,000.

1937—Act Aug. 23, 1937, amended second sentence generally, increasing appropriation authorization from $65,000 to $115,000.

1927—Act Feb. 8, 1927, amended second sentence generally, increasing appropriation authorization from $40,000 to $65,000.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 402(b) of Pub. L. 100–630 provided that: ''This section [amending this section] shall take effect on October 1, 1989.''

EFFECTIVE DATE OF 1961 AMENDMENT

Section 5 of Pub. L. 87–294 provided that: ''The amendments made by this Act [amending this section and section 102 of this title] shall be effective immediately after the date of its enactment [Sept. 22, 1961].''

SHORT TITLE OF 1988 AMENDMENT

Section 401 of title IV of Pub. L. 100–630 provided that: ''This title [amending this section and enacting provisions set out as notes under this section] may be cited as the 'American Printing House for the Blind Amendments of 1988'.''

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of Secretary of the Treasury over administration of appropriations for American Printing House for Blind (except function relating to administration of perpetual trust fund) transferred to Federal Security Agency, and annual report and vouchers of trustees directed to be furnished to Federal Security Administrator by Reorg. Plan No. II of 1939, § 201(b), eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434, set out in the Appendix to Title 5.

COMPENSATION TO AMERICAN PRINTING HOUSE FOR THE BLIND FOR VESTED RIGHTS

Section 404 of Pub. L. 100–630 provided that: ''Any and all rights of the American Printing House for the Blind determined to have vested in the perpetual trust fund established by the Act of March 3, 1879 [see Codification note above], shall be deemed to be compensated by the appropriation to the American Printing House for the Blind for fiscal year 1990.''

INEFFECTIVENESS OF REFERENCES TO PERPETUAL TRUST FUND AND ANNUAL APPROPRIATIONS

Section 405 of Pub. L. 100–630 provided that: ''Notwithstanding any Federal law, reference to the perpetual trust fund and permanent annual appropriations thereof established by the Act of March 3, 1879 [see Codification note above], shall not be given any effect.''

§ 102. Application of appropriations

The Secretary of Education is authorized to pay over semiannually, to the trustees of the American Printing House for the Blind, located in Louisville, Kentucky, and chartered in 1858 by the Legislature of Kentucky, upon requisition of their president, countersigned by their treasurer, one-half of such annual appropriation upon the following conditions:

(1) Purposes and methods of expenditures

First. (A) Such appropriation shall be expended by the trustees of the American Printing House for the Blind each year in manufacturing and furnishing books and other materials specially adapted for instruction of the blind; and the total amount of such books and other materials so manufactured and furnished by such appropriation shall each year be distributed among all the public and private nonprofit institutions in the States, Territories, and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia, in which blind pupils are educated. Each public and private nonprofit institution for the education of the blind shall receive, in books and other materials, upon requisition of its superintendent, that portion of the appropriation as is shown by the ratio between the number of blind pupils in that institution and the total number of blind pupils in all of the public and private nonprofit institutions in which blind pupils are educated. Each chief State school officer shall receive, in books and other materials, upon requisition, that portion of the appropriation as is shown by the ratio between the number of blind pupils in public and private nonprofit institutions (in the State) in which blind pupils

are educated, other than institutions to which the preceding sentence is applicable, and the total number of blind pupils in the public and private nonprofit institutions in which blind pupils are educated in all of the States, Territories, and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia. The ratio referred to in each of the two immediately preceding sentences shall be computed upon the first Monday in January of each year; and for purposes of such sentences the number of blind pupils in public and private nonprofit institutions in which blind pupils are educated shall be authenticated in such manner and as often as the trustees of the American Printing House for the Blind shall require. For purposes of sections 101, 102, and 104 of this title, an institution for the education of the blind is any institution which provides education exclusively for the blind, or exclusively for the blind and other handicapped children (in which case special classes are provided for the blind); the chief State school officer of a State is the superintendent of public elementary and secondary schools in such State or, if there is none, such other official as the Governor certifies to have comparable responsibility in the State; and a blind pupil is a blind individual pursuing a course of study in an institution of less than college grade.

(B) The portion of the appropriation received by each chief State school officer, in such books and other materials under subparagraph (A) of this paragraph which represents the number of blind pupils in private nonprofit institutions in such State in which blind pupils are educated shall be distributed among such institutions on the basis of the number of blind pupils in each such institution as compared to the total number of such pupils in all of the private nonprofit institutions in which blind pupils are educated in such State.

(C) All books and other materials furnished pursuant to sections 101, 102, and 104 of this title, and control and administration of their use, shall vest only in a public agency. Such books and materials made available pursuant to sections 101, 102 and 104 of this title for use of teachers and blind pupils in any State, Territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia in any school shall be limited to those books and materials which have been approved by an appropriate educational authority or agency of such State, Territory, possession, Commonwealth, or District, or any local educational authority thereof, for use, or are used, in a public elementary or secondary school therein.

(2) Buildings

Second. No part of the appropriation shall be expended in the erection or leasing of buildings; but the trustees of the American Printing House for the Blind may use each year a reasonable sum of the annual appropriation for salaries and other expenses of experts and other staff to assist special committees which may be appointed in performance of their functions, and for expenses of such special committees.

(3) Sales of books and apparatus at cost

Third. No profit shall be put on any books or tangible apparatus for the instruction of the blind manufactured or furnished by the trustees of said American Printing House for the Blind, located in Louisville, Kentucky; and the price put upon each article so manufactured or furnished shall only be its actual cost.

(4) Income withheld when not properly used

Fourth. The Secretary of the Treasury of the United States shall have the authority to withhold the appropriation whenever he shall receive satisfactory proof that the trustees of said American Printing House for the Blind, located in Louisville, Kentucky, are not using the appropriation for the benefit of the blind in the public and private nonprofit institutions for the education of the blind in the United States.

(5) Bond of treasurer

Fifth. Before any money be paid to the treasurer of the American Printing House for the Blind by the Secretary of the Treasury of the United States, the treasurer of the American Printing House for the Blind shall execute a bond, with two approved sureties, to the amount of $20,000, conditioned that the money so received shall be expended according to this law and all amendments thereto, which shall be held by the Secretary of the Treasury of the United States, and shall be renewed every two years.

(6) Ex officio trustees

Sixth. The superintendent of each public institution for the education of the blind (or his designee) and the chief State school officer (or his designee), of each State and possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia, shall each, ex officio, be a member of the Board of Trustees of the American Printing House for the Blind only for purposes of administering sections 101, 102 and 104 of this title.

(Mar. 3, 1879, ch. 186, § 3, 20 Stat. 468; June 25, 1906, ch. 3536, 34 Stat. 460; Aug. 2, 1956, ch. 882, § 1, 70 Stat. 938; Pub. L. 87–294, §§ 1–3, Sept. 22, 1961, 75 Stat. 627; Pub. L. 91–230, title VIII, § 811(a), (b), Apr. 13, 1970, 84 Stat. 194, 195; Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, Oct. 17, 1979, 93 Stat. 678, 692.)

CODIFICATION

For purposes of codification, the provisions of section 3 of act Mar. 3, 1879, were changed as follows: provision providing for payment of the semi-annual interest upon the bonds was substituted for one providing for payment of one-half the annual appropriation, the word ''income'' was substituted for ''appropriation'', and the word ''interest'' was substituted for ''money'' in par. (5), to conform to the modification of act Mar. 3, 1879, by act June 25, 1906, as shown in the note set out under section 101 of this title.

AMENDMENTS

1970—Par. First. Pub. L. 91–230, § 811(a), designated existing provisions as subpar. (A), made provisions applicable to private nonprofit institutions, and added subpars. (B) and (C).

Par. Fourth. Pub. L. 91–230, § 811(b), made provisions applicable to private nonprofit institutions.

1961—Pub. L. 87–294, § 1, substituted ''Secretary of Health, Education, and Welfare'' for ''Secretary of the Treasury of the United States'' and struck out ''permanent'' before ''annual appropriation'' in opening clause.

Par. Second. Pub. L. 87–294, § 2, authorized the trustees to use each year a reasonable sum of the annual appropriation for salaries and other expenses of experts and other staff to assist special committees which may be appointed in performance of their functions, and for expenses of such special committees.

Par. Sixth. Pub. L. 87–294, § 3, substituted ''superintendent of each public institution for the education of the blind (or his designee) and the chief State school officer (or his designee), of each State and possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia, shall'' for ''superintendents of the various public institutions for the education of the blind in the United States shall'', and limited the duties of the Board to the administration of sections 101, 102, and 104 of this title.

1956—Par. First. Act Aug. 2, 1956, authorized wider distribution of books and other special instructional material for the blind.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–294 effective immediately after Sept. 22, 1961, see section 5 of Pub. L. 87–294, set out as a note under section 101 of this title.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Secretary of Health, Education, and Welfare'' in provision preceding par. (1) pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Transfer of functions with respect to American Printing House for the Blind to Federal Security Agency, see note set out under section 101 of this title.

§ 103. Publications for National Library for the Blind

Two copies of each of the publication printed by the American Printing House for the Blind shall be furnished free of charge to the National Library for the Blind located at 1729 H Street Northwest, Washington, District of Columbia.

(Nov. 4, 1919, ch. 93, § 1, 41 Stat. 332.)

§ 104. Annual reports by trustees

The trustees of said American Printing House for the Blind shall annually make to the Secretary of Education a report of the items of their expenditure of the appropriation aforesaid during the year preceding their report, and shall annually furnish him with a voucher from each public or private nonprofit institution for the education of the blind, showing that the amount of books and tangible apparatus due has been received.

(Mar. 3, 1879, ch. 186, § 4, 20 Stat. 469; June 25, 1906, ch. 3536, 34 Stat. 460; 1939 Reorg. Plan No. II, § 201(b), eff. July 1, 1939, 4 F.R. 2732, 53 Stat. 1434; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 91–230, title VIII, § 811(c), Apr. 13, 1970, 84 Stat. 195; Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, Oct. 17, 1979, 93 Stat. 678, 692.)

CODIFICATION

The word ''appropriation'' substituted in text for ''income'' to conform to the modification of act Mar. 3, 1879, by act June 25, 1906, as shown in the note set out under section 101 of this title.

AMENDMENTS

1970—Pub. L. 91–230 made provision applicable to a private nonprofit institution.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Transfer of functions with respect to American Printing House for the Blind to Federal Security Agency, see note set out under section 101 of this title.

§ 105. Books for Library of Congress

The distribution of embossed books manufactured by the American Printing House for the Blind at Louisville, Kentucky, out of the income of the fund provided by sections 101, 102, and 104 of this title, shall include one copy of every book so manufactured to be deposited in the Library of Congress at Washington.

(Mar. 4, 1913, ch. 142, § 1, 37 Stat. 748.)

§ 106. Purchases through the General Services Administration

On and after September 8, 1978, the American Printing House for the Blind is authorized to make purchases through the General Services Administration.

(Pub. L. 95–355, title I, § 100, Sept. 8, 1978, 92 Stat. 531.)

CODIFICATION

Section is from the Second Supplemental Appropriations Act, 1978, and contained additional provisions relating to purchases by Howard University, Gallaudet University, and the National Technical Institute for the Deaf, which are set out in sections 130 and 4362 of this title.

§ 106a. Financial and program audit by Secretary

Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to the American Printing House for the Blind shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he deter-

mines that an institution has not cooperated fully in the conduct of such audits.

(Pub. L. 102–394, title III, § 301, Oct. 6, 1992, 106 Stat. 1819.)

CODIFICATION

Section is from the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993, and contained additional provisions relating to Howard University, Gallaudet University, and the National Technical Institute for the Deaf, which are set out as sections 130a and 4363 of this title, respectively.

CHAPTER 6A—VENDING FACILITIES FOR BLIND IN FEDERAL BUILDINGS

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§ 107. Operation of vending facilities

(a) Authorization

For the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of this chapter shall be authorized to operate vending facilities on any Federal property.

(b) Preferences regulations; justification for limitation on operation

In authorizing the operation of vending facilities on Federal property, priority shall be given to blind persons licensed by a State agency as provided in this chapter; and the Secretary, through the Commissioner, shall, after consultation with the Administrator of General Services and other heads of departments, agencies, or instrumentalities of the United States in control of the maintenance, operation, and protection of Federal property, prescribe regulations designed to assure that—

(1) the priority under this subsection is given to such licensed blind persons (including assignment of vending machine income pursuant to section 107d–3 of this title to achieve and protect such priority), and

(2) wherever feasible, one or more vending facilities are established on all Federal property to the extent that any such facility or facilities would not adversely affect the interests of the United States.

Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the United States shall be fully justified in writing to the Secretary, who shall determine whether such limitation is justified. A determination made by the Secretary pursuant to this provision shall be binding on any department, agency, or instrumentality of the United States affected by such determination. The Secretary shall publish such determination, along with supporting documentation, in the Federal Register.

(June 20, 1936, ch. 638, § 1, 49 Stat. 1559; Aug. 3, 1954, ch. 655, § 4(a), 68 Stat. 663; Pub. L. 93–516, title II, § 202, Dec. 7, 1974, 88 Stat. 1623; Pub. L. 93–651, title II, § 202, Nov. 21, 1974, 89 Stat. 2–8.)

CODIFICATION

The content of Pub. L. 93–516, including provisions thereof which amended and enacted various sections of this chapter, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*,

D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this chapter should be deemed to have been amended by Pub. L. 93–651, Nov. 21, 1974, 89 Stat. 2–3, in exactly the same manner as it was amended by Pub. L. 93–516.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–516 designated first sentence of existing provisions as subsec. (a), substituted ''purposes'' for ''purpose'', ''vending facilities'' for ''vending stands'', and struck out ''where such vending stands may be properly and satisfactorily operated by blind persons''. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (b). Pub. L. 93–516 designated second sentence of existing provisions as subsec. (b), in the provisions preceding par. (1) of subsec. (b) as so designated, substituted reference to vending facilities for reference to vending stands, substituted provisions requiring that priority be given to blind persons for provisions requiring that preference be given so far as feasible to blind persons, substituted provisions authorizing the Secretary after consultation with the Administrator of General Services, and other heads of departments, agencies, or instrumentalities of the United States in control of maintenance, operation, and protection of Federal property to prescribe regulations for provisions authorizing the head of each department or agency in control of the maintenance, operation, and protection of Federal property after consultation with the Secretary and with the approval of the President to prescribe regulations, struck out provisions that such regulations assure such preference including assignment of vending machine income to achieve and protect such preference for such blind persons without unduly inconveniencing such departments and agencies or adversely affecting the interests of the United States, and added pars. (1) and (2) and provisions following par. (2). An identical amendment was made by Pub. L. 93–651. See Codification note above.

1954—Act Aug. 3, 1954, provided that in authorizing the operation of vending stands preference shall be given, so far as feasible, to blind persons.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954.

SHORT TITLE OF 1974 AMENDMENT

Section 200 of title II of Pub. L. 93–516 provided that: ''This title [enacting sections 107b–1 to 107b–3 and 107d–1 to 107d–4 of this title, amending this section, sections 107a, 107b, 107d, 107e of this title, and section 5108 of Title 5, Government Organization and Employees, repealing sections 107c and 107e–1 of this title, and enacting provisions set out as notes under this section and section 702 of Title 29, Labor] may be cited as the 'Randolph-Sheppard Act Amendments of 1974'.''

An identical provision is in section 200 of Pub. L. 93–651. See Codification note above.

SHORT TITLE OF 1954 AMENDMENT

Section 1 of act Aug. 3, 1954, provided that: ''This Act [enacting section 107e–1 of this title and amending this section and sections 107a, 107b, 107e, and 107f of this title and sections 31 to 41, 42, 49b, and 49g of Title 29, Labor] may be cited as the 'Vocational Rehabilitation Amendments of 1954'.''

SHORT TITLE

Act June 20, 1936, ch. 638, §11, as added by Pub. L. 108–136, div. A, title VIII, §852(c), Nov. 24, 2003, 117 Stat. 1556, provided that: ''This Act [enacting this chapter] may be cited as the 'Randolph-Sheppard Act'.''

The act June 20, 1936 is also popularly known as the ''Randolph-Sheppard Vending Stand Act''.

CONGRESSIONAL FINDINGS

Section 201 of Pub. L. 93–516 provided that: ''The Congress finds—

''(1) after review of the operation of the blind vending stand program authorized under the Randolph-Sheppard Act of June 20, 1936 [this chapter], that the program has not developed, and has not been sustained, in the manner and spirit in which the Congress intended at the time of its enactment, and that, in fact, the growth of the program has been inhibited by a number of external forces;

''(2) that the potential exists for doubling the number of blind operators on Federal and other property under the Randolph-Sheppard program within the next five years, provided the obstacles to growth are removed, that legislative and administrative means exist to remove such obstacles, and that Congress should adopt legislation to that end; and

''(3) that at a minimum the following actions must be taken to insure the continued vitality and expansion of the Randolph-Sheppard program—

''(A) establish uniformity of treatment of blind vendors by all Federal departments, agencies, and instrumentalities,

''(B) establish guidelines for the operation of the program by State licensing agencies,

''(C) require coordination among the several entities with responsibility for the program,

''(D) establish a priority for vending facilities operated by blind vendors on Federal property,

''(E) establish administrative and judicial procedures under which fair treatment of blind vendors, State licensing agencies, and the Federal Government is assured,

''(F) require stronger administration and oversight functions in the Federal office carrying out the program, and

''(G) accomplish other legislative and administrative objectives which will permit the Randolph-Sheppard program to flourish.''

An identical provision is in section 201 of Pub. L. 93–651. See Codification note above.

§ 107a. Federal and State responsibilities

(a) Functions of Secretary; surveys; designation of State licensing agencies; qualifications for license; evaluation of programs

The Secretary of Education shall—

(1) Insure that the Rehabilitation Services Administration is the principal agency for carrying out this chapter; and the Commissioner shall, within one hundred and eighty days after enactment of the Randolph-Sheppard Act Amendments of 1974, establish requirements for the uniform application of this chapter by each State agency designated under paragraph (5) of this subsection, including appropriate accounting procedures, policies on the selection and establishment of new vending facilities, distribution of income to blind vendors, and the use and control of set-aside funds under section 107b(3) of this title;

(2) Through the Commissioner, make annual surveys of concession vending opportunities for blind persons on Federal and other property in the United States, particularly with respect to Federal property under the control of the General Services Administration, the Department of Defense, and the United States Postal Service;

(3) Make surveys throughout the United States of industries with a view to obtaining information that will assist blind persons to obtain employment;

(4) Make available to the public, and especially to persons and organizations engaged in

work for the blind, information obtained as a result of such surveys;

(5) Designate as provided in section 107b of this title the State agency for the blind in each State, or, in any State in which there is no such agency, some other public agency to issue licenses to blind persons who are citizens of the United States for the operating of vending facilities on Federal and other property in such State for the vending of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State; and

(6) Through the Commission,[1] (A) conduct periodic evaluations of the program authorized by this chapter, including upward mobility and other training required by section 107d–4 of this title, and (B) take such other steps, including the issuance of such rules and regulations, as may be necessary or desirable in carrying out the provisions of this chapter.

(b) Duty of State licensing agencies to prefer blind

The State licensing agency shall, in issuing each such license for the operation of a vending facility, give preference to blind persons who are in need of employment. Each such license shall be issued for an indefinite period but may be terminated by the State licensing agency if it is satisfied that the facility is not being operated in accordance with the rules and regulations prescribed by such licensing agency. Such licenses shall be issued only to applicants who are blind within the meaning of section 107e of this title.

(c) Selection of location and type of facility

The State licensing agency designated by the Secretary is authorized, with the approval of the head of the department or agency in control of the maintenance, operation, and protection of the Federal property on which the facility is to be located but subject to regulations prescribed pursuant to section 107 of this title, to select a location for such facility and the type of facility to be provided.

(d) Buildings occupied by United States departments, agencies, and instrumentalities required to provide sites for facilities; exceptions

(1) After January 1, 1975, no department, agency, or instrumentality of the United States shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building unless, after consultation with the head of such department, agency, or instrumentality and the State licensing agency, it is determined by the Secretary that (A) such building includes a satisfactory site or sites for the location and operation of a vending facility by a blind person, or (B) if a building is to be constructed, substantially altered, or renovated, or in the case of a building that is already occupied on such date by such department, agency, or instrumentality, is to be substantially altered or renovated for use by such department, agency, or instrumentality, the design for such construction, substantial alteration, or renovation includes a satisfactory site or sites for the location and operation of a vending facility by a blind person. Each such department, agency, or instrumentality shall provide notice to the appropriate State licensing agency of its plans for occupation, acquisition, renovation, or relocation of a building adequate to permit such State agency to determine whether such building includes a satisfactory site or sites for a vending facility.

(2) The provisions of paragraph (1) shall not apply (A) when the Secretary and the State licensing agency determine that the number of people using the property is or will be insufficient to support a vending facility, or (B) to any privately owned building, any part of which is leased by any department, agency, or instrumentality of the United States and in which, (i) prior to the execution of such lease, the lessor or any of his tenants had in operation a restaurant or other food facility in a part of the building not included in such lease, and (ii) the operation of such a vending facility by a blind person would be in proximate and substantial direct competition with such restaurant or other food facility except that each such department, agency, and instrumentality shall make every effort to lease property in privately owned buildings capable of accommodating a vending facility.

(3) For the purposes of this subsection, the term ''satisfactory site'' means an area determined by the Secretary to have sufficient space, electrical and plumbing outlets, and such other facilities as the Secretary may by regulation prescribe, for the location and operation of a vending facility by a blind person.

(e) State licensing agency in States having vocational rehabilitation plans

In any State having an approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act or the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], the State licensing agency designated under paragraph (5) of subsection (a) of this section shall be the State agency designated under section 101(a)(2)(A) of such Rehabilitation Act of 1973 [29 U.S.C. 721(a)(2)(A)].

(June 20, 1936, ch. 638, § 2, 49 Stat. 1559; 1939 Reorg. Plan No. I, §§ 201, 204, eff. July 1, 1939, 4 F.R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 6, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 3, 1954, ch. 655, § 4(b)–(d), 68 Stat. 663; Pub. L. 93–516, title II, § 203, Dec. 7, 1974, 88 Stat. 1623; Pub. L. 93–651, title II, § 203, Nov. 21, 1974, 89 Stat. 2–8; Pub. L. 96–88, title III, § 301(a)(4)(B), title V, § 507, Oct. 17, 1979, 93 Stat. 678, 692; Pub. L. 104–66, title I, § 1041(i), Dec. 21, 1995, 109 Stat. 715; Pub. L. 105–220, title IV, § 414(a), Aug. 7, 1998, 112 Stat. 1241.)

[1] So in original. Probably should be ''Commissioner,''.

REFERENCES IN TEXT

For the date of the enactment of the Randolph-Sheppard Act Amendments of 1974, referred to in subsec. (a)(1), see Codification note below.

The Vocational Rehabilitation Act, referred to in subsec. (e), is act June 2, 1920, ch. 219, 41 Stat. 735, as amended, which was classified to chapter 4 (§ 31 et seq.) of Title 29, Labor, and was repealed by Pub. L. 93–112, title V, § 500(a), Sept. 26, 1973, 87 Stat. 357. Such section 500, classified to section 790 of Title 29, provides in part that references to the Vocational Rehabilitation Act in any other provision of law shall be deemed to be references to the Rehabilitation Act of 1973.

The Rehabilitation Act of 1973, referred to in subsec. (e), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 203 thereof which amended this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 1422 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been amended by Pub. L. 93–651, title II, § 203, Nov. 21, 1974, 89 Stat. 2–8, 2–9, in exactly the same manner as it was amended by Pub. L. 93–516, Dec. 7, 1974, 88 Stat. 1617.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–220 substituted ''section 101(a)(2)(A)'' for ''section 101(a)(1)(A)''.

1995—Subsec. (a)(6)(A). Pub. L. 104–66 struck out ''and annually submit to the appropriate committees of Congress a report based on such evaluations,'' after ''section 107d–4 of this title,''.

1974—Subsec. (a)(1). Pub. L. 93–516, § 203(a)(1), added par. (1). Former par. (1) redesignated (2). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(2). Pub. L. 93–516, § 203(a)(1), (2), redesignated former par. (1) as (2) and substituted ''Through the Commissioner, make annual surveys of concessions vending opportunities for blind persons on Federal and other property in the United States, particularly with respect to Federal property under the control of the General Services Administration, the Department of Defense, and the United States Postal Service'' for ''Make surveys of concession-stand opportunities for blind persons on Federal and other property in the United States''. Former par. (2) redesignated (3). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(3). Pub. L. 93–516, § 203(a)(1), redesignated former par. (2) as (3). Former par. (3) redesignated (4). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(4). Pub. L. 93–516, § 203(a)(1), redesignated former par. (3) as (4). Former par. (4) redesignated (5). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(5). Pub. L. 93–516, § 203(a)(1), (3), redesignated former par. (4) as (5), substituted ''State agency for the blind in each State, or, in any State in which there is no such agency, some other public agency to issue licenses to blind persons who are citizens of the United States for the operating of vending facilities'' for ''State commission for the blind in each State, or, in any State in which there is no such commission, some other public agency to issue licenses to blind persons who are citizens of the United States and at least twenty-one years of age for the operating of vending stands'', and ''foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State'' for ''articles dispensed automatically or in containers or wrapping in which they are placed before receipt by the vending stand, and such other articles as may be approved for each property by the department or agency in control of the maintenance, operation, and protection thereof and the State licensing agency in accordance with the regulations prescribed pursuant to section 107 of this title'', and struck out proviso that effective four years after the enactment of the Vocational Rehabilitation Amendments of 1954, in States having an approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act, the licensing agency to be designated hereunder shall be the State agency designated pursuant to section 35(a)(1) of title 29 as the sole agency with respect to vocational rehabilitation of the blind, and that prior to such time, no license shall be granted except upon certification by a vocational rehabilitation agency that the individual is qualified to operate a vending stand. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (a)(6). Pub. L. 93–516, § 203(a)(1), (4), redesignated former par. (5) as (6), substantially reenacted existing provisions in cl. (B), and added cl. (A) and provisions preceding cl. (A). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (b). Pub. L. 93–516, § 203(b), substituted ''operation of a vending facility'' for ''operation of a vending stand'', struck out one year residency requirement for giving preference, and in provisions relating to qualifications of applicants, struck out ''but are able, in spite of such infirmity, to operate such stands''. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsec. (c). Pub. L. 93–516, § 203(c), substituted ''facility'' for ''stand'' in three places. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Subsecs. (d), (e). Pub. L. 93–516, § 203(d), added subsecs. (d) and (e). An identical amendment was made by Pub. L. 93–651. See Codification note above.

1954—Act Aug. 3, 1954, added to the list of articles which may be vended, articles dispensed automatically or in containers or wrappings received by the stand and to provide that after four years the agency designated under section 35(a)(1) of title 29 shall be the sole State agency for vocational rehabilitation of the blind and to require, prior to that time, certification by agencies as a condition for issuing licenses.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (a) pursuant to sections 301(a)(4)(B) and 507 of Pub. L. 96–88 which are classified to sections 3441(a)(4)(B) and 3507 of this title and which transferred functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

For transfer of functions and offices of Secretary and Department of Health, Education, and Welfare, including Rehabilitation Services Administration and Commissioner thereof, to Secretary and Department of Education, and for delegation of certain functions of Secretary of Education under this chapter to Assistant Secretary for Special Education and Rehabilitative Services, see sections 3417 and 3441 of this title.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

''Federal Security Administrator'' substituted for ''Office of Education under the Federal Security Agency, subject to the direction of the Commissioner of Education and such rules and regulations as he may, with the approval of the Federal Security Administrator, prescribe'' in subsec. (a) and for ''Office of Education'' in subsec. (c) by Reorg. Plan No. 2 of 1946, set out in the Appendix to Title 5, which transferred functions of Office of Education and Commissioner of Education under sections 107 to 107f of this title to Federal Security Administrator. Federal Security Agency Order 62, July 16, 1946, 11 F.R. 7943, provided that these functions shall be performed under supervision and direction of Commissioner for Special Services by Director of Vocational Rehabilitation and such officers and employees of Office of Vocational Rehabilitation as Director shall designate.

Office of Education originally established in Department of the Interior from which it was transferred to Federal Security Agency by Reorg. Plan No. I of 1939, § 201, which is set out in the Appendix to Title 5.

§ 107b. Application for designation as State licensing agency; cooperation with Secretary; furnishing initial stock

A State agency for the blind or other State agency desiring to be designated as the licensing agency shall, with the approval of the chief executive of the State, make application to the Secretary and agree—

(1) to cooperate with the Secretary in carrying out the purpose of this chapter;

(2) to provide for each licensed blind person such vending facility equipment, and adequate initial stock of suitable articles to be vended therefrom, as may be necessary: *Provided, however*, That such equipment and stock may be owned by the licensing agency for use of the blind, or by the blind individual to whom the license is issued: *And provided further*, That if ownership of such equipment is vested in the blind licensee, (A) the State licensing agency shall retain a first option to repurchase such equipment and (B) in the event such individual dies or for any other reason ceases to be a licensee or transfers to another vending facility, ownership of such equipment shall become vested in the State licensing agency (for transfer to a successor licensee) subject to an obligation on the part of the State licensing agency to pay to such individual (or to his estate) the fair value of his interest therein as later determined in accordance with regulations of the State licensing agency and after opportunity for a fair hearing;

(3) that if any funds are set aside, or caused to be set aside, from the net proceeds of the operation of the vending facilities such funds shall be set aside, or caused to be set aside, only to the extent necessary for and may be used only for the purposes of (A) maintenance and replacement of equipment; (B) the purchase of new equipment; (C) management services; (D) assuring a fair minimum return to operators of vending facilities; and (E) retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is determined by a majority vote of blind licensees licensed by such State agency, after such agency provides to each such licensee full information on all matters relevant to such proposed program, that funds under this paragraph shall be set aside for such purposes: *Provided, however*, That in no event shall the amount of such funds to be set aside from the net proceeds of any vending facility exceed a reasonable amount which shall be determined by the Secretary;

(4) to make such reports in such form and containing such information as the Secretary may from time to time require and to comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports;

(5) to issue such regulations, consistent with the provisions of this chapter, as may be necessary for the operation of this program;

(6) to provide to any blind licensee dissatisfied with any action arising from the operation or administration of the vending facility program an opportunity for a fair hearing, and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 107d–1 of this title.

(June 20, 1936, ch. 638, § 3, 49 Stat. 1560; 1946 Reorg. Plan No. 2, § 6, eff. July 16, 1946, 11 F.R 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 3, 1954, ch. 655, § 4(e), 68 Stat. 664; Pub. L. 93–516, title II, § 204, Dec. 7, 1974, 88 Stat. 1625; Pub. L. 93–651, title II, § 204, Nov. 21, 1974, 89 Stat. 2–10.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 204 thereof which amended this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been amended by Pub. L. 93–651, title II, § 204, Nov. 21, 1974, 89 Stat. 2–10, in exactly the same manner as it was amended by Pub. L. 93–516.

AMENDMENTS

1974—Pub. L. 93–516, § 204(a)(1), substituted ''A State agency'' for ''A State commission'' in provisions preceding par. (1). An identical amendment was made by Pub. L. 93–651. See Codification note above.

Par. (2). Pub. L. 93–516, § 204(a)(2), substituted ''vending facility'' for ''vending stand'' in two places. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Par. (3). Pub. L. 93–516, § 204(a)(2), (b), (c), in provisions preceding subpar. (A), substituted ''the net proceeds of the operation of the vending facilities'' for ''the proceeds of the operation of the vending stands'', in subpar. (D), substituted ''vending facilities'' for ''vending stands'', added subpar. (E), and in proviso following subpar. (E) substituted ''the net proceeds of any vending facility'' for ''the proceeds of any vending

stand''. An identical amendment was made by Pub. L. 93–651. See Codification note above.

Par. (6). Pub. L. 93–516, § 204(a)(3), substituted ''vending facility program an opportunity for a fair hearing, and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 107d–1 of this title'' for ''vending stand program an opportunity for a fair hearing''. An identical amendment was made by Pub. L. 93–651. See Codification note above.

1954—Act Aug. 3, 1954, amended section generally and, among other changes, added pars. (3) to (6).

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954.

TRANSFER OF FUNCTIONS

For transfer of functions, see note set out under section 107a of this title.

§ 107b–1. Access to information with State licensing agencies; election and responsibilities of Committee of Blind Vendors

In addition to other requirements imposed in this title and in this chapter upon State licensing agencies, such agencies shall—

(1) provide to each blind licensee access to all relevant financial data, including quarterly and annual financial reports, on the operation of the State vending facility program;

(2) conduct the biennial election of a Committee of Blind Vendors who shall be fully representative of all blind licensees in the State program,[1] and

(3) insure that such committee's responsibilities include (A) participation, with the State agency, in major administrative decisions and policy and program development, (B) receiving grievances of blind licensees and serving as advocates for such licensees, (C) participation, with the State agency, in the development and administration of a transfer and promotion system for blind licensees, (D) participation, with the State agency, in developing training and retraining programs, and (E) sponsorship, with the assistance of the State agency, of meetings and instructional conferences for blind licensees.

(Pub. L. 93–516, title II, § 209, Dec. 7, 1974, 88 Stat. 1630; Pub. L. 93–651, title II, § 209, Nov. 21, 1974, 89 Stat. 2–15.)

REFERENCES IN TEXT

This title, referred to in text, is title II of Pub. L. 93–516, Dec. 7, 1974, 88 Stat. 1617, as amended, known as the ''Randolph-Sheppard Act Amendments of 1974''. For complete classification of such title to the Code, see Short Title of 1974 Amendment note set out under section 107 of this title and Tables.

CODIFICATION

Section was enacted as part of the Randolph-Sheppard Act Amendments of 1974, and not as part of the Randolph-Sheppard Vending Stand Act which comprises this chapter.

The content of Pub. L. 93–516, including provisions of section 209 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, § 209, Nov. 21, 1974, 89 Stat. 2–15, in exactly the same manner as it was enacted by Pub. L. 93–516.

[1] So in original. The comma probably should be a semicolon.

§ 107b–2. Omitted

CODIFICATION

Section, Pub. L. 93–516, title II, § 210, Dec. 7, 1974, 88 Stat. 1630, required the Secretary to promulgate national standards for funds set aside, to study and report the feasibility of establishing retirement, pension, and health insurance systems for blind licensees, and to evaluate the income assignment methods and required the State agencies to submit certain reports.

The content of Pub. L. 93–516, including provisions of section 210 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, § 210, Nov. 21, 1974, 89 Stat. 2–15, in exactly the same manner as it was enacted by Pub. L. 93–516.

§ 107b–3. Audit of nonappropriated fund activities

The Comptroller General is authorized to conduct regular and periodic audits of all nonappropriated fund activities which receive income from vending machines on Federal property, under such rules and regulations as he may prescribe. In the conduct of such audits he and his duly authorized representatives shall have access to any relevant books, documents, papers, accounts, and records of such activities as he deems necessary.

(Pub. L. 93–516, title II, § 211, Dec. 7, 1974, 88 Stat. 1630; Pub. L. 93–651, title II, § 211, Nov. 21, 1974, 89 Stat. 2–15.)

CODIFICATION

Section was enacted as part of the Randolph-Sheppard Act Amendments of 1974, and not as part of the Randolph-Sheppard Vending Stand Act which comprises this chapter.

The content of Pub. L. 93–516, including provisions of section 211 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, § 211, Nov. 21, 1974, 89 Stat. 2–15, in exactly the same manner as it was enacted by Pub. L. 93–516.

§ 107c. Repealed. Pub. L. 93–516, title II, § 205, Dec. 7, 1974, 88 Stat. 1626

Section, act June 20, 1936, ch. 638, § 4, 49 Stat. 1560; Reorg. Plan No. 2 of 1946, § 6, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; Reorg. Plan No. 1 of 1953, §§ 5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, related to provisions authorizing the Secretary to cooperate with State boards for rehabilitation of handicapped persons, established by the several States pursuant to sections 31 to 42b of Title 29, Labor, as amended and supplemented, in carrying out the provisions of this chapter. See section 701 et seq. of Title 29.

The content of Pub. L. 93–516, including provisions of section 205 thereof which repealed this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been repealed by Pub. L. 93–651, title II, § 205, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was repealed by Pub. L. 93–516.

§ 107d. Expenditures

(a) Personal services, rent, printing, etc.

The Secretary is authorized to make such expenditures out of any money appropriated therefor (including expenditures for personal services and rent at the seat of government and elsewhere, books of reference and periodicals, for printing and binding, and for traveling expenses) as he may deem necessary to carry out the provisions of this chapter.

(b) Preference to blind persons in employment

The Secretary shall, in employing such additional personnel as may be necessary, give preference to blind persons who are capable of discharging the required duties.

(June 20, 1936, ch. 638, § 4, formerly § 5, 49 Stat. 1560; 1946 Reorg. Plan No. 2, § 6, eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095; 1953 Reorg. Plan No. 1, §§ 5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; renumbered § 4 and amended Pub. L. 93–516, title II, §§ 206, 208(d), Dec. 7, 1974, 88 Stat. 1626, 1629; Pub. L. 93–651, title II, §§ 206, 208(d), Nov. 21, 1974, 89 Stat. 2–11, 2–14.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of sections 206 and 208(d) thereof which amended and renumbered this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been amended and renumbered by Pub. L. 93–651, title II, §§ 206, 208(d), Nov. 21, 1974, 89 Stat. 2–11, 2–14, in exactly the same manner as it was amended and renumbered by Pub. L. 93–516.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–516, § 208(d), struck out requirement that at least 50 percent of the additional personnel be blind persons. An identical amendment was made by Pub. L. 93–651. See Codification note above.

TRANSFER OF FUNCTIONS

For transfer of functions, see note set out under section 107a of this title.

§ 107d–1. Grievances of blind licensees

(a) Hearing and arbitration

Any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending facility program may submit to a State licensing agency a request for a full evidentiary hearing, which shall be provided by such agency in accordance with section 107b(6) of this title. If such blind licensee is dissatisfied with any action taken or decision rendered as a result of such hearing, he may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 107d–2 of this title, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this chapter.

(b) Noncompliance by Federal departments and agencies; complaints by State licensing agencies; arbitration

Whenever any State licensing agency determines that any department, agency, or instrumentality of the United States that has control of the maintenance, operation, and protection of Federal property is failing to comply with the provisions of this chapter or any regulations issued thereunder (including a limitation on the placement or operation of a vending facility as described in section 107(b) of this title and the Secretary's determination thereon) such licensing agency may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 107d–2 of this title, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this chapter.

(June 20, 1936, ch. 638, § 5, as added Pub. L. 93–516, title II, § 206, Dec. 7, 1974, 88 Stat. 1626; Pub. L. 93–651, title II, § 206, Nov. 21, 1974, 89 Stat. 2–11.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, § 206, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was enacted by Pub. L. 93–516.

PRIOR PROVISIONS

A prior section 5 of act of June 20, 1936, which was classified to section 107d of this title, was renumbered section 4 by Pub. L. 93–516, § 206.

§ 107d–2. Arbitration

(a) Notice and hearing

Upon receipt of a complaint filed under section 107d–1 of this title, the Secretary shall con-

vene an ad hoc arbitration panel as provided in subsection (b) of this section. Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of title 5, give notice, conduct a hearing, and render its decision which shall be subject to appeal and review as a final agency action for purposes of chapter 7 of such title 5.

(b) Composition of panel; designation of chairman; termination of violations

(1) The arbitration panel convened by the Secretary to hear grievances of blind licensees shall be composed of three members appointed as follows:

(A) one individual designated by the State licensing agency;

(B) one individual designated by the blind licensee; and

(C) one individual, not employed by the State licensing agency or, where appropriate, its parent agency, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (1)(A), (B), or (C), the Secretary shall designate such member on behalf of such party.

(2) The arbitration panel convened by the Secretary to hear complaints filed by a State licensing agency shall be composed of three members appointed as follows:

(A) one individual, designated by the State licensing agency;

(B) one individual, designated by the head of the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose; and

(C) one individual, not employed by the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (2)(A), (B), or (C), the Secretary shall designate such member on behalf of such party. If the panel appointed pursuant to paragraph (2) finds that the acts or practices of any such department, agency, or instrumentality are in violation of this chapter, or any regulation issued thereunder, the head of any such department, agency, or instrumentality shall cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.

(c) Publication of decisions in Federal Register

The decisions of a panel convened by the Secretary pursuant to this section shall be matters of public record and shall be published in the Federal Register.

(d) Payment of costs by the Secretary

The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses he shall publish in the Federal Register.

(June 20, 1936, ch. 638, §6, as added Pub. L. 93–516, title II, §206, Dec. 7, 1974, 88 Stat. 1626; Pub. L. 93–651, title II, §206, Nov. 21, 1974, 89 Stat. 2–11.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, §206, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was enacted by Pub. L. 93–516.

PRIOR PROVISIONS

A prior section 6 of act June 20, 1936, which was classified to section 107e of this title, was renumbered section 9 by Pub. L. 93–516, §206.

§ 107d–3. Vending machine income

(a) Accrual to blind licensee and alternatively to State agency; ceiling on amount for individual licensee

In accordance with the provisions of subsection (b) of this section, vending machine income obtained from the operation of vending machines on Federal property shall accrue (1) to the blind licensee operating a vending facility on such property, or (2) in the event there is no blind licensee operating such facility on such property, to the State agency in whose State the Federal property is located, for the uses designated in subsection (c) of this section, except that with respect to income which accrues under clause (1) of this subsection, the Commissioner may prescribe regulations imposing a ceiling on income from such vending machines for an individual blind licensee. In the event such a ceiling is imposed, no blind licensee shall receive less vending machine income under such ceiling than he was receiving on January 1, 1974. No limitation shall be imposed on income from vending machines, combined to create a vending facility, which are maintained, serviced, or operated by a blind licensee. Any amounts received by a blind licensee that are in excess of the amount permitted to accrue to him under any ceiling imposed by the Commissioner shall be disbursed to the appropriate State agency under clause (2) of this subsection and shall be used by such agency in accordance with subsection (c) of this section.

(b) Direct competition between vending machine and vending facility; proportion of accrued income from such vending machines for individual licensee

(1) After January 1, 1975, 100 per centum of all vending machine income from vending machines on Federal property which are in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section. ''Direct competition'' as used in this section means the existence of any vending machines or facilities operated on the same premises as a blind vending facility except that vending machines or facilities operated in areas serving employees the majority of whom normally do not have direct access to the blind vending facility shall

not be considered in direct competition with the blind vending facility. After January 1, 1975, 50 per centum of all vending machine income from vending machines on Federal property which are not in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section, except that with respect to Federal property at which at least 50 per centum of the total hours worked on the premises occurs during periods other than normal working hours, 30 per centum of such income shall so accrue.

(2) The head of each department, agency, and instrumentality of the United States shall insure compliance with this section with respect to buildings, installations, and facilities under his control, and shall be responsible for collection of, and accounting for, such vending machine income.

(c) Disposal of accrued vending machine income by State licensing agency

All vending machine income which accrues to a State licensing agency pursuant to subsection (a) of this section shall be used to establish retirement or pension plans, for health insurance contributions, and for provision of paid sick leave and vacation time for blind licensees in such State, subject to a vote of blind licensees as provided under section 107b(3)(E) of this title. Any vending machine income remaining after application of the first sentence of this subsection shall be used for the purposes specified in sections 107b(3)(A), (B), (C), and (D) of this title, and any assessment charged to blind licensees by a State licensing agency shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

(d) Income from vending machines in certain locations excepted

Subsections (a) and (b)(1) of this section shall not apply to income from vending machines within retail sales outlets under the control of exchange or ships' stores systems authorized by title 10, or to income from vending machines operated by the Veterans Canteen Service, or to income from vending machines not in direct competition with a blind vending facility at individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed $3,000 annually.

(e) Regulations establishing priority for operation of cafeterias

The Secretary, through the Commissioner, shall prescribe regulations to establish a priority for the operation of cafeterias on Federal property by blind licensees when he determines, on an individual basis and after consultation with the head of the appropriate installation, that such operation can be provided at a reasonable cost with food of a high quality comparable to that currently provided to employees, whether by contract or otherwise.

(f) Existing arrangements more favorable to blind licensees unaffected

This section shall not operate to preclude preexisting or future arrangements, or regulations of departments, agencies, or instrumentalities of the United States, under which blind licensees (1) receive a greater percentage or amount of vending machine income than that specified in subsection (b)(1) of this section, or (2) receive vending machine income from individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed $3,000 annually.

(g) Regulations for compliance

The Secretary shall take such action and promulgate such regulations as he deems necessary to assure compliance with this section.

(June 20, 1936, ch. 638, § 7, as added Pub. L. 93–516, title II, § 206, Dec. 7, 1974, 88 Stat. 1627; Pub. L. 93–651, title II, § 206, Nov. 21, 1974, 89 Stat. 2–12.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, § 206, Nov. 21, 1974, 89 Stat. 2–12, in exactly the same manner as it was enacted by Pub. L. 93–516.

PRIOR PROVISIONS

A prior section 7 of act June 20, 1936, was classified to section 107e–1 of this title, prior to repeal by Pub. L. 93–516, § 205.

§ 107d–4. Training programs for maximum vocational potential for blind

The Commissioner shall insure, through promulgation of appropriate regulations, that uniform and effective training programs, including on-the-job training, are provided for blind individuals, through services under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.]. He shall further insure that State agencies provide programs for upward mobility (including further education and additional training or retraining for improved work opportunities) for all trainees under this chapter, and that follow-along services are provided to such trainees to assure that their maximum vocational potential is achieved.

(June 20, 1936, ch. 638, § 8, as added Pub. L. 93–516, title II, § 206, Dec. 7, 1974, 88 Stat. 1628; Pub. L. 93–651, title II, § 206, Nov. 21, 1974, 89 Stat. 2–13.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in text, is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which enacted this section, were originally contained in H.R. 14225, 93rd Congress, Sec-

ond Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been enacted by Pub. L. 93–651, title II, § 206, Nov. 21, 1974, 89 Stat. 2–13, in exactly the same manner as it was enacted by Pub. L. 93–516.

PRIOR PROVISIONS

A prior section 8 of act June 20, 1936, which was classified to section 107f of this title, was renumbered section 10 by Pub. L. 93–516, § 206.

§ 107e. Definitions

As used in this chapter—

(1) ''blind person'' means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select;

(2) ''Commissioner'' means the Commissioner of the Rehabilitation Services Administration;

(3) ''Federal property'' means any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any territory or possession of the United States;

(4) ''Secretary'' means the Secretary of Education;

(5) ''State'' means a State, territory, possession, Puerto Rico, or the District of Columbia;

(6) ''United States'' includes the several States, territories, and possessions of the United States, Puerto Rico, and the District of Columbia;

(7) ''vending facility'' means automatic vending machines, cafeterias, snack bars, cart services, shelters, counters, and such other appropriate auxiliary equipment as the Secretary may by regulation prescribe as being necessary for the sale of the articles or services described in section 107a(a)(5) of this title and which may be operated by blind licensees; and

(8) ''vending machine income'' means receipts (other than those of a blind licensee) from vending machine operations on Federal property, after cost of goods sold (including reasonable service and maintenance costs), where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States, or commissions paid (other than to a blind licensee) by a commercial vending concern which operates, services, and maintains vending machines on Federal property for, or with the approval of, a department, agency, or instrumentality of the United States.

(June 20, 1936, ch. 638, § 9, formerly § 6, 49 Stat. 1560; Aug. 3, 1954, ch. 655, § 4(f), 68 Stat. 664; renumbered § 9 and amended Pub. L. 93–516, title II, §§ 206, 207, Dec. 7, 1974, 88 Stat. 1626, 1628; Pub. L. 93–651, title II, §§ 206, 207, Nov. 21, 1974, 89 Stat. 2–11, 2–13; Pub. L. 96–88, title III, § 301(a)(4)(B), title V, § 507, Oct. 17, 1979, 93 Stat. 678, 692.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of sections 206 and 207 thereof which amended and renumbered this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note below.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been amended and renumbered by Pub. L. 93–651, title II, §§ 206, 207, Nov. 21, 1974, 89 Stat. 2–11, 2–13, in exactly the same manner as it was amended and renumbered by Pub. L. 93–516.

AMENDMENTS

1974—Pub. L. 93–516, § 207, replaced letter designations with number designations, inserted definitions of ''Commissioner'', ''vending facility'', and ''vending machine income'', and in definition of ''blind person'' substituted provisions that such person meant a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees, and that in determining whether a person is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select, for provisions that such person meant a person having not more than 10 per centum visual acuity in the better eye with correction and that such blindness shall be certified by a duly licensed ophthalmologist, in definition of ''United States'' inserted reference to Puerto Rico, in definition of ''State'' inserted reference to Puerto Rico, and in definition of ''Federal property'' inserted reference to Department of Defense and United States Postal Service. An identical amendment was made by Pub. L. 93–651. See Codification note above.

1954—Subsecs. (d), (e). Act Aug. 3, 1954, added subsecs. (d) and (e).

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 3, 1954, effective July 1, 1954, see section 8 of act Aug. 3, 1954.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Secretary of Health, Education, and Welfare'' in par. (4) pursuant to sections 301(a)(4)(B) and 507 of Pub. L. 96–88 which are classified to sections 3441(a)(4)(B) and 3507 of this title and which transferred all functions of Secretary of Health, Education, and Welfare under this chapter to Secretary of Education.

For transfer of functions and offices of Secretary and Department of Health, Education, and Welfare, including Rehabilitation Services Administration and Commissioner thereof, to Secretary and Department of

Education, and for delegation of certain functions of Secretary of Education under this chapter to Assistant Secretary for Special Education and Rehabilitative Services, see sections 3417 and 3441 of this title.

§ 107e–1. Repealed. Pub. L. 93–516, title II, § 205, Dec. 7, 1974, 88 Stat. 1626

Section, act June 20, 1936, ch. 638, § 7, as added Aug. 3, 1954, ch. 655, § 4(g), 68 Stat. 664, related to designation and status of states acting as licensing agents before July 1, 1954.

The content of Pub. L. 93–516, including provisions of section 205 thereof which repealed this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been repealed by Pub. L. 93–651, title II, § 205, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was repealed by Pub. L. 93–516.

§ 107f. Authorization of appropriations

There is authorized to be appropriated such sums as may be necessary for carrying out the provisions of this chapter.

(June 20, 1936, ch. 638, § 10, formerly § 7, 49 Stat. 1560; renumbered § 8, Aug. 3, 1954, ch. 655, § 4(g), 68 Stat. 664; renumbered § 10, Pub. L. 93–516, title II, § 206, Dec. 7, 1974, 88 Stat. 1626; Pub. L. 93–651, title II, § 206, Nov. 21, 1974, 89 Stat. 2–11.)

CODIFICATION

The content of Pub. L. 93–516, including provisions of section 206 thereof which renumbered this section, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974.

Pursuant to an order of the United States District Court for the District of Columbia (*Kennedy v. Jones*, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93–651. Therefore, for purposes of codification, this section should be deemed to have been renumbered by Pub. L. 93–651, title II, § 206, Nov. 21, 1974, 89 Stat. 2–11, in exactly the same manner as it was amended by Pub. L. 93–516, title II, § 206, Nov. 21, 1974, 88 Stat. 1626.

CHAPTER 7—INSTRUCTION AS TO NATURE AND EFFECT OF ALCOHOLIC DRINKS AND NARCOTICS

Sec.
111. Study in certain schools of effect of alcoholic drinks and narcotics.
112. Enforcement of section 111.
113. Teachers' certificates dependent on passing examination on effect of alcoholic drinks and narcotics.

§ 111. Study in certain schools of effect of alcoholic drinks and narcotics

The nature of alcoholic drinks and narcotics, and special instruction as to their effects upon the human system, in connection with the several divisions of the subject of physiology and hygiene, shall be included in the branches of study taught in the common or public schools, and in the military and naval schools, and shall be studied and taught as thoroughly and in the same manner as other like required branches are in said schools, by the use of textbooks in the hands of pupils where other branches are thus studied in said schools, and by all pupils in all said schools throughout the Territories, in the Military and Naval Academies of the United States, and in the District of Columbia, and in all Indian and colored schools in the Territories of the United States.

(May 20, 1886, ch. 362, § 1, 24 Stat. 69.)

§ 112. Enforcement of section 111

It shall be the duty of the proper officers in control of any school described in section 111 of this title to enforce the provisions of this chapter; and any such officer, school director, committee, superintendent, or teacher who shall refuse or neglect to comply with the requirements of this chapter, or shall neglect or fail to make proper provisions for the instruction required and in the manner specified by section 111 of this title, for all pupils in each and every school under his jurisdiction, shall be removed from office, and the vacancy filled as in other cases.

(May 20, 1886, ch. 362, § 2, 24 Stat. 69.)

§ 113. Teachers' certificates dependent on passing examination on effect of alcoholic drinks and narcotics

No certificate shall be granted to any person to teach in the public schools of the District of Columbia or Territories who has not passed a satisfactory examination in physiology and hygiene, with special reference to the nature and the effects of alcoholic drinks and other narcotics upon the human system.

(May 20, 1886, ch. 362, § 3, 24 Stat. 69.)

CHAPTER 8—HOWARD UNIVERSITY

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
121. Annual report of president and directors.
122. Limitation on use of appropriations.
123. Annual appropriations; inspection by Secretary of Education.
124. Transfer of Freedmen's Hospital to Howard University.
(a) Purpose; authorization; agreement.
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125. Employees of hospital.
(a) Opportunity to transfer; guarantee of rights and benefits.
(b) Placement of employees in comparable Federal positions.
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126. Authorization of appropriations for construction of hospital facilities.
127. Transfer of facilities by University or cessation of operation as teaching hospital facilities; recovery of value by United States.
128. Authorization of appropriations for partial support of operation of facilities; separate account.
129. Financial policy; report to Congress.
130. Purchases through the General Services Administration.

Sec.
130a. Financial and program audit by Secretary.

SUBCHAPTER II—ENDOWMENT

130aa. Definitions.
130aa–1. Program authorized.
130aa–2. Investments.
130aa–3. Withdrawals and expenditures.
(a) Defrayment of expenses; restrictions on use of income or corpus; limits on withdrawals or expenditures.
(b) Authority of Secretary; withdrawal or expenditure beyond limits; circumstances demonstrating necessity.
(c) Repayment of Federal share of amounts improperly expended or withdrawn; endowment fund corpus; income.
130aa–4. Enforcement.
130aa–5. Authorization of appropriations.

SUBCHAPTER I—GENERAL PROVISIONS

§ 121. Annual report of president and directors

The president and directors of Howard University shall report to the Secretary of Education the condition of the institution on the 1st of July of each year, embracing therein the number of pupils received and discharged or leaving the same for any cause during the preceding year, and the number remaining; also, the branches of knowledge and industry taught and the progress made therein together with a statement showing the receipts of the institution and from what sources, and its disbursements, and for what objects.

(July 1, 1898, ch. 546, §1, 30 Stat. 624; 1940 Reorg. Plan No. IV, §11(c), eff. June 30, 1940, 5 F.R. 2422, 54 Stat. 1237; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692.)

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred all functions of Secretary of Health, Education, and Welfare under this subchapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of Department of the Interior relating to administration of Howard University transferred to Federal Security Agency to be administered under direction and supervision of Federal Security Administrator, and annual report required to be furnished to Secretary of the Interior by President and directors of said University was directed to be furnished to Federal Security Administrator, by Reorg. Plan No. IV of 1940, set out in the Appendix to Title 5.

SIMILAR PROVISIONS

A similar requirement of a report of the expenditures of the University accompanied the appropriation for the same purposes in the following prior acts:
Mar. 3, 1893, ch. 208, 27 Stat. 595.
Aug. 5, 1892, ch. 380, 27 Stat. 372.
Mar. 3, 1891, ch. 542, 26 Stat. 973.

§ 122. Limitation on use of appropriations

No part of the appropriations made by Congress for the Howard University shall be used, directly or indirectly, for the support of the theological department of said university, nor for the support of any sectarian, denominational, or religious instruction therein; and no part thereof shall be paid to said university until it shall accord to the Secretary of Education, or to his designated agent or agents, authority to visit and inspect such university and to control and supervise the expenditure therein of all moneys paid under said appropriations.

(Mar. 3, 1899, ch. 424, 30 Stat. 1101; 1940 Reorg. Plan No. IV, §11(c), eff. June 30, 1940, 5 F.R. 2422, 54 Stat. 1237; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692.)

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred all functions of Secretary of Health, Education, and Welfare under this subchapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of Department of the Interior relating to administration of Howard University transferred to Federal Security Agency to be administered under direction and supervision of Federal Security Administrator by Reorg. Plan No. IV of 1940, set out as a note in the Appendix to Title 5.

PRIOR PROVISIONS

Similar prior provisions were contained in act July 1, 1898, ch. 546, 30 Stat. 624.

§ 123. Annual appropriations; inspection by Secretary of Education

Annual appropriations are authorized to aid in the construction, development, improvement, endowment, and maintenance of the university, no part of which shall be used for religious instruction. The university shall at all times be open to inspection by the Secretary of Education and shall be inspected by the said Secretary at least once each year.

(Mar. 2, 1867, ch. 162, §8, 14 Stat. 439; Dec. 13, 1928, ch. 26, 45 Stat. 1021; 1940 Reorg. Plan No. IV, §11(c), eff. June 30, 1940, 5 F.R. 2422, 54 Stat. 1237; Aug. 7, 1946, ch. 770, §1(60), 60 Stat. 871; Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, Oct. 17, 1979, 93 Stat. 678, 692; Pub. L. 98–480, title II, §208, Oct. 17, 1984, 98 Stat. 2247.)

AMENDMENTS

1984—Pub. L. 98–480 inserted ''endowment,'' after ''improvement,''.

1946—Act Aug. 7, 1946, repealed third sentence which required that an annual report of the affairs of the uni-

versity be presented to Congress in the report of Office of Education.

1928—Act Dec. 13, 1928, authorized annual appropriations for the university, prohibited use of funds for religious instruction, made the university subject to inspection at least once a year by the Bureau of Education, and substituted provision that the annual report of the university's affairs be presented to Congress by the Bureau for provision that the Board of Trustees publish such an annual report.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–480 effective Oct. 1, 1984, see section 209 of Pub. L. 98–480, set out as an Effective Date note under section 130aa of this title.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88 which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred all functions of Secretary of Health, Education, and Welfare under this subchapter to Secretary of Education.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Office of Education transferred to Federal Security Agency by Reorg. Plan No. I of 1939, §§ 201, 204, eff. July 1, 1939, set out in the Appendix to Title 5.

Office of Education created and placed in Department of the Interior by the act of July 20, 1868, ch. 176, 15 Stat. 106, which abolished the Department of Education. In the appropriation act of July 12, 1870, ch. 251, 16 Stat. 242, the Office was designated the Bureau of Education. This designation was retained until the act of May 14, 1930, ch. 273, 46 Stat. 281, 319, which made appropriations for the ''Office of Education.''

REPORTS CONTINUED

Office of Education was directed to continue its inspections of Howard University in accordance with provisions of existing law, by Reorg. Plan No. IV of 1940, set out in the Appendix to Title 5, Government Organization and Employees.

§ 124. Transfer of Freedmen's Hospital to Howard University

(a) Purpose; authorization; agreement

For the purpose of assisting in the provision of teaching hospital resources for Howard University, thereby assisting the university in the training of medical and allied personnel and in providing hospital services for the community, the Secretary of Health, Education, and Welfare shall, pursuant to agreement with the board of trustees of Howard University, transfer to Howard University, without reimbursement, all right, title, and interest of the United States in certain lands in the District of Columbia, together with the buildings and improvements thereon and the personal property used in connection therewith (as determined by the Secretary), commonly known as Freedmen's Hospital.

(b) Congressional intent

It is the intent of Congress (1) that the transfer of Freedmen's Hospital to Howard University be effected as soon as practicable, (2) to assure the well-being of patients at Freedmen's Hospital during the period of transition, and (3) that the transfer be effected with minimum dislocation of the present hospital staff and maximum consideration of their interests as employees.

(c) Report to Congress

The Secretary of Health, Education, and Welfare shall report to the Congress the terms of the agreement for such transfer.

(Pub. L. 87–262, § 1, Sept. 21, 1961, 75 Stat. 542.)

TRANSFER OF FUNCTIONS

Functions of Secretary of Health, Education, and Welfare under laws relating to relationship between Howard University and Department of Health, Education, and Welfare transferred to Secretary of Education by section 3441(a)(2)(M) of this title.

REPEAL OF LAWS APPLICABLE TO FREEDMEN'S HOSPITAL

Section 7 of Pub. L. 87–262 provided that: ''All laws heretofore applicable specifically to Freedmen's Hospital are, to the extent of such applicability, repealed, effective with the transfer of Freedmen's Hospital pursuant to section 1 [this section].''

TRANSFER OF FUNDS

Section 8 of Pub. L. 87–262 provided that: ''All unexpended balances of appropriations, allocations, and other funds, available or to be made available, of Freedmen's Hospital are, effective with the transfer of Freedmen's Hospital pursuant to section 1 [this section], transferred to Howard University for use in the operation of the Howard University Hospital facilities, except to the extent (determined by the Director of the Bureau of the Budget [Director of the Office of Management and Budget]) required to meet obligations already incurred and not assumed by the university.''

§ 125. Employees of hospital

(a) Opportunity to transfer; guarantee of rights and benefits

The agreement for transfer of Freedmen's Hospital referred to in section 124 of this title shall include provisions to assure that—

(1) all individuals who are career or career-conditional employees of the hospital on the day preceding the effective date of the transfer of the hospital, except those in positions with respect to which they have been notified not less than six months prior to the effective date of such transfer that their positions are to be abolished, will be offered an opportunity to transfer to Howard University;

(2) Howard University—

(A) will not reduce the salary levels for such employees who transfer,

(B) will deposit currently (i) in the civil service retirement and disability fund referred to in section 8348 of title 5, the employee deductions and agency contributions required by subchapter III of chapter 83 of title 5, and (ii) in the fund referred to in section 8714 of title 5, the employee deductions and agency contributions required by chapter 87 of title 5.

(C) will provide other benefits for such employees as nearly equivalent as may be practicable to those generally applicable, on the effective date of the transfer of the hospital, to civilian employees of the United States, and

(D) in determining the seniority rights of its employees, Howard University will credit service with Freedmen's Hospital performed by such employees who transfer, on the same basis as it would credit such service had it been performed for such University;

(3) the transfer will become effective not later than the beginning of the second month which begins after construction of the new hospital facilities authorized by section 126 of this title is commenced.

(b) Placement of employees in comparable Federal positions

The Department of Health, Education, and Welfare shall make every reasonable effort to place in other comparable Federal positions all individuals who are career or career-conditional employees of Freedmen's Hospital on September 21, 1961 and who do not transfer to Howard University.

(c) Services performed in the employ of United States

Each individual who is an employee of Freedmen's Hospital on September 21, 1961 and who transfers to Howard University shall, so long as he is continuously in the employ of Howard University, be regarded as continuing in the employ of the United States for the purposes of subchapter III of chapter 83 of title 5, chapter 87 of title 5. For purposes of section 3121(b) of title 26 and section 410 of title 42, service performed by such individual during the period of his employment at Howard University shall be regarded as though performed in the employ of the United States.

(Pub. L. 87–262, §2, Sept. 21, 1961, 75 Stat. 542; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095.)

CODIFICATION

In subsec. (a)(2)(B), ''civil service retirement and disability fund referred to in section 8348 of title 5'' substituted for ''civil service retirement and disability fund required by the Act of May 22, 1920'' on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees. Previously, act May 22, 1920, ch. 195, 41 Stat. 614, was superseded by act May 29, 1930, known as the Civil Service Retirement Act of 1930, which was generally amended by act July 31, 1956, ch. 804, §401, 70 Stat. 743.

In subsecs. (a)(2)(B) and (c), ''subchapter III of chapter 83 of title 5'' substituted for ''the Civil Service Retirement Act'' on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

In subsec. (a)(2)(B), ''fund referred to in section 8714 of title 5'' substituted for ''the fund created by section 5(c) of the Federal Employees' Group Life Insurance Act of 1954'' and, in subsecs. (a)(2)(B) and (c), ''chapter 87 of title 5'' substituted for ''the Federal Employees' Group Life Insurance Act of 1954'', on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

TRANSFER OF FUNCTIONS

Functions of Secretary of Health, Education, and Welfare under laws relating to relationship between Howard University and Department of Health, Education, and Welfare transferred to Secretary of Education by section 3441(a)(2)(M) of this title.

§ 126. Authorization of appropriations for construction of hospital facilities

For the purpose specified in section 124 of this title, there are authorized to be appropriated such sums as may be necessary for the construction of a building or buildings and facilities, including equipment, and for remodeling of existing buildings (including repair and replacement of equipment) which are to be combined with the building or buildings and facilities so constructed, to provide a hospital with a capacity of not to exceed five hundred beds.

(Pub. L. 87–262, §3, Sept. 21, 1961, 75 Stat. 543.)

§ 127. Transfer of facilities by University or cessation of operation as teaching hospital facilities; recovery of value by United States

If, within twenty years after the completion of construction (as determined by the Secretary of Health, Education, and Welfare) of the new hospital facilities authorized by section 126 of this title, any of such facilities, or of the facilities transferred pursuant to section 124 of this title and combined with such new facilities, are transferred by Howard University to any other person or entity (except a transfer to the United States) or cease to be operated by the university as teaching hospital facilities, the United States shall be entitled to recover from the transferee or the university, in the case of a transfer, or from the university, if there is no transfer, an amount equal to the then value of such facilities (or so much thereof as is involved in the transfer, as the case may be), such value to be determined by agreement of the parties or by action brought in the United States District Court for the District of Columbia.

(Pub. L. 87–262, §4, Sept. 21, 1961, 75 Stat. 543.)

TRANSFER OF FUNCTIONS

Functions of Secretary of Health, Education, and Welfare under laws relating to relationship between Howard University and Department of Health, Education, and Welfare transferred to Secretary of Education by section 3441(a)(2)(M) of this title.

§ 128. Authorization of appropriations for partial support of operation of facilities; separate account

In order to facilitate operation of teaching hospital facilities at Howard University, there are authorized to be appropriated annually to the university such sums as the Congress may determine, for the partial support of the operation of such facilities giving consideration to the cost imposed by the provisions of section 125 of this title and the portion of the agreement under sections 124 to 129 of this title relating to such provisions. The cost of operating such facilities, the appropriations pursuant to this section, and any other income derived from such operation or available for such purpose shall be identified and accounted for separately in the accounts of the university.

(Pub. L. 87–262, §5, Sept. 21, 1961, 75 Stat. 543.)

§ 129. Financial policy; report to Congress

It is declared to be the policy of the Congress that, to the extent consistent with good medical teaching practice, the Howard University Hospital facilities shall become progressively more self-supporting. In order to further this policy, the President shall submit to the Congress a report, based on a study of the financing of the operation of the hospital, containing his recommendations on the rate at which, consistent with the above policy, Federal financial participation in such cost of operation shall be reduced. Such report shall be submitted not later than the end of the second calendar year following the year in which the construction of the new hospital facilities, authorized by section 126 of this title, is completed.

(Pub. L. 87–262, § 6, Sept. 21, 1961, 75 Stat. 544.)

§ 130. Purchases through the General Services Administration

On and after September 8, 1978, Howard University is authorized to make purchases through the General Services Administration.

(Pub. L. 95–355, title I, § 100, Sept. 8, 1978, 92 Stat. 531.)

CODIFICATION

Section is from the Second Supplemental Appropriations Act, 1978, and contained additional provisions relating to purchases by the American Printing House for the Blind, Gallaudet University, and the National Technical Institute for the Deaf, which are set out in sections 106 and 4362 of this title.

§ 130a. Financial and program audit by Secretary

Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to Howard University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

(Pub. L. 102–394, title III, § 301, Oct. 6, 1992, 106 Stat. 1819.)

CODIFICATION

Section is from the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993, and contained additional provisions relating to the American Printing House for the Blind, Gallaudet University, and the National Technical Institute for the Deaf, which are set out as sections 106a and 4363 of this title, respectively.

SUBCHAPTER II—ENDOWMENT

§ 130aa. Definitions

For purposes of this subchapter—

(1) the term ''endowment fund'' means a fund, or a tax exempt foundation, established and maintained by Howard University for the purpose of generating income for its support, but which shall not include real estate;

(2) the term ''endowment fund corpus'' means an amount equal to the grants awarded under this subchapter plus an amount equal to such grants provided by Howard University;

(3) the term ''endowment fund income'' means an amount equal to the total value of the endowment fund established under this subchapter minus the endowment fund corpus;

(4) the term ''Secretary'' means the Secretary of Education; and

(5) the term ''University'' means the Howard University established by the Act of March 2, 1867.

(Pub. L. 98–480, title II, § 202, Oct. 17, 1984, 98 Stat. 2245.)

REFERENCES IN TEXT

Act of March 2, 1867, referred to in par. (5), is act Mar. 2, 1867, ch. 162, 14 Stat. 438, as amended. Section 8 of this Act is classified to section 123 of this title. For complete classification of this Act to the Code, see Tables.

EFFECTIVE DATE

Section 209 of title II of Pub. L. 98–480 provided that: ''This title [see Short Title note below] shall take effect on October 1, 1984.''

SHORT TITLE

Section 201 of title II of Pub. L. 98–480 provided that: ''This title [enacting this subchapter, amending section 123 of this title, and enacting provisions set out as a note above] may be cited as the 'Howard University Endowment Act'.''

§ 130aa–1. Program authorized

(a) The Secretary is authorized to establish an endowment program, in accordance with the provisions of this subchapter, for the purpose of establishing or increasing endowment funds, providing additional incentives to promote fundraising activities, and encouraging independence and self-sufficiency at the University.

(b)(1) From the funds appropriated pursuant to this subchapter for endowments in any fiscal year for the University, the Secretary is authorized to make grants to Howard University. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this subchapter such provisions deemed necessary by the Secretary to assure that the purposes of this subchapter will be achieved.

(2) The University may receive a grant under this section only if it has deposited in the endowment fund established under this subchapter an amount equal to such grant and has adequately assured the Secretary that it will administer the endowment fund in accordance with the requirements of this subchapter. The source of funds for this institutional match shall not include Federal funds or funds derived from an existing endowment fund.

(3) The period of any grant under this section shall not exceed twenty years, and during such period the University shall not withdraw or expend any of its endowment fund corpus. Upon the expiration of any grant period, the University may use the endowment fund corpus plus any endowment fund income for any educational purpose.

(Pub. L. 98–480, title II, § 203, Oct. 17, 1984, 98 Stat. 2245.)

§ 130aa–2. Investments

(a) The University shall invest its endowment fund corpus and endowment fund income in

those low-risk instruments and securities in which a regulated insurance company may invest under the law of the District of Columbia, such as federally insured bank savings account or comparable interest bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(b) The University, in investing its endowment fund corpus and income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of his own business affairs.

(Pub. L. 98–480, title II, § 204, Oct. 17, 1984, 98 Stat. 2246.)

§ 130aa–3. Withdrawals and expenditures

(a) Defrayment of expenses; restrictions on use of income or corpus; limits on withdrawals or expenditures

The University may withdraw and expend its endowment fund income to defray any expenses necessary to its operation, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor entered into after January 1, 1981. Except as provided in subsection (b) of this section, the University shall not, in the aggregate, withdraw or expend more than 50 per centum of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) Authority of Secretary; withdrawal or expenditure beyond limits; circumstances demonstrating necessity

The Secretary is authorized to permit the University to withdraw or expend more than 50 per centum of its total aggregate endowment income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(A) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(B) a life-threatening situation occasioned by a natural disaster or arson; or

(C) another unusual occurrence or exigent circumstance.

(c) Repayment of Federal share of amounts improperly expended or withdrawn; endowment fund corpus; income

(1) If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to 50 per centum of the amount improperly expended (representing the Federal share thereof).

(2) The University shall not withdraw or expend any endowment fund corpus. If the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to 50 per centum of the amount withdrawn or expended (representing the Federal share thereof) plus any income earned thereon.

(Pub. L. 98–480, title II, § 205, Oct. 17, 1984, 98 Stat. 2246.)

§ 130aa–4. Enforcement

(a) After notice and an opportunity for a hearing, the Secretary is authorized to terminate and recover any grant awarded under this subchapter if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 130aa–3 of this title;

(2) fails to invest its endowment fund corpus or income in accordance with the investment standards set forth in section 130aa–2 of this title; or

(3) fails to account properly to the Secretary concerning investments and expenditures of its endowment fund corpus or income.

(b) If the Secretary terminates a grant under subsection (a) of this section, the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this subchapter[1] plus any income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this subchapter and to protect the financial interest of the United States.

(Pub. L. 98–480, title II, § 206, Oct. 17, 1984, 98 Stat. 2247.)

CODIFICATION

This subchapter, the first time it appears in subsec. (b), was in the original ''this Act'' which was translated as reading ''this title'', meaning title II of Pub. L. 98–480, Oct. 17, 1984, 98 Stat. 2236, as the probable intent of Congress.

§ 130aa–5. Authorization of appropriations

There is authorized to be appropriated $2,000,000 for the purposes authorized under section 130aa–1 of this title. Funds appropriated under this section shall remain available until expended.

(Pub. L. 98–480, title II, § 207, Oct. 17, 1984, 98 Stat. 2247.)

CHAPTER 9—NATIONAL TRAINING SCHOOL FOR BOYS

§§ 131 to 152. Omitted

CODIFICATION

Sections provided for the National Training School for Boys which was governed and managed by a Board of Trustees until July 1, 1939, at which time 1939 Reorg. Plan No. 2 (4 F.R. 2731, 53 Stat. 1431) abolished the Board of Trustees and transferred the School and its functions (including the functions of the Board of Trustees) to the Department of Justice, to be administered by the Director of the Bureau of Prisons, under the direction and supervision of the Attorney General. The School was so operated until May 15, 1968, when it was closed pursuant to order of the Attorney General.

Section 131, act May 27, 1908, ch. 200, § 1, 35 Stat. 380, provided that District reform school for boys should be known as National Training School for Boys.

Section 132, acts May 3, 1876, ch. 90, § 1, 19 Stat. 49; May 27, 1908, ch. 200, § 1, 35 Stat. 380, dealt with appoint-

[1] See Codification note below.

ment of a board of trustees to govern and manage the school.

Section 133, act June 4, 1880, ch. 121, §1, 21 Stat. 156, provided that one of the District commissioners should be a trustee of the school.

Section 134, act May 3, 1876, ch. 90, §16, 19 Stat. 52, provided for appointment of two consulting trustees of the school.

Section 135, acts May 3, 1876, ch. 90, §2, 19 Stat. 49; May 27, 1908, ch. 200, §1, 35 Stat. 380, dealt with corporate capacity and powers of the board of trustees.

Section 136, acts May 3, 1876, ch. 90, §15, 19 Stat. 52; June 5, 1900, ch. 715, 31 Stat. 267, authorized board of trustees to make by-laws, rules, and regulations.

Section 137, act May 3, 1876, ch. 90, §14, 19 Stat. 51, dealt with contracts and purchases, the executive officer, and annual reports.

Section 138, act May 3, 1876, ch. 90, §3, 19 Stat. 49, dealt with appointment and compensation of a superintendent and other employees of the school.

Section 139, acts May 3, 1876, ch. 90, §4, 19 Stat. 49; June 10, 1921, ch. 18, §304, 42 Stat. 24, dealt with appointment, bonding, and duties of a treasurer of the school.

Section 140, act May 3, 1876, ch. 90, §5, 19 Stat. 50, dealt with bonding of the superintendent.

Section 141, act May 3, 1876, ch. 90, §6, 19 Stat. 50, dealt with powers and duties of the superintendent and subordinate employees.

Section 142, act May 3, 1876, ch. 90, §7, 19 Stat. 50, provided that superintendent be in charge of lands and other property of the school, books of accounts, register of boys, and examination of school and accounts.

Section 143, act Mar. 3, 1881, ch. 134, §1, 21 Stat. 459, dealt with a report of school officers to District commissioners.

Section 144, acts Aug. 6, 1890, ch. 724, §1, 26 Stat. 307; Mar. 3, 1905, ch. 1483, 33 Stat. 1211, dealt with disposition of proceeds of the school farm and shops.

Section 145, acts May 3, 1876, ch. 90, §8, 19 Stat. 50; June 5, 1900, ch. 715, 31 Stat. 266, dealt with commitment of boys under age 17 to the school.

Section 146, acts May 3, 1876, ch. 90, §9, 19 Stat. 51; June 5, 1900, ch. 715, 31 Stat. 267, related to period of detention.

Section 147, act May 3, 1876, ch. 90, §10, 19 Stat. 51, limited number of boys at the school to number that can be properly accommodated.

Section 148, act May 3, 1876, ch. 90, §11, 19 Stat. 51, dealt with penalties for enticing boy from school or harboring escaped boy, and for arrest and return of escapees.

Section 149, act May 3, 1876, ch. 90, §12, 19 Stat. 51, dealt with employment and instruction of boys, apprenticing, and indentures of apprenticeship.

Section 150, act Feb. 26, 1909, ch. 217, §1, 35 Stat. 657, dealt with release on parole of juvenile offenders committed to the school.

Section 151, act Feb. 26, 1909, ch. 217, §2, 35 Stat. 657, authorized board of trustees to parole boys, subject to approval of Attorney General in certain cases.

Section 152, acts May 3, 1876, ch. 90, §13, 19 Stat. 51; Aug. 1, 1914, ch. 223, §1, 38 Stat. 657; Mar. 28, 1918, ch. 28, §1, 40 Stat. 494, dealt with District support of boys committed, accounts, payment, and rates.

CHAPTER 10—NATIONAL TRAINING SCHOOL FOR GIRLS

§§ 161 to 174. Omitted

CODIFICATION

Sections provided for the National Training School for Girls. Act Aug. 3, 1951, ch. 291, §1, 65 Stat. 154, provided that no new commitments to the National Training School for Girls should be made after Aug. 3, 1951. Act July 31, 1953, ch. 299, §1, 67 Stat. 286, redesignated the National Training School for Girls as the Industrial Home School for Colored Girls and authorized construction of a new Industrial Home School for Colored Children near Laurel, Maryland. Act July 1, 1954, ch. 449, §1, 68 Stat. 385, provided that the Industrial Home School for Colored Girls shall be combined with and become a part of the Industrial Home School for Colored Children. Act Sept. 4, 1957, Pub. L. 85–285, §1, 71 Stat. 610, provided in part for the disposition of the land of the United States reserved for a site for the National Training School for Girls by the Act of July 14, 1892 (27 Stat. 165), as amended.

Section 161, act June 26, 1912, ch. 182, §1, 37 Stat. 171, provided that District reform school for girls should be known as National Training School for Girls.

Section 162, acts July 9, 1888, §§1, 7, 25 Stat. 245, 246; June 26, 1912, ch. 182, §1, 37 Stat. 171; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, dealt with incorporation.

Section 163, acts July 9, 1888, ch. 595, §2, 25 Stat. 245; June 26, 1912, ch. 182, §1, 37 Stat. 171; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, provided authority to establish and maintain a training school for girls within District of Columbia.

Section 164, acts July 9, 1888, ch. 595, §3, 25 Stat. 246; May 27, 1908, ch. 200, §1, 35 Stat. 380; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, provided same power and authority as board of trustees of National Training School for Boys had in relation to boys.

Section 165, acts May 3, 1876, ch. 90, §15, 19 Stat. 52; July 9, 1888, ch. 595, §5, 25 Stat. 246; Feb. 25, 1901, ch. 478, 31 Stat. 810; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, authorized making of by-laws, rules, and regulations.

Section 166, acts July 9, 1888, ch. 595, §4, 25 Stat. 246; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, dealt with appointment and compensation of officers and employees.

Section 167, acts Feb. 28, 1923, ch. 148, §1, 42 Stat. 1358; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, dealt with control over inmates.

Section 168, acts July 9, 1888, ch. 595, §6, 25 Stat. 246; June 26, 1912, ch. 182, §1, 37 Stat. 171, dealt with applicability of laws relating to National Training School for Boys to school for girls.

Section 169, acts May 3, 1876, ch. 90, §8, 19 Stat. 50; July 9, 1888, ch. 595, §6, 25 Stat. 245; Feb. 25, 1901, ch. 478, 31 Stat. 809; Mar. 19, 1906, ch. 960, §8, 34 Stat. 73; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208; Aug. 3, 1951, ch. 291, §3, 65 Stat. 154, related to commitment of girls under 17 years of age.

Section 170, acts May 3, 1876, ch. 90, §9, 19 Stat. 51; July 9, 1888, ch. 595, §6, 25 Stat. 245; Feb. 25, 1901, ch. 478, 31 Stat. 810; June 26, 1912, ch. 182, §1, 37 Stat. 171, related to period of detention.

Section 171, act Apr. 15, 1910, ch. 164, §1, 36 Stat. 300, dealt with release on parole of juvenile offenders committed to the school.

Section 172, acts Apr. 15, 1910, ch. 164, §2, 36 Stat. 300; Mar. 16, 1926, ch. 58, §1, 44 Stat. 208, authorized parole of girls, subject to approval of the Attorney General in certain cases.

Section 173, act June 5, 1920, ch. 234, §1, 41 Stat. 865, dealt with disbursement of appropriations for the school.

Section 174, act July 9, 1888, ch. 595, §8, 25 Stat. 246, reserved to Congress the right to alter, amend, or repeal this chapter.

CHAPTER 11—NATIONAL ARBORETUM

Sec.
191. Establishment; site; acquisition of land.
192. Omitted.
193. Administration of arboretum.
194. Advisory council.
195. Gifts, bequests, or devises for benefit of National Arboretum; separate fund in the Treasury.
196. Concessions, fees, and voluntary services.
(a) In general.
(b) Use of funds.
(c) Acceptance of voluntary services.

§ 191. Establishment; site; acquisition of land

The Secretary of Agriculture is authorized and directed to establish and maintain a national ar-

boretum for purposes of research and education concerning tree and plant life. For the purposes of this chapter, (1) the President is authorized to transfer to the jurisdiction of the Secretary of Agriculture by Executive order any land which now belongs to the United States within or adjacent to the District of Columbia located along the Anacostia River north of Benning Bridge, and (2) the Secretary of Agriculture is authorized in his discretion to acquire, within the limits of the appropriation authorized by this chapter by private purchase, condemnation proceedings, or gift, land so located or other land within or adjacent to the District of Columbia: *Provided*, That the purchase price of any part of said land shall not exceed the full value assessment of such property last made before purchase thereof plus 25 per centum of such assessed value.

(Mar. 4, 1927, ch. 505, §1, 44 Stat. 1422.)

TRANSFER OF FUNCTIONS

Functions of all officers, agencies and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by Reorg. Plan No. 2 of 1953, §1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

DELEGATION OF FUNCTIONS

Authority of President under this section to transfer to jurisdiction of Secretary of Agriculture for purposes of this chapter any land belonging to United States within or adjacent to District of Columbia located along Anacostia River north of Benning Bridge delegated to Administrator of General Services, see section 1(18) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

FACILITIES TO HOUSE BONSAI COLLECTIONS

Pub. L. 103–111, title I, Oct. 21, 1993, 107 Stat. 1051, provided in part: ''That hereafter, facilities to house bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94–129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) [now 40 U.S.C. 8106] shall not apply to the construction of such facilities''.

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 102–341, title I, Aug. 14, 1992, 106 Stat. 878.
Pub. L. 102–142, title I, Oct. 28, 1991, 105 Stat. 883.
Pub. L. 101–506, title I, Nov. 5, 1990, 104 Stat. 1320.
Pub. L. 101–161, title I, Nov. 21, 1989, 103 Stat. 956.
Pub. L. 100–460, title I, Oct. 1, 1988, 102 Stat. 2234.
Pub. L. 100–202, §101(k) [title I], Dec. 22, 1987, 101 Stat. 1329–322, 1329–327.
Pub. L. 99–500, §101(a) [title I], Oct. 18, 1986, 100 Stat. 1783, 1783–5, and Pub. L. 99–591, §101(a) [title I], Oct. 30, 1986, 100 Stat. 3341, 3341–5.

§ 192. Omitted

CODIFICATION

Section, act Mar. 4, 1927, ch. 505, §2, 44 Stat. 1422, authorized appropriation of $300,000 to be expended for acquisition of land specified in section 191 of this title.

§ 193. Administration of arboretum

In order to stimulate research and discovery the national arboretum established by the Secretary of Agriculture in accordance with the provisions of this chapter shall be under competent scientific direction. The arboretum shall be administered by the Secretary of Agriculture separately from the agricultural, horticultural, and forestry stations of the Department of Agriculture, but it shall be so correlated with them as to bring about the most effective utilization of its facilities and discoveries.

(Mar. 4, 1927, ch. 505, §3, 44 Stat. 1422.)

§ 194. Advisory council

The Secretary of Agriculture is authorized to create an advisory council in relation to the plan and development of the national arboretum to be established under this chapter, to include representatives of national organizations interested in the work of the arboretum.

(Mar. 4, 1927, ch. 505, §4, 44 Stat. 1422.)

TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 195. Gifts, bequests, or devises for benefit of National Arboretum; separate fund in the Treasury

Notwithstanding any other provision of law, the Secretary of Agriculture is authorized to solicit, accept, receive, hold, utilize, and administer on behalf of the United States gifts, bequests, or devises of real and personal property made for the benefit of the National Arboretum or for the carrying out of any of its functions. For the purposes of the Federal income, estate, and gift tax laws, property accepted under the authority of this section shall be considered as a gift, bequest, or devise to the United States. Any gift of money accepted pursuant to the authority granted in this section, or the net proceeds from the liquidation of any property so accepted, or the proceeds of any insurance on any gift property not used for its restoration shall be deposited in the Treasury of the United States for credit to a separate fund and shall be disbursed upon order of the Secretary of Agriculture.

(Mar. 4, 1927, ch. 505, §5, as added Pub. L. 94–129, Nov. 13, 1975, 89 Stat. 683; amended Pub. L. 104–127, title VIII, §890(a), Apr. 4, 1996, 110 Stat. 1181.)

REFERENCES IN TEXT

The Federal income, estate, and gift tax laws, referred to in text, are classified generally to Title 26, Internal Revenue Code.

AMENDMENTS

1996—Pub. L. 104–127 inserted ''solicit,'' after ''authorized to'' in first sentence.

§ 196. Concessions, fees, and voluntary services

(a) In general

Notwithstanding the Federal Property and Administrative Services Act of 1949[1] and section 1302 of title 40, the Secretary of Agriculture, in furtherance of the mission of the National Arboretum, may—

(1) negotiate agreements granting concessions at the National Arboretum to nonprofit scientific or educational organizations the interests of which are complementary to the mission of the National Arboretum, except that the net proceeds of the organizations from the concessions shall be used exclusively for research and educational work for the benefit of the National Arboretum;

(2) provide by concession, on such terms as the Secretary of Agriculture considers appropriate and necessary, for commercial services for food, drink, and nursery sales, if an agreement for a permanent concession under this paragraph is negotiated with a qualified person submitting a proposal after due consideration of all proposals received after the Secretary of Agriculture provides reasonable public notice of the intent of the Secretary to enter into such an agreement;

(3) dispose of excess property, including excess plants and fish, in a manner designed to maximize revenue from any sale of the property, including by way of public auction, except that this paragraph shall not apply to the free dissemination of new varieties of seeds and germ plasm in accordance with section 2201 of title 7;

(4) charge such fees as the Secretary of Agriculture considers reasonable for temporary use by individuals or groups of National Arboretum facilities and grounds for any purpose consistent with the mission of the National Arboretum;

(5) charge such fees as the Secretary of Agriculture considers reasonable for the use of the National Arboretum for commercial photography or cinematography;

(6) publish, in print and electronically and without regard to laws relating to printing by the Federal Government, informational brochures, books, and other publications concerning the National Arboretum or the collections of the Arboretum; and

(7) license use of the National Arboretum name and logo for public service or commercial uses.

(b) Use of funds

Any funds received or collected by the Secretary of Agriculture as a result of activities described in subsection (a) of this section shall be retained in a special fund in the Treasury. Amounts in the special fund shall be available to the Secretary of Agriculture, without further appropriation, for the use and benefit of the National Arboretum as the Secretary of Agriculture considers appropriate.

(c) Acceptance of voluntary services

The Secretary of Agriculture may accept the voluntary services of organizations described in subsection (a)(1) of this section, and the voluntary services of individuals (including employees of the National Arboretum), for the benefit of the National Arboretum.

(Mar. 4, 1927, ch. 505, § 6, as added Pub. L. 104–127, title VIII, § 890(b), Apr. 4, 1996, 110 Stat. 1181; amended Pub. L. 105–185, title VI, § 601(b), June 23, 1998, 112 Stat. 585.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Except for title III of the Act, which is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts, the Act was repealed and reenacted by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapters 1 to 11 of Title 40, Public Buildings, Property, and Works.

CODIFICATION

''Section 1302 of title 40'' substituted in subsec. (a) for ''section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–185 substituted ''Treasury. Amounts in the special fund shall be available to the Secretary of Agriculture, without further appropriation,'' for ''Treasury''.

CHAPTER 12—FOREIGN AND EXCHANGE STUDENTS

Sec.
221. Instructions of citizens from American republics; Government maintained professional educational institutions.
221a. Instructions of citizens from American republics; United States Military Academy; restrictions; saving provision.
222 to 224. Repealed.
225. Fund for education of Iranian students in United States.
226. Cooperative public and private sector program for providing scholarships to students from the Caribbean and Central America.
(a) Statement of purpose.
(b) Establishment of scholarship program.
(c) Grants to States.
(d) Agreement with States.
(e) Federal share.
(f) Non-Federal share.
(g) Forgiveness of scholarship assistance.
(h) Private sector participation.
(i) Funding.
(j) Definitions.

§ 221. Instructions of citizens from American republics; Government maintained professional educational institutions

The President is authorized, in his discretion and under such regulations as he may prescribe by Executive order, to permit citizens of the American republics to receive instruction, with or without charge therefor, at professional educational institutions and schools maintained and administered by the Government of the United States or by departments or agencies thereof: *Provided*, That such citizens shall agree to comply with all regulations for the government of the institutions and schools at which

[1] See References in Text note below.

they may be under instruction and to exert every effort to accomplish successfully the courses of instruction prescribed: *And provided further*, That the regulations prescribed by the President under the authority of this section shall contain provisions limiting the admission of citizens of the American republics to primary schools maintained and administered by the Government of the United States so that there will under no circumstances be any curtailment of the admission of citizens of the United States eligible to receive instruction therein.

(June 24, 1938, ch. 644, 52 Stat. 1034; July 14, 1941, ch. 292, 55 Stat. 589; June 26, 1946, ch. 493, § 1, 60 Stat. 311.)

CODIFICATION

Section originally provided that ''not more than one citizen of any American republic shall receive instruction at the same time in the United States Military Academy and not more than one in the United States Naval Academy.'' This phrase has been omitted in view of acts July 14, 1941, and June 26, 1946. See sections 4344, 6957, and 9344 of Title 10, Armed Forces.

§ 221a. Instructions of citizens from American republics; United States Military Academy; restrictions; saving provision

After June 26, 1946, no person shall have authority to permit citizens of the American Republics to receive instruction at the United States Military Academy under the provisions of section 221 of this title. Any person who is receiving instruction at the United States Military Academy on June 26, 1946, under authority of section 221 of this title, may, in the discretion of the President, be permitted to continue to receive such instruction and, if so permitted, shall thereafter be deemed to be receiving instruction under the provisions of sections 4344 and 9344 of title 10.

(June 26, 1946, ch. 493, § 2, 60 Stat. 312.)

CODIFICATION

Words ''sections 4344 and 9344 of title 10'' substituted in text for ''section 1 of this Act'', meaning section 1 of act June 27, 1946, ch. 493, 60 Stat. 311, on authority of act Aug. 10, 1956, § 49(b), ch. 1041, 70A Stat. 640, the first section of which enacted Title 10, Armed Forces.

§§ 222 to 224. Repealed. Pub. L. 87–256, § 111(a)(4), Sept. 21, 1961, 75 Stat. 538

Sections, act Aug. 24, 1949, ch. 505, §§ 1–3, 63 Stat. 630, authorized the creation of a special deposit account for sums due or paid by the Republic of Finland to the United States as interest on or in retirement of the principal of the debt incurred under the act of Feb. 25, 1919, as refunded by the agreement dated May 1, 1923, pursuant to authority contained in sections 805 to 809 of former Title 31, Money and Finance, or of any other indebtedness incurred by Finland and owing to the United States as a result of World War I, provided for the use of such fund for exchange of students, professors, etc., for the interchange of books and technical equipment, and for disbursements from the account. See section 2451 et seq. of Title 22, Foreign Relations and Intercourse, particularly section 2455.

CONTINUATION OF CERTAIN EXECUTIVE ORDERS, AGREEMENTS, DETERMINATIONS, REGULATIONS, CONTRACTS, APPOINTMENTS, AND OTHER ACTIONS

Continuation in full force and effect, and applicability to the appropriate provisions of the Mutual Educational and Cultural Exchange Act of 1961, set out in section 2451 et seq. of Title 22, Foreign Relations and Intercourse, until modified or superseded by appropriate authority, of all Executive orders, agreements, determinations, regulations, contracts, appointments, and other actions issued, concluded, or taken under authority of these sections, see section 111(b) of Pub. L. 87–256, set out as a note under section 2451 of Title 22.

§ 225. Fund for education of Iranian students in United States

There is authorized to be appropriated, out of any funds in the Treasury of the United States not otherwise appropriated, the sum of $110,000, which sum shall be expended by the Secretary of State in his discretion for the education of Iranian students in the United States, in accordance with the obligation of the United States arising out of the agreement contained in an exchange of notes between this Government and the Iranian Government of July 25, July 29, November 9, and November 15, 1924, which agreement settled a claim asserted by the United States.

The said sum of $110,000 shall be deemed a trust fund received by the Secretary of State under the provisions of section 2668a of title 22, and shall be expended as therein provided. The said sum shall be deemed to constitute the fund of $110,000 received by the United States from the Iranian Government in four installments between December 24, 1924, and March 29, 1925, pursuant to the afore-mentioned notes, and deposited in the Treasury of the United States on June 24, 1925, which fund shall be deemed, insofar as the same may be necessary, to have been heretofore appropriated as a trust fund under section 2668a of title 22 and sections 1321 and 1322(a) of title 31. The Secretary of the Treasury shall make payments out of the said fund to or for the account of such persons, in such amounts, at such times, and on such terms, as the Secretary of State or his designee shall certify and the certificates of the Secretary of State or his designee issued hereunder shall be conclusive as to the propriety of payments so made. The expenditure of the said sum by the United States shall constitute full performance of the obligation of the United States to the Iranian Government or any other person arising out of the said notes and shall discharge the Secretary of State and the Secretary of the Treasury with respect to any accountability therefor.

(Sept. 29, 1950, ch. 1110, §§ 1, 2, 64 Stat. 1081.)

CODIFICATION

Words ''section 2668a of title 22'' substituted in text for ''the Act of February 27, 1896, (29 Stat. 32, title 31, U.S.C. sec. 547)'' and ''the said Act of February 27, 1896'' to reflect the transfer of section 547 of Title 31, Money and Finance, to section 2668a of Title 22, Foreign Relations and Intercourse.

Words ''sections 1321 and 1322(a) of title 31'' substituted in text for ''the Permanent Appropriation Repeal Act, 1934, as amended, section 20 (48 Stat. 1233, 31 U.S.C., sec. 725(s) [31 U.S.C. 725s]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31.

§ 226. Cooperative public and private sector program for providing scholarships to students from the Caribbean and Central America

(a) Statement of purpose

It is the purpose of this section to encourage the establishment of partnerships between State governments, universities, community colleges, and businesses to support scholarships for talented socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States in order to—

(1) improve the diversity and quality of educational opportunities for such students;

(2) assist the development efforts of eligible countries by providing training and educational assistance to persons who can help address the social and economic needs of these countries;

(3) expand opportunities for cross-cultural studies and exchanges and improve the exchange of understanding and principles of democracy;

(4) promote positive and productive relationships between the United States and its neighbor countries in the Caribbean and Central American regions;

(5) give added visibility and focus to the ''scholarship diplomacy'' efforts of the United States Government by leveraging the monies available for this purpose through the development of partnerships among Federal, State, and local governments and the business and academic communities; and

(6) promote community involvement with the scholarship program as a tool for broadening and strengthening the ''American experience'' for foreign students.

(b) Establishment of scholarship program

The Administrator of the Agency for International Development shall establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States.

(c) Grants to States

In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate degree programs and for training programs of one year or longer in study areas related to the critical development needs of the students' respective countries.

(d) Agreement with States

The Administrator and each participating State shall agree on a program regarding the educational opportunities available within the State, the selection and assignment of scholarship recipients, and related issues. To the maximum extent practicable, each State shall be given flexibility in designing its program.

(e) Federal share

The Federal share for each year for which a State receives payments under this section shall be not less than 50 percent.

(f) Non-Federal share

The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(g) Forgiveness of scholarship assistance

The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to his or her country of domicile for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(h) Private sector participation

To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(i) Funding

Any funds used in carrying out this section shall be derived from funds allocated for Latin American and Caribbean regional programs under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(j) Definitions

As used in this section—

(1) The term ''eligible country'' means any country—

(A) which is receiving assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund); and

(B) which is designated by the President as a beneficiary country pursuant to the Caribbean Basin Economic Recovery Act [19 U.S.C. 2701 et seq.].

(2) The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 101–382, title II, § 231, Aug. 20, 1990, 104 Stat. 661.)

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsecs. (i) and (j)(1)(A), is Pub. L. 87–195, Sept. 4, 1961, 75 Stat. 424, as amended. Chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 are classified generally to part I (§ 2151 et seq.) of subchapter I and part IV (§ 2346 et seq.) of subchapter II, respectively, of chapter 32 of Title 22, Foreign Relations and Intercourse. For provisions deeming references to part I of subchapter I to include a reference to section 2293 of Title 22, see section 2293(d)(1) of Title 22. For

complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

The Caribbean Basin Economic Recovery Act, referred to in subsec. (j)(1)(B), is title II of Pub. L. 98–67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to chapter 15 (§2701 et seq.) of Title 19, Customs Duties. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 19 and Tables.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CHAPTER 13—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

SUBCHAPTER I—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

Sec.
231 to 241–1. Omitted or Repealed.

SUBCHAPTER II—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

241a to 241b–1. Repealed or Transferred.

PART A—BASIC GRANTS

SUBPART 1—GRANTS TO LOCAL EDUCATIONAL AGENCIES

241c. Repealed.

SUBPART 2—STATE OPERATED PROGRAMS

241c–1 to 241c–5. Repealed.

PART B—SPECIAL INCENTIVE GRANTS

241d to 241d–2. Repealed.

PART C—SPECIAL GRANTS

241d–11, 241d–12. Repealed.

PART D—GENERAL PROVISIONS

241e to 241*o*. Repealed.

SUBCHAPTER III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR EDUCATION OF INDIAN CHILDREN

241aa to 241ff. Repealed.

SUBCHAPTER IV—GENERAL

242 to 246. Repealed, Transferred, or Omitted.

SUBCHAPTER I—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

§§ 231 to 235. Omitted

CODIFICATION

Sections, act Sept. 10, 1949, ch. 582, 63 Stat. 697, related to Federal aid to local school agencies to provide educational opportunities to children in federally affected areas, received appropriations of $7,500,000 only for the fiscal year 1950.

§§ 236 to 239. Repealed. Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965

Section 236, acts Sept. 30, 1950, ch. 1124, title I, §1, formerly §1, 64 Stat. 1100, renumbered title I, §1, and amended Apr. 11, 1965, Pub. L. 89–10, title I, §2, 79 Stat. 27; Apr. 28, 1988, Pub. L. 100–297, title II, §2012(b), 102 Stat. 294, related to Congressional declaration of policy and authorization of appropriations. See section 7701 of this title.

Section 237, acts Sept. 30, 1950, ch. 1124, title I, §2, formerly §2, 64 Stat. 1101; Aug. 8, 1953, ch. 402, §1, 67 Stat. 530; Aug. 12, 1955, ch. 868, §1, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, §201, 70 Stat. 970; Aug. 12, 1958, Pub. L. 85–620, title II, §201, 72 Stat. 559; Oct. 3, 1961, Pub. L. 87–344, title I, §102(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, §302, formerly §32, 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, §101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, §1102(a), 78 Stat. 1109; renumbered and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§2, 5, 79 Stat. 27, 36; Jan. 2, 1968, Pub. L. 90–247, title II, §204(a)–(c), title III, §301(e), 81 Stat. 808, 813; Apr. 13, 1970, Pub. L. 91–230, title II, §201(b), 84 Stat. 154; Aug. 21, 1974, Pub. L. 93–380, title III, §303(a)(1), 88 Stat. 522; Apr. 21, 1976, Pub. L. 94–273, §3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, §1001(a), 92 Stat. 2306; Oct. 19, 1984, Pub. L. 98–511, title III, §301(a)(1), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§2011(a)(1), 2012(a), 2013, 102 Stat. 294; May 11, 1989, Pub. L. 101–26, §2(a), 103 Stat. 54; May 30, 1990, Pub. L. 101–305, §7(a), 104 Stat. 259; Nov. 16, 1990, Pub. L. 101–589, title VII, §722(a), 104 Stat. 2912, related to Federal contributions to local educational agencies. See section 7702 of this title.

Section 238, acts Sept. 30, 1950, ch. 1124, title I, §3, formerly §3, 64 Stat. 1102; Aug. 8, 1953, ch. 402, §2, 67 Stat. 530; Aug. 12, 1955, ch. 868, §1, 69 Stat. 713; Aug. 1, 1956, ch. 852, §10, 70 Stat. 909; Aug. 3, 1956, ch. 915, title II, §§202–206, 70 Stat. 970, 971; Aug. 12, 1958, Pub. L. 85–620, title II, §202, 72 Stat. 559; June 25, 1959, Pub. L. 86–70, §18(d)(1)–(3), 73 Stat. 144, 145; July 12, 1960, Pub. L. 86–624, §14(d)(1)–(3), 74 Stat. 414; Oct. 3, 1961, Pub. L. 87–344, title I, §102(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, §302, formerly §32, 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, §101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, §1102(a), 78 Stat. 1109; renumbered and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§2, 3(a), 4(d)(2), 5, 79 Stat. 27, 34–36; Nov. 1, 1965, Pub. L. 89–313, §4(a), 79 Stat. 1161; Nov. 3, 1966, Pub. L. 89–750, title II, §201, 80 Stat. 1210; Jan. 2, 1968, Pub. L. 90–247, title II, §§204(d), 205(a), 206, title III, §301(e), 81 Stat. 808, 809, 813; Apr. 13, 1970, Pub. L. 91–230, title II, §§201(b), 202, 84 Stat. 154, 155; Aug. 21, 1974, Pub. L. 93–380, title III, §§304(a)(1), (b)(1), 305(a)(1), 88 Stat. 522, 523; Apr. 21, 1976, Pub. L. 94–273, §3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, §§1001(b), 1002, 1003(a), (b), (d), 1004, 1031(a), title XI, §1101(a), 92 Stat. 2306, 2307, 2312, 2313; Aug. 13, 1981, Pub. L. 97–35, title V, §505(a)(2), 95 Stat. 442; Sept. 24, 1983, Pub. L. 98–94, title XII, §1255(b), 97 Stat. 701; Oct. 19, 1984, Pub. L. 98–511, title III, §§301(a)(1)–(3), 303(a), 98 Stat. 2388; Nov. 8, 1984, Pub. L. 98–619, title III, §300, 98 Stat. 3323; July 2, 1986, Pub. L. 99–349, title I, 100 Stat. 739, 740; Apr. 28, 1988, Pub. L. 100–297, title II, §§2011(a)(1), 2012(a), 2014, 2019, 102 Stat. 294, 300; May 11, 1989, Pub. L. 101–26, §2(b), 103 Stat. 54; May 30, 1990, Pub. L. 101–305, §3(a), (b), 104 Stat. 255, 256; Oct. 30, 1990, Pub. L. 101–476, title IX, §901(a)(3), (f)(1), 104 Stat. 1142, 1151; Aug. 17, 1991, Pub. L. 102–103, title IV, §401, 105 Stat. 508, related to payments to local school agencies. See section 7703 of this title.

Section 239, acts Sept. 30, 1950, ch. 1124, title I, §4, formerly §4, 64 Stat. 1104; Aug. 8, 1953, ch. 402, §§3–5, 67 Stat. 532–534; Aug. 12, 1955, ch. 868, §§1, 2, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, §§207, 208, 70 Stat. 972; Aug. 12, 1958, Pub. L. 85–620, title II, §203, 72 Stat. 560; Oct. 3, 1961, Pub. L. 87–344, title I, §102(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, §302, formerly §32, 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, §101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, §1102(a), 78 Stat. 1109; renumbered and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§3(b), 5, 79 Stat. 34, 36; Jan. 2, 1968, Pub. L. 90–247, title III, §301(e), 81 Stat. 813; Apr. 13, 1970, Pub. L. 91–230, title II, §201(b), 84 Stat. 154; Aug. 21, 1974, Pub. L. 93–380, title III, §303(a)(2), 88 Stat. 522; Apr. 21, 1976, Pub. L. 94–273, §3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, §1001(c), 92 Stat. 2306; Oct. 19, 1984, Pub. L. 98–511, title III, §301(a)(1), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§2011(a)(1), 2012(a), 102 Stat. 294, related to sud-

den and substantial increases in attendance resulting from activities of the United States.

EFFECTIVE DATE OF REPEAL

Section 3(a)(3)(B) of Pub. L. 103–382 provided that: ''Part C [§ 331, repealing sections 236 to 239, 240 to 241–1, 242 to 244, and 631 to 647 of this title] of title III of this Act and the amendments made by such part shall take effect on October 1, 1994.''

§ 239a. Repealed. Pub. L. 97–35, title V, § 542(1), Aug. 13, 1981, 95 Stat. 458

Section, act Sept. 30, 1950, ch. 1124, title I, § 4A, as added Oct. 3, 1980, Pub. L. 96–374, title XIII, § 1341, 95 Stat. 1500, related to payments for special programs for alien children who fled from Cambodia, Vietnam, Laos, Cuba, or Haiti. See provisions set out as notes under section 1522 of Title 8, Aliens and Nationality.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1981, see section 547 of Pub. L. 97–35, set out as a note under section 1522 of Title 8, Aliens and Nationality.

§§ 240 to 241–1. Repealed. Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965

Section 240, acts Sept. 30, 1950, ch. 1124, title I, § 5, formerly § 5, 64 Stat. 1106; Aug. 8, 1953, ch. 402, §§ 6, 7, 67 Stat. 534; Aug. 3, 1956, ch. 915, title II, § 209, 70 Stat. 972; renumbered title I, § 5, and amended Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 27; Nov. 3, 1966, Pub. L. 89–750, title II, §§ 202, 203, 80 Stat. 1211, 1212; Oct. 16, 1968, Pub. L. 90–576, title III, § 305(a), 82 Stat. 1097; Apr. 13, 1970, Pub. L. 91–230, title II, § 203(c)(4), 84 Stat. 156; June 23, 1972, Pub. L. 92–318, title IV, § 411(c)(1), 86 Stat. 338; Aug. 21, 1974, Pub. L. 93–380, title III, §§ 304(c)(1), (2), (d)(2), 305(a)(2), 88 Stat. 522, 523, 529; Apr. 21, 1976, Pub. L. 94–273, § 3(5), 90 Stat. 376; Oct. 12, 1976, Pub. L. 94–482, title III, § 330(a), (b)(1)–(3), 90 Stat. 2221; Nov. 1, 1978, Pub. L. 95–561, title X, §§ 1003(c), 1005, 1006(a), 1007, 1008, title XI, § 1101(b), (c), (e), 92 Stat. 2306–2309, 2313, 2315; Aug. 6, 1979, Pub. L. 96–46, § 3(b), 93 Stat. 342; Oct. 31, 1983, Pub. L. 98–139, title III, 97 Stat. 889; Dec. 8, 1983, Pub. L. 98–211, § 23, 97 Stat. 1419; Aug. 22, 1984, Pub. L. 98–396, title I, § 101, 98 Stat. 1393; Oct. 19, 1984, Pub. L. 98–511, title III, § 303(b)(1), 98 Stat. 2389; Apr. 28, 1988, Pub. L. 100–297, title II, §§ 2011(a)(1), (2), 2015, 102 Stat. 294, 296; May 11, 1989, Pub. L. 101–26, § 2(c)–(e), 103 Stat. 54, 55; May 30, 1990, Pub. L. 101–305, § 3(c), (d), 104 Stat. 256, 257; Nov. 16, 1990, Pub. L. 101–589, title VII, § 722(d), 104 Stat. 2913; Aug. 17, 1991, Pub. L. 102–103, title IV, § 402, 105 Stat. 508; Nov. 13, 1991, Pub. L. 102–159, § 2, 105 Stat. 1042; Oct. 23, 1992, Pub. L. 102–484, div. A, title III, § 387, 106 Stat. 2397, related to payments to local educational agencies. See section 7705 of this title.

Section 241, acts Sept. 30, 1950, ch. 1124, title I, § 6, formerly § 6, 64 Stat. 1107; Aug. 8, 1953, ch. 402, § 8, 67 Stat. 535; Aug. 1, 1955, ch. 446, 69 Stat. 433; Aug. 1, 1956, ch. 852, § 10, 70 Stat. 909; May 6, 1960, Pub. L. 86–449, title V, § 501, 74 Stat. 89; renumbered title I, § 6, and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§ 2, 4(d)(2), 79 Stat. 27, 35; July 21, 1965, Pub. L. 89–77, § 2, 79 Stat. 243; Nov. 3, 1966, Pub. L. 89–750, title II, § 204, 80 Stat. 1212; Apr. 13, 1970, Pub. L. 91–230, title IV, § 401(f)(1), 84 Stat. 173; Nov. 1, 1978, Pub. L. 95–561, title X, §§ 1009, 1031(a), 92 Stat. 2309, 2312; Apr. 28, 1988, Pub. L. 100–297, title II, §§ 2011(a)(1), 2016, 102 Stat. 294, 299; Oct. 7, 1991, Pub. L. 102–119, § 23(a), 105 Stat. 604, related to education of children where local agencies cannot supply facilities.

Section 241–1, acts Sept. 30, 1950, ch. 1124, title I, § 7, as added Nov. 1, 1965, Pub. L. 89–313, § 2, 79 Stat. 1159; amended Jan. 2, 1968, Pub. L. 90–247, title II, § 218, 81 Stat. 811; Oct. 21, 1968, Pub. L. 90–608, ch. IV, § 402, 82 Stat. 1194; Apr. 13, 1970, Pub. L. 91–230, title II, § 201(c), 84 Stat. 154; Dec. 31, 1970, Pub. L. 91–606, title III, § 301(e), 84 Stat. 1759; 1973 Reorg. Plan No. I, §§ 1, 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089; Dec. 10, 1973, Ex. Ord. No. 11749, § 2(2), 38 F.R. 34177; May 22, 1974, Pub. L. 93–288, title VII, § 702(e), formerly title VI, § 602(e), 88 Stat. 163, renumbered title VII, § 702(e), Oct. 5, 1994, Pub. L. 103–337, div. C, title XXXIV, § 3411(a)(1), (2), 108 Stat. 3100; Aug. 21, 1974, Pub. L. 93–380, title III, §§ 303(a)(3), 305(a)(3), 88 Stat. 522, 532; Apr. 21, 1976, Pub. L. 94–273, § 3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, § 1010(a), 92 Stat. 2310; July 20, 1979, Ex. Ord. No. 12148, § 4–106, 44 F.R. 43239; Aug. 6, 1979, Pub. L. 96–46, § 3(a), 93 Stat. 342; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(b)(2), title V, § 507, 93 Stat. 679, 692; Oct. 19, 1984, Pub. L. 98–511, title III, § 301(a)(1), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§ 2011(a)(1), (b), 2012(a), 2017, 102 Stat. 294, 299; Nov. 23, 1988, Pub. L. 100–707, title I, § 109(i), 102 Stat. 4709, related to assistance for current school expenditures in cases of certain disasters.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1994, see section 3(a)(3)(B) of Pub. L. 103–382, set out as a note under section 236 of this title.

SUBCHAPTER II—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR THE EDUCATION OF CHILDREN OF LOW-INCOME FAMILIES

§§ 241a, 241b. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241a, act Sept. 30, 1950, ch. 1124, title II, § 101, formerly § 201, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 27, renumbered and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(2), 110, 81 Stat. 786, 787; Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(2), 84 Stat. 126, set out the Congressional declaration of policy with regard to the program of assistance to local educational agencies for the education of children of low-income families.

Section 241b, act Sept. 30, 1950, ch. 1124, title II, § 102, formerly § 202, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 27, amended Nov. 3, 1966, Pub. L. 89–750, title I, § 101, 80 Stat. 1191, and renumbered and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(2), 110, title III, § 301(a), 81 Stat. 786, 787, 813; Apr. 13, 1970, Pub. L. 91–230, title I, §§ 101(a), 113(b)(3), 84 Stat. 121, 126; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(1), 88 Stat. 488; Apr. 21, 1976, Pub. L. 94–273, § 2(12), 90 Stat. 375; Sept. 24, 1977, Pub. L. 95–112, § 2(a)(1), 91 Stat. 911, set out the duration of the period during which the Commissioner could make payments for grants made on the basis of entitlements under this subchapter.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§ 241b–1. Transferred

CODIFICATION

Section, Pub. L. 93–380, title I, § 101(a)(10), Aug. 21, 1974, 88 Stat. 501, which authorized appropriations for assistance to local educational agencies whose total basic grants allotment was 90 percent or less than the allotment during the preceding year, was transferred to section 2713 of this title and subsequently omitted from the Code.

PART A—BASIC GRANTS

SUBPART 1—GRANTS TO LOCAL EDUCATIONAL AGENCIES

§ 241c. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section, act Sept. 30, 1950, ch. 1124, title II, § 103, formerly § 203, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 28, amended July 21, 1965, Pub. L. 89–77, § 3,

79 Stat. 243; Nov. 1, 1965, Pub. L. 89–313, §6(a), 79 Stat. 1161; Nov. 3, 1966, Pub. L. 89–750, title I, §§102, 103(a), 104, 105(a), (b)(1), (2), (c), 106, 107, 108(b)(1), 113(b), 117(a)(2), (3), 80 Stat. 1191–1195, 1197, 1198, and renumbered and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§101, 103(a), 104(a), (b), 105, 107(a), 108(a)(2), 110, 81 Stat. 783–787; Oct. 16, 1968, Pub. L. 90–576, title III, §307, 82 Stat. 1097; Apr. 13, 1970, Pub. L. 91–230, title I, §§101(b), 103, 104(a), 105(a), (b), 106, 107, 113(a), 84 Stat. 121–124, 126; June 23, 1972, Pub. L. 92–318, title IV, §411(b)(1), (2), title V, §508, 86 Stat. 338, 352; Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(2)(A)(i)(II), (ii), (B)–(D), 88 Stat. 488, 490, 491; Apr. 21, 1976, Pub. L. 94–273, §49(a)–(c), 90 Stat. 382, authorized grants to local educational agencies.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBPART 2—STATE OPERATED PROGRAMS

§§ 241c–1 to 241c–5. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241c–1, act Sept. 30, 1950, ch. 1124, title II, §121, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(2)(E), 88 Stat. 491, provided for programs for handicapped children.

Another section 121 of act Sept. 30, 1950, as added by Pub. L. 91–230, title I, §113(b)(6), Apr. 13, 1970, 84 Stat. 126, and renumbered section ''126'' by Pub. L. 93–380, was classified to section 241d of this title.

Section 241c–2, act Sept. 30, 1950, title II, §122, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(2)(E), 88 Stat. 492, provided for programs for migratory children.

Another section 122 of act Sept. 30, 1950, as added by Pub. L. 91–230, title I, §113(b)(6), Apr. 13, 1970, 84 Stat. 126, and renumbered section ''127'' by Pub. L. 93–380, was classified to section 241d–1 of this title.

Section 241c–3, act Sept. 30, 1950, ch. 1124, title II, §123, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(2)(E), 88 Stat. 494, provided for programs for neglected or delinquent children.

Another section 123 of act Sept. 30, 1950, as added by Pub. L. 91–230, title I, §113(b)(6), Apr. 13, 1970, 84 Stat. 127, and renumbered section ''128'' by Pub. L. 93–380, was classified to section 241d–2 of this title.

Section 241c–4, act Sept. 30, 1950, ch. 1124, title II, §124, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(2)(E), 88 Stat. 494, provided for the reservation of funds for territories.

Section 241c–5, act Sept. 30, 1950, ch. 1124, title II, §125, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(2)(E), 88 Stat. 495, and amended Apr. 21, 1976, Pub. L. 94–273, §3(8), 90 Stat. 376; Oct. 12, 1976, Pub. L. 94–482, title V, §501(b)(1)(A), (*o*), 90 Stat. 2236, 2238; Sept. 24, 1977, Pub. L. 95–112, §2(a)(1), 91 Stat. 911, related to minimum payments for State operated programs.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

PART B—SPECIAL INCENTIVE GRANTS

§§ 241d to 241d–2. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241d, act Sept. 30, 1950, ch. 1124, title II, §126, formerly §121, as added Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(6), 84 Stat. 126, renumbered Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(3), 88 Stat. 495, and amended Oct. 12, 1976, Pub. L. 94–482, title V, §501(b)(1)(B), 90 Stat. 2236, related to maximum entitlement for special incentive grants.

A prior section 241d, act Sept. 30, 1950, ch. 1124, title I, §104, formerly §204, as added by Pub. L. 89–10, title I, §2, Apr. 11, 1965, 79 Stat. 30, and renumbered by Pub. L. 90–247, title I, §110, Jan. 2, 1968, 81 Stat. 787, making provision for special incentive grants to local educational agencies, was repealed by Pub. L. 89–750, title I, §108(a), Nov. 3, 1966, 80 Stat. 1195. Such repeal, pursuant to section 191 of Pub. L. 89–750, was effective with respect to fiscal years beginning after June 30, 1966.

Provisions (for amount and distribution of special incentive grants) similar to those comprising this section, as added by Pub. L. 91–230, were contained in act Sept. 30, 1950, ch. 1124, title I, §121(a), formerly title II, §221(a), as added and renumbered Jan. 2, 1968, Pub. L. 90–247, title I, §§108(a)(5), 110, 81 Stat. 786, 787 (classified to section 241h–1(a) of this title), prior to repeal thereof by Pub. L. 91–230, §113(b)(6).

Section 241d–1, act Sept. 30, 1950, ch. 1124, title II, §127, formerly §122, as added Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(6), 84 Stat. 126, renumbered Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(3), 88 Stat. 495, and amended Oct. 12, 1976, Pub. L. 94–482, title V, §501(a)(1), 90 Stat. 2235, related to application made for special incentive grants by States.

Provisions (for application and information therein) similar to those comprising part of this section were contained in act Sept. 30, 1950, ch. 1124, title I, §121(b), formerly title II, §221(b), as added and renumbered Jan. 2, 1968, Pub. L. 90–247, title I, §§108(a)(5), 110, 81 Stat. 786, 787 (formerly classified to former section 241h–1(b) of this title), prior to repeal thereof by Pub. L. 91–230, §113(b)(6).

Section 241d–2, act Sept. 30, 1950, ch. 1124, title II, §128, formerly §123, as added Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(6), 84 Stat. 127, renumbered Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(3), 88 Stat. 495, and amended Oct. 12, 1976, Pub. L. 94–482, title V, §501(a)(1), 90 Stat. 2235, defined ''effort index''.

Provisions (defining ''State effort index'' and ''national effort index'') similar to those comprising this section were contained in act Sept. 30, 1950, ch. 1124, title I, §121(c), formerly title II, §221(c), as added and renumbered Jan. 2, 1968, Pub. L. 90–247, title I, §§108(a)(5), 110, 81 Stat. 786, 787 (formerly classified to former section 241h–1(c) of this title), prior to repeal thereof by Pub. L. 91–230, §113(b)(6).

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

PART C—SPECIAL GRANTS

§ 241d–11. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section, act Sept. 30, 1950, ch. 1124, title II, §131, as added Aug. 21, 1974, Pub. L. 93–380, title I, §101(a)(4)(A), 88 Stat. 495, related to eligibility for and maximum amount of special grants.

A prior section 241d–11, act Sept. 30, 1950, ch. 1124, title II, §131, as added Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(6), 84 Stat. 127, which also related to eligibility and maximum amount of special grants for urban and rural schools serving areas with the highest concentrations of children from low-income families, was repealed by Pub. L. 93–380, title I, §101(a)(4)(B), Aug. 21, 1974, 88 Stat. 496, effective July 1, 1975.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§ 241d–12. Repealed. Pub. L. 93–380, title I, § 101(a)(4)(B), Aug. 21, 1974, 88 Stat. 496

Section, act Sept. 30, 1950, ch. 1124, title II, §132, as added Apr. 13, 1970, Pub. L. 91–230, title I, §113(b)(6), 84 Stat. 128, related to uses of funds for such special grants.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1975, pursuant to Pub. L. 93–380, § 101(a)(4)(B).

PART D—GENERAL PROVISIONS

§§ 241e to 241h. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241e, act Sept. 30, 1950, ch. 1124, title II, § 141, formerly § 205, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 30, amended Nov. 3, 1966, Pub. L. 89–750, title I, §§ 103(b), 108(b)(1), (2), 110, 111(a)–(e), 80 Stat. 1192, 1195, 1196, renumbered title I, § 105 and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§ 103(b), 106, 108(a)(2), 109, 110, 81 Stat. 783, 784, 786, 787, renumbered § 141 and amended Apr. 13, 1970, Pub. L. 91–230, title I, §§ 108, 109(a), 110, 111(b), 113(b)(3), (4), (7), 84 Stat. 124–126, 128; June 23, 1972, Pub. L. 92–318, title V, § 507(a), (b), 86 Stat. 352; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(5), (9)(A), (B), 88 Stat. 496, 500; Oct. 12, 1976, Pub. L. 94–482, title V, § 501(b)(1)(C), (D), 90 Stat. 2236, related to applications for grants by local agencies.

Section 241e–1, act Sept. 30, 1950, ch. 1124, title II, § 141A, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(6), 88 Stat. 497, related to participation of children enrolled in private schools.

Section 241f, act Sept. 30, 1950, ch. 1124, title II, § 142, formerly § 206, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 31, amended Nov. 1, 1965, Pub. L. 89–313, § 6(b), 79 Stat. 1162; Nov. 3, 1966, Pub. L. 89–750, title I, § 103(c)(1), 80 Stat. 1193, renumbered § 106, and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§ 103(c), 108(a)(2), 110, 81 Stat. 783, 786, 787, and renumbered § 142 and amended Apr. 13, 1970, Pub. L. 91–230, title I, §§ 111(a), 113(b)(3), (4), 84 Stat. 125, 126; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(D), (E), 88 Stat. 500, related to assurances required from States desiring to participate.

Section 241g, act Sept. 30, 1950, ch. 1124, title II, § 143, formerly § 207, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 32, amended Nov. 1, 1965, Pub. L. 89–313, § 7(a), 79 Stat. 1162; Nov. 3, 1966, Pub. L. 89–750, title I, §§ 103(c)(2), 108(b)(3), 112, 113(a), 80 Stat. 1193, 1195, 1197, renumbered § 107 and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§ 102, 103(c), 108(a)(2), 110, 81 Stat. 783, 786, 787 and renumbered § 143 and amended Apr. 13, 1970, Pub. L. 91–230, title I, §§ 113(b)(3), (4), (8), 114, 84 Stat. 126, 129, 130; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(C), (F), (G), title VIII, § 843(a)(1), 88 Stat. 500, 611; Oct. 12, 1976, Pub. L. 94–482, title III, § 323(a)(1), 90 Stat. 2217, related to payment of funds.

Section 241h, act Sept. 30, 1950, ch. 1124, title II, § 144, formerly § 208, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 33, amended Nov. 3, 1966, Pub. L. 89–750, title I, § 114, 80 Stat. 1197, renumbered § 108 and amended Jan. 2, 1968, Pub. L. 90–247, title I, §§ 107(b), 110, 81 Stat. 785, 787, renumbered § 144 and amended Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(3), (4), (c), (d), 84 Stat. 126, 129; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(7), (9)(H), 88 Stat. 498, 500, related to adjustments necessitated by appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§§ 241h–1, 241i. Repealed. Pub. L. 91–230, title I, § 113(b)(6), title IV, § 401(g)(1), Apr. 13, 1970, 84 Stat. 126, 174

Section 241h–1, act Sept. 30, 1950, ch. 1124, title II, § 121, formerly § 221, as added and renumbered Jan. 2, 1968, Pub. L. 90–247, §§ 108(a)(5), 110, 81 Stat. 786, 787, and amended Apr. 13, 1970, Pub. L. 91–230, title I, § 101(c), 84 Stat. 121, related to special incentive grants and provided in: subsec. (a) for amount and distribution of such grants; subsec. (b) for application for grant and disapproval only after notice and opportunity for hearing; subsec. (c) definitions of ''State effort index'' and ''national effort index''; and subsec. (d) authorization of appropriations of $50,000,000 for fiscal year ending June 30, 1969, and for each of the succeeding fiscal years ending prior to July 1, 1973.

Section 241i, act Sept. 30, 1950, ch. 1124, title II, § 145, formerly § 209, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 33, renumbered § 231 and further renumbered § 131, Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(4), 110, 81 Stat. 786, 787, and renumbered § 145, Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(4), 84 Stat. 126, related to labor standards requirements (prevailing wage rates). See section 1232b of this title.

§§ 241j to 241o. Repealed. Pub. L. 95–561, title I, § 101(c), Nov. 1, 1978, 92 Stat. 2200

Section 241j, act Sept. 30, 1950, ch. 1124, title II, § 146, formerly § 210, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 33, amended Nov. 3, 1966, Pub. L. 89–750, title I, § 103(c)(3), 80 Stat. 1193, renumbered § 232, amended and further renumbered § 132, Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(4), (b), 110, 81 Stat. 786, 787, and renumbered § 146, and amended Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(4), (9), 84 Stat. 126, 129; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(I), 88 Stat. 501, related to withholding of funds for noncompliance with assurances.

Section 241k, act Sept. 30, 1950, ch. 1124, title II, § 147, formerly § 211, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 33, amended Nov. 3, 1966, Pub. L. 89–750, title I, § 103(c)(4), 80 Stat. 1193, renumbered § 233, amended and further renumbered § 133, Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(4), (b), 110, 81 Stat. 786, 787, renumbered § 147, and amended Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(4), (10), 84 Stat. 126, 129; Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(J), 88 Stat. 501, related to judicial review.

Section 241*l*, act Sept. 30, 1950, ch. 1124, title II, § 148, formerly § 212, as added Apr. 11, 1965, Pub. L. 89–10, title I, § 2, 79 Stat. 34, amended Nov. 3, 1966, Pub. L. 89–750, title I, § 115, 80 Stat. 1197, renumbered § 234, amended and further renumbered § 134, Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(4), 110, 114, 81 Stat. 786–788, and renumbered § 148, and amended Apr. 13, 1970, Pub. L. 91–230, title I, §§ 112, 113(b)(4), 84 Stat. 125, 126; Aug. 21, 1974, Pub. L. 93–380, title VIII, § 845(a), 88 Stat. 612; Apr. 21, 1976, Pub. L. 94–273, § 3(8), 90 Stat. 376; Sept. 24, 1977, Pub. L. 95–112, § 2(a)(3), 91 Stat. 911, created National Advisory Council on the Education of Disadvantaged Children.

Section 241m, act Sept. 30, 1950, ch. 1124, title II, § 149, formerly § 213, as added Nov. 3, 1966, Pub. L. 89–750, title I, § 109, 80 Stat. 1195, renumbered § 235, and further renumbered § 135, Jan. 2, 1968, Pub. L. 90–247, title I, §§ 108(a)(4), 110, 81 Stat. 786, 787, and renumbered § 149, Apr. 13, 1970, Pub. L. 91–230, title I, § 113(b)(4), 84 Stat. 126, related to treatment of earnings for purposes of aid to families with dependent children.

Section 241n, act Sept. 30, 1950, ch. 1124, title II, § 150, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(8), 88 Stat. 499, related to allocation of funds within school districts of local educational agencies.

Section 241*o*, act Sept. 30, 1950, ch. 1124, title II, § 151, as added Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(8), 88 Stat. 499; amended Apr. 21, 1976, Pub. L. 94–273, § 3(8), 90 Stat. 376; Oct. 12, 1976, Pub. L. 94–482, title V, § 501(b)(1)(E), (p), 90 Stat. 2236, 2238, related to system of program evaluation.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER III—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR EDUCATION OF INDIAN CHILDREN

§§ 241aa, 241bb. Repealed. Pub. L. 100–297, title V, § 5352(1), Apr. 28, 1988, 102 Stat. 414

Section 241aa, act Sept. 30, 1950, ch. 1124, title III, § 302, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 335; amended Nov. 1, 1978, Pub. L. 95–561, title XI, § 1142(a), 92 Stat. 2329; Oct. 19, 1984, Pub. L. 98–511, title V, § 513(a)(8), 98 Stat. 2400, related to Congressional declaration of policy.

Section 241bb, act Sept. 30, 1950, ch. 1124, title III, § 303, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 335; amended Aug. 21, 1974, Pub. L. 93–380, title VI, §§ 631(b), 632(b), 88 Stat. 585, 586; Apr. 21, 1976, Pub. L. 94–273, § 3(5), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title XI, §§ 1141(b), 1143, 92 Stat. 2328, 2329; Oct. 19, 1984, Pub. L. 98–511, title V, § 513(a)(1)–(3), (8), 98 Stat. 2399, 2400, related to grants to local educational agencies.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

§ 241bb–1. Repealed. Pub. L. 100–297, title V, § 5116(1), Apr. 28, 1988, 102 Stat. 381

Section, Pub. L. 95–561, title XI, § 1146, Nov. 1, 1978, 92 Stat. 2330, deemed certain tribal schools to be local educational agencies for purposes of section 241bb(a) of this title.

§§ 241cc to 241ff. Repealed. Pub. L. 100–297, title V, § 5352(1), Apr. 28, 1988, 102 Stat. 414

Section 241cc, act Sept. 30, 1950, ch. 1124, title III, § 304, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 335; amended Nov. 1, 1978, Pub. L. 95–561, title XI, § 1142(b), 92 Stat. 2329; Oct. 19, 1984, Pub. L. 98–511, title V, § 513(a)(8), 98 Stat. 2400; Oct. 27, 1986, Pub. L. 99–570, title IV, § 4133(b)(1), 100 Stat. 3207–133, set forth uses of Federal funds.

Section 241dd, act Sept. 30, 1950, ch. 1124, title III, § 305, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 336; amended Nov. 1, 1978, Pub. L. 95–561, title XI, § 1144, 92 Stat. 2329; Oct. 19, 1984, Pub. L. 98–511, title V, § 513(a)(4), (8), 98 Stat. 2399, 2400, related to conditions for approval of grants.

Section 241ee, act Sept. 30, 1950, ch. 1124, title III, § 306, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 337; amended Nov. 1, 1978, Pub. L. 95–561, title XI, § 1150(f), 92 Stat. 2333; Aug. 22, 1984, Pub. L. 98–396, title I, 98 Stat. 1390; Oct. 19, 1984, Pub. L. 98–511, title V, § 513(a)(8), 98 Stat. 2400, related to payments to local educational agencies.

Section 241ff, act Sept. 30, 1950, ch. 1124, title III, § 307, as added June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 337; amended Nov. 1, 1978, Pub. L. 95–561, title XI, § 1145, 92 Stat. 2330; Oct. 19, 1984, Pub. L. 98–511, title V, § 513(a)(5), 98 Stat. 2399, related to authorization of appropriations and adjustments.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER IV—GENERAL

§§ 242 to 244. Repealed. Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965

Section 242, acts Sept. 30, 1950, ch. 1124, title IV, § 401, formerly § 7, 64 Stat. 1107, renumbered title III, § 301, Apr. 11, 1965, Pub. L. 89–10, title I, § 3(c)(1), 79 Stat. 35; amended Nov. 3, 1966, Pub. L. 89–750, title II, § 205, 80 Stat. 1212; Apr. 13, 1970, Pub. L. 91–230, title IV, § 401(f)(1), 84 Stat. 173, and renumbered title IV, § 401, June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 334; Apr. 28, 1988, Pub. L. 100–297, title II, § 2011(a)(1), 102 Stat. 294, related to supervision over schools.

Section 243, acts Sept. 30, 1950, ch. 1124, title IV, § 402, formerly § 8, 64 Stat. 1108; Aug. 8, 1953, ch. 402, § 9, 67 Stat. 536; Aug. 4, 1955, ch. 543, ch. 11, § 202, 69 Stat. 485; Aug. 12, 1955, ch. 868, § 1, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, § 210, 70 Stat. 972; Aug. 12, 1958, Pub. L. 85–620, title II, § 204, 72 Stat. 560; renumbered title III, § 302, and amended Apr. 11, 1965, Pub. L. 89–10, title I, § 3(c), 79 Stat. 35; Apr. 13, 1970, Pub. L. 91–230, title IV, § 401(c)(1), 84 Stat. 173; renumbered title IV, § 402, June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 334; Aug. 13, 1981, Pub. L. 97–35, title V, § 505(c)(1), 95 Stat. 442; Apr. 28, 1988, Pub. L. 100–297, title II, § 2011(a)(1), 102 Stat. 294, related to utilization of services and facilities of other Federal agencies.

Section 244, acts Sept. 30, 1950, ch. 1124, title IV, § 403, formerly § 9, 64 Stat. 1108; Aug. 8, 1953, ch. 402, § 10, 67 Stat. 536; Aug. 1, 1956, ch. 852, § 10, 70 Stat. 909; Aug. 3, 1956, ch. 915, title II, § 211, 70 Stat. 972; Aug. 12, 1958, Pub. L. 85–620, title II, § 205, 72 Stat. 560; June 25, 1959, Pub. L. 86–70, § 18(d)(4), 73 Stat. 145; July 12, 1960, Pub. L. 86–624, § 14(d)(4), 74 Stat. 414; Oct. 16, 1964, Pub. L. 88–665, title XI, § 1102(b), 78 Stat. 1109, renumbered title III, § 303, and amended Apr. 11, 1965, Pub. L. 89–10, title I, §§ 3(c)(1), 4(a)–(c), (d)(1), (e), 79 Stat. 35; Nov. 1, 1965, Pub. L. 89–313, § 6(c), 79 Stat. 1162; Nov. 3, 1966, Pub. L. 89–750, title I, § 117(a)(1), (b), title II, § 206, 80 Stat. 1198, 1199, 1213; Jan. 2, 1968, Pub. L. 90–247, title II, § 201, 81 Stat. 806; Apr. 13, 1970, Pub. L. 91–230, title II, § 203(b), 84 Stat. 156; Aug. 12, 1970, Pub. L. 91–375, §§ 4(a), 6(*o*), 84 Stat. 773, 783; renumbered title IV, § 403, June 23, 1972, Pub. L. 92–318, title IV, § 411(a), 86 Stat. 334, and amended Aug. 21, 1974, Pub. L. 93–380, title I, § 101(a)(9)(K), title III, § 304(d)(1), 88 Stat. 501, 523; Apr. 21, 1976, Pub. L. 94–273, § 49(d), 90 Stat. 382; Oct. 12, 1976, Pub. L. 94–482, title V, § 501(n), 90 Stat. 2237; Nov. 1, 1978, Pub. L. 95–561, title I, § 101(b), title X, §§ 1011–1014, 1031(a), 92 Stat. 2200, 2310–2312; Apr. 28, 1988, Pub. L. 100–297, title II, §§ 2011(a)(1), (3), 2021, 102 Stat. 294, 300; May 30, 1990, Pub. L. 101–305, § 3(f), 104 Stat. 257; Oct. 30, 1990, Pub. L. 101–476, title IX, § 901(a)(3), (f)(2), 104 Stat. 1142, 1151, defined terms for purposes of this chapter. See section 7713 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1994, see section 3(a)(3)(B) of Pub. L. 103–382, set out as a note under section 236 of this title.

§ 244a. Transferred

CODIFICATION

Section, act July 16, 1940, ch. 629, 54 Stat. 761, which related to school facilities for children of Government employees and other residents in Indian reservations, national parks, and national monuments, was transferred to section 7713a of this title.

§ 245. Repealed. Pub. L. 85–620, title II, § 206, Aug. 12, 1958, 72 Stat. 561

Section, act Sept. 30, 1950, ch. 1124, § 10, as added Aug. 8, 1953, ch. 402, § 11, 67 Stat. 536; amended Aug. 12, 1955, ch. 868, § 1, 69 Stat. 713; Aug. 3, 1956, ch. 915, title II, § 212, 70 Stat. 972, related to election by States to receive payments with respect to education of Indian children.

EFFECTIVE DATE OF REPEAL

Section 207 of Pub. L. 85–620 provided that: ''The amendments made by this title [amending sections 237, 238, 239, 243, 244 of this title and repealing this section] shall be effective for the period beginning July 1, 1958.''

§ 246. Omitted

Section, Pub. L. 93–380, title VIII, § 842, Aug. 21, 1974, 88 Stat. 610; Pub. L. 94–482, title III, § 326, Oct. 12, 1976, 90 Stat. 2220; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to development and submission of State equalization plans by not later than Oct. 1, 1978.

CHAPTER 14—SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

§§ 251 to 255, 271 to 280, 291 to 302, 311. Omitted

CODIFICATION

The act of Sept. 23, 1950, ch. 995, 64 Stat. 967, as amended by acts Aug. 8, 1953, ch. 400, §§ 1, 2, 67 Stat. 522, 528; Aug. 2, 1954, ch. 649, title VIII, § 808(a), 68 Stat. 645; Aug. 31, 1954, ch. 1149, §§ 1–7, 68 Stat. 1005, 1006; Aug. 12, 1955, ch. 868, §§ 4–7, 69 Stat. 713–715; Aug. 1, 1956, ch. 852, § 11, 70 Stat. 909; Aug. 3, 1956, ch. 915, title I, §§ 101–109, 70 Stat. 968, 969; Aug. 21, 1957, Pub. L. 85–161, 71 Stat. 403; Sept. 2, 1957, Pub. L. 85–267, §§ 1–8, 71 Stat. 593, 594; Aug. 28, 1958, Pub. L. 85–791, § 32, 72 Stat. 951, formerly classified to this chapter, was completely amended and renumbered by Pub. L. 85–620, Aug. 12, 1958, 72 Stat. 548, and reclassified to chapter 19 (§ 631 et seq.) of this title, and was subsequently repealed by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965.

Sections 251 to 254, act Sept. 23, 1950, ch. 995, title I, §§ 101 to 104, 64 Stat. 967, 968, authorized appropriations, provided for State applications for funds, allotments and payments to States, and to withholding of certification.

Section 255, acts Sept. 23, 1950, ch. 995, title I, § 105, 64 Stat. 969; Aug. 8, 1953, ch. 400, § 2(m), 67 Stat. 529, related to delegation of functions and payment of expenses.

Section 271, act Sept. 23, 1950, ch. 995, title II, § 201, 64 Stat. 969, contained declaration of policy for school construction in federally-affected areas.

Section 272, acts Sept. 23, 1950, ch. 995, title II, § 202, 64 Stat. 969; Aug. 2, 1954, ch. 649, title VIII, § 808(a), 68 Stat. 645, authorized payments to local education agencies.

Section 273, acts Sept. 23, 1950, ch. 995, title II, § 203, 64 Stat. 971; Aug. 12, 1955, ch. 868, § 4, 69 Stat. 713, related to payments where effect of Federal activities, would be temporary, and for donation of temporary school activities.

Section 274, act Sept. 23, 1950, ch. 995, title II, § 204, 64 Stat. 972, related to children for whom local agencies cannot provide education.

Section 275, acts Sept. 23, 1950, ch. 995, title II, § 205, 64 Stat. 972; Aug. 8, 1953, ch. 400, § 2(a), 67 Stat. 528, related to applications for assistance, construction projects, and reimbursement.

Section 276, act Sept. 23, 1950, ch. 995, title II, § 206, 64 Stat. 973, provided for certification and payment of funds.

Section 277, acts Sept. 23, 1950, ch. 995, title II, § 207, 64 Stat. 974; Aug. 8, 1953, ch. 400, § 2(b), 67 Stat. 528; Aug. 28, 1958, Pub. L. 85–791, § 32, 72 Stat. 951, related to withholding of certification and judicial review.

Section 278, act Sept. 23, 1950, ch. 995, title II, § 208, 64 Stat. 975, provided for administration of act Sept. 23, 1950.

Section 279, acts Sept. 23, 1950, ch. 995, title II, § 209, 64 Stat. 975; Aug. 8, 1953, ch. 400, § 2(c)–(f), 67 Stat. 528; Aug. 31, 1954, ch. 1149, § 7, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, § 101, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, § 1, 71 Stat. 593, related to use of other Federal agencies; transfer and availability of appropriations, and additional grants for non-Federal share.

Section 280, acts Sept. 23, 1950, ch. 995, title II, § 210, 64 Stat. 976; Aug. 8, 1953, ch. 400, § 2(g)–(*l*), 67 Stat. 528; Aug. 1, 1956, ch. 852, § 11, 70 Stat. 909; Aug. 3, 1956, ch. 915, title I, § 102, 70 Stat. 968; Aug. 21, 1957, Pub. L. 85–161, 71 Stat. 403, contained definitions of terms used in act Sept. 23, 1950.

Section 291, act Sept. 23, 1950, ch. 995, title III, § 301, as added Aug. 8, 1953, ch. 400, § 1, 67 Stat. 522; amended Aug. 31, 1954, ch. 1149, § 1, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, § 103, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, § 2, 71 Stat. 593, stated purpose of former sections 291 to 302 of this title and authorized appropriations.

Section 292, act Sept. 23, 1950, ch. 995, title III, § 302, as added Aug. 8, 1953, ch. 400, § 1, 67 Stat. 522, provided for annual apportionment of funds.

Section 293, act Sept. 23, 1950, ch. 995, title III, § 303, as added Aug. 8, 1953, ch. 400, § 1, 67 Stat. 522; amended Aug. 31, 1954, ch. 1149, § 2, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, § 104, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, § 3, 71 Stat. 593, related to dates for filing applications, and to priorities.

Section 294, act Sept. 23, 1950, ch. 995, title III, § 304, as added Aug. 8, 1953, ch. 400, § 1, 67 Stat. 522; amended Aug. 31, 1954, ch. 1149, § 3, 68 Stat. 1005; Aug. 12, 1955, ch. 868, § 5, 69 Stat. 714; Aug. 3, 1956, ch. 915, title I, § 105, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, § 4, 71 Stat. 593, related to Federal share of cost of projects.

Section 295, act Sept. 23, 1950, ch. 995, title III, § 305, as added Aug. 8, 1953, ch. 400, § 1, 67 Stat. 523; amended Aug. 31, 1954, ch. 1149, §§ 4, 5, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, § 106, 70 Stat. 968; Sept. 2, 1957, Pub. L. 85–267, § 5, 71 Stat. 593, prescribed limitations on total payments to local agencies.

Section 296, act Sept. 23, 1950, ch. 995, title III, § 306, as added Aug. 8, 1953, ch. 400, § 1, 67 Stat. 524; amended Aug. 3, 1956, ch. 915, title I, § 107, 70 Stat. 969, related to filing and approval of application for assistance.

Section 297, act Sept. 23, 1950, ch. 995, title III, § 307, as added Aug. 8, 1953, ch. 400, § 1, 67 Stat. 525, related to payments to local agencies.

Section 298, act Sept. 23, 1950, ch. 995, title III, § 308, as added Aug. 8, 1953, ch. 400, § 1, 67 Stat. 525; amended Aug. 12, 1955, ch. 868, § 7, 69 Stat. 715, related to availability of appropriations, special fund for additional grants, and to payments in cases affected by change in regulations.

Section 299, act Sept. 23, 1950, ch. 995, title III, § 309, as added Aug. 8, 1953, ch. 400, § 1, 67 Stat. 525; amended Aug. 12, 1955, ch. 868, § 4, 69 Stat. 713, prescribed procedure in cases of temporary Federal activities, and authorized donation of temporary school facilities.

Section 300, act Sept. 23, 1950, ch. 995, title III, § 310, as added Aug. 8, 1953, ch. 400, § 1, 67 Stat. 526; amended Aug. 31, 1954, ch. 1149, § 6, 68 Stat. 1005; Aug. 3, 1956, ch. 915, title I, § 108, 70 Stat. 969; Sept. 2, 1957, Pub. L. 85–267, § 6, 71 Stat. 593, provided for children for whom local agencies are unable to provide education.

Section 301, act Sept. 23, 1950, ch. 995, title III, § 311, as added Aug. 8, 1953, ch. 400, § 1, 67 Stat. 526, authorized withholding of payments for noncompliance.

Section 302, act Sept. 23, 1950, ch. 995, title III, § 312, as added Sept. 2, 1957, Pub. L. 85–267, § 7, 71 Stat. 593, defined base year and increase period.

Section 311, act Sept. 23, 1950, ch. 995, title IV, § 401, as added Aug. 8, 1953, ch. 400, § 1, 67 Stat. 526; amended Aug. 12, 1955, ch. 868, § 6, 69 Stat. 715; Aug. 3, 1956, ch. 915, title I, § 109, 70 Stat. 969; Sept. 2, 1957, Pub. L. 85–267, § 8, 71 Stat. 594, authorized assistance in other federally-affected areas.

CHAPTER 15—STUDIES AND RESEARCH ON PROBLEMS IN EDUCATION

§§ 331 to 332b. Omitted

CODIFICATION

Sections constituted the Cooperative Research Act and terminated on and after July 1, 1975, under provisions of section 402(c)(1) of Pub. L. 93–380. See provisions of Special Projects Act, section 1851 et seq. of this title.

Section 331, acts July 26, 1954, ch. 576, § 1, 68 Stat. 533; Apr. 11, 1965, Pub. L. 89–10, title IV, § 401, 79 Stat. 44, related to Congressional declaration of purpose.

Section 331a, act July 26, 1954, ch. 576, § 2, as added Apr. 11, 1965, Pub. L. 89–10, title IV, § 401, 79 Stat. 44;

amended Nov. 3, 1966, Pub. L. 89–750, title I, §141, 80 Stat. 1202; Jan. 2, 1968, Pub. L. 90–247, title VII, §706, 81 Stat. 820; Apr. 13, 1970, Pub. L. 91–230, title I, §143(c), title VIII, §§808, 809(c), 84 Stat. 151, 193, 194; June 23, 1972, Pub. L. 92–318, title III, §303(a)(1), 86 Stat. 333, authorized grants, contracts, and jointly financed arrangements for exemplary projects and management studies, provided for an annual report to Congress, and provided for establishment of an Advisory Council on Research and development, its membership, and appointment of a Chairman.

Section 332, act July 26, 1954, ch. 576, §3, formerly §2, 68 Stat. 533, renumbered and amended Apr. 11, 1965, Pub. L. 89–10, title IV, §§401, 402, 79 Stat. 44, 46; June 23, 1972, Pub. L. 92–318, title III, §303(a)(2), 86 Stat. 333, authorized appropriations for fiscal years ending June 30, 1973, 1974, and 1975 of $58,000,000; $68,000,000; and $78,000,000 respectively.

Section 332a, act July 26, 1954, ch. 576, §4, as added Apr. 11, 1965, Pub. L. 89–10, title IV, §403, 79 Stat. 46; amended Nov. 3, 1966, Pub. L. 89–750, title I, §142, 80 Stat. 1203; Apr. 13, 1970, Pub. L. 91–230, title IV, §401(g)(2), title VIII, §810, 84 Stat. 174, 194, related to construction of regional facilities, authorizing appropriation of $100,000,000 in the aggregate for fiscal years ending June 30, 1966, through 1970, in subsec. (a); subsec. (b) relating to findings of Commissioner, grants for construction, transfer of title, and operation of facility; subsec. (c), as originally enacted, relating to labor standards; subsec. (d) relating to methods of payment, and subsec. (e) defining ''research and related purposes''.

Section 332b, act July 26, 1954, ch. 576, §5, as added Apr. 11, 1965, Pub. L. 89–10, title IV, §403, 79 Stat. 47; amended Nov. 3, 1966, Pub. L. 89–750, title I, §143, 80 Stat. 1203, provided for definitions of ''State'', ''State educational agency'', ''nonprofit'', and ''construction'' and ''cost of construction''.

§§ 333 to 337. Repealed. Pub. L. 91–230, title I, § 143(b), Apr. 13, 1970, 84 Stat. 151

Section 333, act July 26, 1954, ch. 577, §1, 68 Stat. 533, provided for establishment of a National Advisory Committee on Education in the Department of Health, Education, and Welfare.

Section 334, act July 26, 1954, ch. 577, §2, 68 Stat. 533, provided for composition of the National Advisory Committee on Education, term of office, and ex officio membership of the Commissioner of Education.

Section 335, act July 26, 1954, ch. 577, §3, 68 Stat. 534, required minimum of three meetings each calendar year.

Section 336, act July 26, 1954, ch. 577, §4, 68 Stat. 534, authorized National Advisory Committee to make recommendations, appoint consultants, and submit an annual report to Congress.

Section 337, act July 26, 1954, ch. 577, §5, 68 Stat. 534, authorized travel expenses and per diem payments but denied compensation to members of the National Advisory Committee.

Sections 333 to 337 were generally superseded by provisions of section 868 of this title providing for a National Council on Quality in Education.

CHAPTER 16—PUBLIC LIBRARY SERVICES AND CONSTRUCTION

§§ 351 to 351g. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 351, acts June 19, 1956, ch. 407, §2, 70 Stat. 293; Feb. 11, 1964, Pub. L. 88–269, §1(a)(1), 78 Stat. 11; July 19, 1966, Pub. L. 89–511, §2, 80 Stat. 313; Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1660; Oct. 7, 1977, Pub. L. 95–123, §4(a), 91 Stat. 1095; Oct. 17, 1984, Pub. L. 98–480, title I, §102, 98 Stat. 2236, related to congressional declaration of policy.

Section 351a, act June 19, 1956, ch. 407, §3, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1660; amended Oct. 19, 1973, Pub. L. 93–133, §4(a), 87 Stat. 466; Oct. 7, 1977, Pub. L. 95–123, §4(b), 91 Stat. 1095; Oct. 17, 1984, Pub. L. 98–480, title I, §103(a), (b)(1), 98 Stat. 2237; Nov. 22, 1985, Pub. L. 99–159, title III, §301, 99 Stat. 902; Mar. 15, 1990, Pub. L. 101–254, §§2, 16(a), 23(b), 104 Stat. 101, 105, 113; July 25, 1991, Pub. L. 102–73, title VIII, §802(e)(1), 105 Stat. 361, provided definitions for this chapter.

Section 351b, act June 19, 1956, ch. 407, §4, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1662; amended May 3, 1973, Pub. L. 93–29, title VIII, §801(b), 87 Stat. 58; Oct. 7, 1977, Pub. L. 95–123, §2, 91 Stat. 1095; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 4, 98 Stat. 2237; Oct. 31, 1988, Pub. L. 100–569, title I, §101, 102 Stat. 2862; Mar. 15, 1990, Pub. L. 101–254, §3, 104 Stat. 101; Oct. 20, 1994, Pub. L. 103–382, title III, §375(a), 108 Stat. 3978, related to authorization and availability of appropriations and provided for transition to advance funding method of timing appropriation action.

Section 351c, act June 19, 1956, ch. 407, §5, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1662; amended May 3, 1973, Pub. L. 93–29, title VIII, §801(c), 87 Stat. 58; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 105, 98 Stat. 2237, 2238; Nov. 22, 1985, Pub. L. 99–159, title III, §302(a), 99 Stat. 902; Mar. 15, 1990, Pub. L. 101–254, §§4(a), 22(b), 104 Stat. 102, 107; July 25, 1991, Pub. L. 102–73, title VIII, §802(e)(2), 105 Stat. 361, related to allotments to States and Indian tribes.

Section 351d, act June 19, 1956, ch. 407, §6, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1663; amended May 3, 1973, Pub. L. 93–29, title VIII, §801(c), 87 Stat. 59; Aug. 21, 1974, Pub. L. 93–380, title VIII, §841(b), 88 Stat. 609; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b), 106, 98 Stat. 2237, 2239; Nov. 22, 1985, Pub. L. 99–159, title III, §302(b), 99 Stat. 903; Mar. 15, 1990, Pub. L. 101–254, §§4(b)–6, 104 Stat. 102, 103, required States desiring to receive an allotment under this chapter to have basic State plan in effect, submit annual programs and long-range program, and establish State Advisory Council on Libraries, provided procedure and grounds for Secretary to terminate or limit payments to States, procedure for judicial review of Secretary's final actions, procedure for receipt of allotments and allocations by Indian tribes, and required Secretary to coordinate programs under this chapter.

Section 351e, act June 19, 1956, ch. 407, §7, as added Dec. 30, 1970, Pub. L. 91–600, §2(b), 84 Stat. 1665; amended May 3, 1973, Pub. L. 93–29, title VIII, §801(d), 87 Stat. 59; Oct. 17, 1984, Pub. L. 98–480, title I, §§103(b)(1), 107, 98 Stat. 2237, 2239; Mar. 15, 1990, Pub. L. 101–254, §7(a), 104 Stat. 103; July 25, 1991, Pub. L. 102–73, title VIII, §802(e)(3), (4), 105 Stat. 361, 362, related to prerequisites for payments, calculation and promulgation of Federal share for each State, and payment to Indian tribes.

Section 351f, act June 19, 1956, ch. 407, §8, as added Oct. 7, 1977, Pub. L. 95–123, §3(a), 91 Stat. 1095; amended Oct. 17, 1984, Pub. L. 98–480, title I, §108, 98 Stat. 2240, permitted expenditure of funds received under subchapters I and II of this chapter for administrative costs in connection with programs and activities carried out under subchapters I, II, and III of this chapter.

Section 351g, act June 19, 1956, ch. 407, §9, as added Mar. 15, 1990, Pub. L. 101–254, §8(a), 104 Stat. 104, prohibited contracting out or transferring from Federal Government certain activities or functions of Department of Education Research Library.

SHORT TITLE

Section 1 of act June 19, 1956, as amended by section 10(a) of Pub. L. 88–269, which provided that this chapter be cited as the ''Library Services and Construction Act'', was repealed by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

SUBCHAPTER I—PUBLIC LIBRARY SERVICES

§§ 352 to 354. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 352, acts June 19, 1956, ch. 407, title I, § 101, formerly § 3, 70 Stat. 293; Aug. 31, 1960, Pub. L. 86–679, § 1, 74 Stat. 571; renumbered title I, § 101, and amended Feb. 11, 1964, Pub. L. 88–269, §§ 1(a)(2), 2, 7(a), 78 Stat. 11–13; July 19, 1966, Pub. L. 89–511, § 3, 80 Stat. 313; Dec. 30, 1970, Pub. L. 91–600, § 2(b), 84 Stat. 1666; Oct. 7, 1977, Pub. L. 95–123, § 4(c), 91 Stat. 1096; Oct. 17, 1984, Pub. L. 98–480, title I, §§ 103(b)(1), 109, 98 Stat. 2237, 2240; Mar. 15, 1990, Pub. L. 101–254, §§ 9–12, 16(b), 24(2), 104 Stat. 104, 105, 113, authorized Secretary to make grants to States for public library services.

Section 353, acts June 19, 1956, ch. 407, title I, § 102, formerly § 4, 70 Stat. 293; Aug. 1, 1956, ch. 852, § 25(a), 70 Stat. 911; Aug. 31, 1960, Pub. L. 86–679, § 2, 74 Stat. 571; Sept. 25, 1962, Pub. L. 87–688, § 5(a)(1), 76 Stat. 587; renumbered title I, § 102, and amended Feb. 11, 1964, Pub. L. 88–269, §§ 1(b), 3, 7(a), 78 Stat. 11–13; July 19, 1966, Pub. L. 89–511, §§ 4, 12(a), 80 Stat. 313, 318; Dec. 30, 1970, Pub. L. 91–600, § 2(b), 84 Stat. 1667; Oct. 7, 1977, Pub. L. 95–123, §§ 3(b), 4(d), (e), 91 Stat. 1095, 1096; Oct. 17, 1984, Pub. L. 98–480, title I, §§ 103(b)(1), 110, 98 Stat. 2237, 2240; Nov. 22, 1985, Pub. L. 99–159, title III, §§ 303(b), 304, 99 Stat. 903; Mar. 15, 1990, Pub. L. 101–254, §§ 13, 14, 104 Stat. 105, enumerated uses of Federal funds and provided for reservation of State allotments.

Section 354, acts June 19, 1956, ch. 407, title I, § 103, formerly § 5, 70 Stat. 293; renumbered title I, § 103, and amended Feb. 11, 1964, Pub. L. 88–269, §§ 1(c), 4, 7(a), 78 Stat. 11–13; Dec. 30, 1970, Pub. L. 91–600, § 2(b), 84 Stat. 1667; Oct. 7, 1977, Pub. L. 95–123, §§ 4(f), 5, 91 Stat. 1096, 1097; Oct. 17, 1984, Pub. L. 98–480, title I, §§ 103(b)(1), 111, 98 Stat. 2237, 2241; Mar. 15, 1990, Pub. L. 101–254, §§ 7(b), 15, 104 Stat. 103, 105, required States to submit annual program for library services with certain specific content requirements, limited reduction of funds to urban resource library, and provided for ratable reduction of required State expenditures.

A prior section 355, acts June 19, 1956, ch. 407, title I, § 104, formerly § 6, 70 Stat. 295; Aug. 1, 1956, ch. 852, § 25(b), (c), 70 Stat. 911; Aug. 31, 1960, Pub. L. 86–679, §§ 3, 4, 74 Stat. 571; Sept. 25, 1962, Pub. L. 87–688, § 5(a)(2), (3), 76 Stat. 587; renumbered and amended Feb. 11, 1964, Pub. L. 88–269, §§ 5, 6, 7(a), (c)–(e), 78 Stat. 12–14; July 19, 1966, Pub. L. 89–511, §§ 5, 8, 12(a), (b), 80 Stat. 313, 318, related to the conditions under which payments were to be made to States, the amount of such payments, and the determination and promulgation of the Federal share, and was omitted in the general amendment of this chapter by Pub. L. 91–600, § 2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

SUBCHAPTER II—PUBLIC LIBRARY CONSTRUCTION AND TECHNOLOGY ENHANCEMENT

§§ 355a to 355c. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 355a, act June 19, 1956, ch. 407, title II, § 201, as added Feb. 11, 1964, Pub. L. 88–269, § 7(a), 78 Stat. 13; amended July 19, 1966, Pub. L. 89–511, § 6, 80 Stat. 313; Dec. 30, 1970, Pub. L. 91–600, § 2(b), 84 Stat. 1668; Oct. 17, 1984, Pub. L. 98–480, title I, § 103(b)(1), 98 Stat. 2237; Mar. 15, 1990, Pub. L. 101–254, § 16(c)(2), (3), 104 Stat. 106, related to grants to States for public library construction and library and information technology enhancement.

Section 355b, act June 19, 1956, ch. 407, title II, § 202, as added Feb. 11, 1964, Pub. L. 88–269, § 7(a), 78 Stat. 13; amended July 19, 1966, Pub. L. 89–511, §§ 7, 12(a), 80 Stat. 313, 318; Dec. 30, 1970, Pub. L. 91–600, § 2(b), 84 Stat. 1668; Oct. 7, 1977, Pub. L. 95–123, § 6, 91 Stat. 1097; Oct. 17, 1984, Pub. L. 98–480, title I, § 112(a), (b)(1), 98 Stat. 2241; Mar. 15, 1990, Pub. L. 101–254, § 16(c)(3), (4), 104 Stat. 106, related to Federal share of cost of construction and technology enhancement projects carried under State plans and recovery by United States of value of grant.

Section 355c, act June 19, 1956, ch. 407, title II, § 203, as added Feb. 11, 1964, Pub. L. 88–269, § 7(a), 78 Stat. 13; amended Apr. 13, 1970, Pub. L. 91–230, title IV, § 401(g)(3), 84 Stat. 174; Dec. 30, 1970, Pub. L. 91–600, § 2(b), 84 Stat. 1668; Oct. 17, 1984, Pub. L. 98–480, title I, § 103(b)(1), 98 Stat. 2237; Mar. 15, 1990, Pub. L. 101–254, §§ 16(c)(3), (5), 17, 104 Stat. 106, required submission of annual program for construction and technology enhancement of public libraries by any State desiring to receive grant from its allotment and specified contents of such program.

A prior section 355d, act June 19, 1956, ch. 407, title II, § 204, as added Feb. 11, 1964, Pub. L. 88–269, § 7(a), 78 Stat. 14; amended July 19, 1966, Pub. L. 89–511, §§ 5(b), (8), 80 Stat. 313, related to payment to States of Federal share and determination of amount of such payment, and was omitted in the general amendment of this chapter by Pub. L. 91–600, § 2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

SUBCHAPTER III—INTERLIBRARY COOPERATION AND RESOURCE SHARING

§§ 355e to 355e–4. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 355e, act June 19, 1956, ch. 407, title III, § 301, as added July 19, 1966, Pub. L. 89–511, § 9, 80 Stat. 314; amended Dec. 30, 1970, Pub. L. 91–600, § 2(b), 84 Stat. 1668; Oct. 17, 1984, Pub. L. 98–480, title I, §§ 103(b)(1), 113(b), 98 Stat. 2237, 2242; Mar. 15, 1990, Pub. L. 101–254, § 18(a), 104 Stat. 106, authorized Secretary to make grants to States for interlibrary cooperation and resource sharing.

Section 355e–1, act June 19, 1956, ch. 407, title III, § 302, as added and amended July 19, 1966, Pub. L. 89–511, §§ 9, 12(a), 80 Stat. 314, 318; Dec. 30, 1970, Pub. L. 91–600, § 2(b), 84 Stat. 1669; Mar. 15, 1990, Pub. L. 101–254, § 16(d), 104 Stat. 106, related to payment and amount of Federal share of cost of carrying out State plans submitted and approved under section 355e–2 of this title.

Section 355e–2, act June 19, 1956, ch. 407, title III, § 303, as added July 19, 1966, Pub. L. 89–511, § 9, 80 Stat. 314; amended Nov. 24, 1967, Pub. L. 90–154, § 1, 81 Stat. 509; Dec. 30, 1970, Pub. L. 91–600, § 2(b), 84 Stat. 1669; Oct. 17, 1984, Pub. L. 98–480, title I, §§ 103(b)(1), 113(c), 98 Stat. 2237, 2242, required submission of annual program for interlibrary cooperation by any State desiring to receive grant from its allotment and specified contents of such program.

Section 355e–3, act June 19, 1956, ch. 407, title III, § 304, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 113(d), 98 Stat. 2242; amended Mar. 15, 1990, Pub. L. 101–254, § 18, 104 Stat. 106, related to statewide resource sharing plans in State annual and long-term programs.

A prior section 355e–3, act June 19, 1956, ch. 407, title III, § 304, as added July 19, 1966, Pub. L. 89–511, § 9, 80 Stat. 314, set forth the criteria for approval by the Commissioner of State plans for interlibrary cooperation, prior to the general amendment of this chapter by Pub. L. 91–600, § 2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

Section 355e–4, act June 19, 1956, ch. 407, title III, § 305, as added Mar. 15, 1990, Pub. L. 101–254, § 19, 104 Stat. 106, related to statewide preservation cooperation plans in State annual and long-range programs, specified plan compliance requirements, authorized use of funds to carry out such plans, and granted State library administrative agency authority to contract part or all of preservation program under this section to other agencies or institutions.

Prior sections 355f to 358 were omitted in the general amendment of this chapter by Pub. L. 91–600, § 2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

Prior sections 355f to 355f–7 comprised former subchapter IV of this chapter relating to specialized State library services.

Prior sections 356 to 358 comprised former subchapter V of this chapter relating to the administration of this chapter.

Section 355f, act June 19, 1956, ch. 407, title IV, § 401, as added July 19, 1966, Pub. L. 89–511, § 9, 80 Stat. 315, authorized appropriations for State institutional library services.

Section 355f–1, act June 19, 1956, ch. 407, title IV, § 402, as added and amended July 19, 1966, Pub. L. 89–511, §§ 9, 12(a), 80 Stat. 315, 318, set forth the amount of allotments authorized to be made by the Commissioner to States, Guam, etc.

Section 355f–2, act June 19, 1956, ch. 407, title IV, § 403, as added July 19, 1966, Pub. L. 89–511, § 9, 80 Stat. 315; amended Nov. 24, 1967, Pub. L. 90–154, § 2, 81 Stat. 509, related to the payment to the States of the Federal share and the determination of the amount of such payment.

Section 355f–3, act June 19, 1956, ch. 407, title IV, § 404, as added July 19, 1966, Pub. L. 89–511, § 9, 80 Stat. 316; amended Nov. 24, 1967, Pub. L. 90–154, § 3, 81 Stat. 509, set forth the criteria for approval by the Commissioner of State plans for institutional library services.

Section 355f–4, act June 19, 1956, ch. 407, title IV, § 411, as added July 19, 1966, Pub. L. 89–511, § 9, 80 Stat. 316, authorized appropriations for State library services to the physically handicapped.

Section 355f–5, act June 19, 1956, ch. 407, title IV, § 412, as added and amended July 19, 1966, Pub. L. 89–511, §§ 9, 12(a), 80 Stat. 316, 318, set forth the amount of allotments authorized to be made by the Commissioner to States, Guam, etc.

Section 355f–6, act June 19, 1956, ch. 407, title IV, § 413, as added July 19, 1966, Pub. L. 89–511, § 9, 80 Stat. 317; amended Nov. 24, 1967, Pub. L. 90–154, § 4, 81 Stat. 509, related to the payment to the States of the Federal share and the determination of the amount of such payment.

Section 355f–7, act June 19, 1956, ch. 407, title IV, § 414, as added July 19, 1966, Pub. L. 89–511, § 9, 80 Stat. 317; amended Nov. 24, 1967, Pub. L. 90–154, § 5, 81 Stat. 509, set forth the criteria for approval by the Commissioner of State plans for library services to the physically handicapped.

Section 356, act June 19, 1956, ch. 407, title V, § 501, formerly § 7, 70 Stat. 295, renumbered § 301 and amended Feb. 11, 1964, Pub. L. 88–269, § 7(f), (g), 78 Stat. 14, renumbered § 501, July 19, 1966, Pub. L. 89–511, § 10(b), 80 Stat. 317, authorized the Commissioner to withhold payments to the States, enumerated the grounds for such withholding, and provided that notice and an opportunity for a hearing to be accorded to the appropriate State agency.

Section 357, act June 19, 1956, ch. 407, title V, § 502, formerly § 8, 70 Stat. 295, renumbered § 302 and amended Feb. 11, 1964, Pub. L. 88–269, §§ 1(d), 7(f), 8, 78 Stat. 11, 14, 15, renumbered § 502 and amended July 19, 1966, Pub. L. 89–511, § 10(b), (c), (e), 80 Stat. 317, 318, set forth the administrative provisions of this chapter.

Section 357a, act June 19, 1956, ch. 407, title V, § 503, formerly § 303, as added Feb. 11, 1964, Pub. L. 88–269, § 7(h), 78 Stat. 14, renumbered and amended July 19, 1966, Pub. L. 89–511, § 10(b), 80 Stat. 317, provided for the reallotment of unused funds under conditions determined by the Commissioner.

Section 358, act June 19, 1956, ch. 407, title V, § 504, formerly § 9, 70 Stat. 296; Aug. 1, 1956, ch. 852, § 25(d), 70 Stat. 911; Aug. 31, 1960, Pub. L. 86–679, § 5, 74 Stat. 572; Sept. 25, 1962, Pub. L. 87–688, § 5(a)(3), 76 Stat. 587, renumbered § 304 and amended Feb. 11, 1964, Pub. L. 88–269, §§ 1(e), 7(b), (f), 9, 78 Stat. 11, 14, 16, renumbered § 504, and amended July 19, 1966, Pub. L. 89–511, §§ 10(b), 12(a), 80 Stat. 317, 318; Nov. 24, 1967, Pub. L. 90–154, § 6, 81 Stat. 509, defined the terms ''State'', ''State library administrative agency'', ''public library'', ''construction'', and ''Secretary''.

SUBCHAPTER IV—LIBRARY SERVICES FOR INDIAN TRIBES

§§ 361 to 366. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 361, act June 19, 1956, ch. 407, title IV, § 401, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 114, 98 Stat. 2243, related to congressional findings and purpose of this subchapter and authorization of grants.

A prior section 361, act June 19, 1956, ch. 407, title IV, § 401, as added May 3, 1973, Pub. L. 93–29, title VIII, § 801(a), 87 Stat. 57; amended Oct. 17, 1984, Pub. L. 98–480, title I, § 103(b)(1), 98 Stat. 2237, related to grants to States for older readers services, prior to the general amendment of this subchapter by section 114 of Pub. L. 98–480.

Section 362, act June 19, 1956, ch. 407, title IV, § 402, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 114, 98 Stat. 2243, specified permitted uses of funds, required maintenance of funding level for public library services, and provided that nothing in this chapter be construed to prohibit restricted collections of tribal cultural materials with funds made available under this chapter.

A prior section 362, act June 19, 1956, ch. 407, title IV, § 402, as added May 3, 1973, Pub. L. 93–29, title VIII, § 801(a), 87 Stat. 57, related to use of Federal funds and the amount of the Federal share for the cost of carrying out State plans for the provision of older readers' services, prior to the general amendment of this subchapter by section 114 of Pub. L. 98–480.

Section 363, act June 19, 1956, ch. 407, title IV, § 403, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 114, 98 Stat. 2244, related to applications for library services to Indians.

A prior section 363, act June 19, 1956, ch. 407, title IV, § 403, as added May 3, 1973, Pub. L. 93–29, title VIII, § 801(a), 87 Stat. 58; amended Oct. 17, 1984, Pub. L. 98–480, title I, § 103(b)(1), 98 Stat. 2237, related to State annual programs for library services for the elderly, prior to the general amendment of this subchapter by section 114 of Pub. L. 98–480.

Section 364, act June 19, 1956, ch. 407, title IV, § 404, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 114, 98 Stat. 2244, required submission of plans for library services, on or near Indian reservation, by Indian tribes desiring to receive special project grant.

A prior section 364, act June 19, 1956, ch. 407, title IV, § 404, as added May 3, 1973, Pub. L. 93–29, title VIII, § 801(a), 87 Stat. 58; amended Oct. 1, 1973, Pub. L. 93–113, title VI, § 601(d), 87 Stat. 416; Oct. 17, 1984, Pub. L. 98–480, title I, § 103(b)(1), 98 Stat. 2237, related to administrative coordination between programs for older readers services under this subchapter with other programs for older Americans, prior to the general amendment of this subchapter by section 114 of Pub. L. 98–480.

Section 365, act June 19, 1956, ch. 407, title IV, § 405, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 114, 98 Stat. 2244, provided for coordination of programs under this subchapter with other programs for Indians.

Section 366, act June 19, 1956, ch. 407, title IV, § 406, as added Nov. 22, 1985, Pub. L. 99–159, title III, § 305, 99 Stat. 903, excluded Indian tribes and Indians in California, Oklahoma, and Alaska from provisions of this subchapter requiring that services be provided on or near Indian reservations, or to only those Indians who live on or near Indian reservations.

A prior subchapter IV of this chapter, comprising sections 355f to 355f–7 of this title, related to specialized State library services, prior to the general amendment of this chapter by Pub. L. 91–600, § 2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

SUBCHAPTER V—FOREIGN LANGUAGE MATERIALS ACQUISITION

§ 371. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, act June 19, 1956, ch. 407, title V, § 501, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 115, 98 Stat. 2244; amended Mar. 15, 1990, Pub. L. 101–254, § 20, 104 Stat. 107, related to grants for foreign language material acquisition.

A prior subchapter V of this chapter, comprising sections 356 to 358 of this title, related to administration of this chapter, prior to the general amendment of this chapter by Pub. L. 91–600, § 2(b), Dec. 30, 1970, 84 Stat. 1660, effective after June 30, 1971.

SUBCHAPTER VI—LIBRARY LITERACY PROGRAMS

§ 375. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, act June 19, 1956, ch. 407, title VI, § 601, as added Oct. 17, 1984, Pub. L. 98–480, title I, § 115, 98 Stat. 2245; amended Mar. 15, 1990, Pub. L. 101–254, § 21, 104 Stat. 107; July 25, 1991, Pub. L. 102–73, title V, § 502, 105 Stat. 356, related to State and local library grants.

SUBCHAPTER VII—EVALUATION AND ASSESSMENT

§ 381. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, act June 19, 1956, ch. 407, title VII, § 701, as added Mar. 15, 1990, Pub. L. 101–254, § 22(a), 104 Stat. 107, authorized Secretary to carry out program for purpose of evaluating and assessing programs authorized under this chapter.

SUBCHAPTER VIII—LIBRARY LEARNING CENTER PROGRAMS

PART A—FAMILY LEARNING CENTERS

§§ 385 to 385e. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 385, act June 19, 1956, ch. 407, title VIII, § 801, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 107, related to congressional statement of purpose of this part.

Section 385a, act June 19, 1956, ch. 407, title VIII, § 802, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 108, related to grants for family learning centers.

Section 385b, act June 19, 1956, ch. 407, title VIII, § 803, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 108, provided that funds made available under this part be used for initiation, expansion, and improvement of public library services, acquisition of resources and materials in print and electronic formats, and acquisition of computer hardware and software.

Section 385c, act June 19, 1956, ch. 407, title VIII, § 804, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 108, related to application to Secretary by local public library wishing to receive grant under this part.

Section 385d, act June 19, 1956, ch. 407, title VIII, § 805, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 109, provided for selection of family learning centers via competitive process, required equitable distribution of grants among States and between urban and rural communities under this subchapter, and established maximum amount per grant for any fiscal year.

Section 385e, act June 19, 1956, ch. 407, title VIII, § 806, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 109; amended Oct. 20, 1994, Pub. L. 103–382, title III, § 375(b), 108 Stat. 3979, authorized appropriations to carry out this part.

PART B—LIBRARY LITERACY CENTERS

§§ 386 to 386g. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section 386, act June 19, 1956, ch. 407, title VIII, § 811, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 109, related to congressional statement of purpose of this part.

Section 386a, act June 19, 1956, ch. 407, title VIII, § 812, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 110, related to grants to States for library literacy centers.

Section 386b, act June 19, 1956, ch. 407, title VIII, § 813, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 110, required any State wishing to receive grant to submit to Secretary, through its State library administrative agency, application containing certain required information and assurances, and permitted Secretary to consider priority programs and services in approving such application.

Section 386c, act June 19, 1956, ch. 407, title VIII, § 814, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 111, required library literacy centers to use funds made available under this part to initiate, expand, and improve literacy services and programs, and provided that no more than 25 percent of grant be used by each center to acquire literacy education computers and computer software.

Section 386d, act June 19, 1956, ch. 407, title VIII, § 815, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 111, required any local public library desiring to participate in programs and services conducted pursuant to this part to submit application to State or library literacy center, as selected by State under section 386f of this title, and listed requisite content of such application.

Section 386e, act June 19, 1956, ch. 407, title VIII, § 816, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 112, related to State advisory committees to assist in coordinating services and programs assisted under this part.

Section 386f, act June 19, 1956, ch. 407, title VIII, § 817, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 112, related to selection of literacy learning centers.

Section 386g, act June 19, 1956, ch. 407, title VIII, § 818, as added Mar. 15, 1990, Pub. L. 101–254, § 23(a), 104 Stat. 113; amended Oct. 20, 1994, Pub. L. 103–382, title III, § 375(c), 108 Stat. 3979, related to authorization of appropriations for this part.

CHAPTER 17—NATIONAL DEFENSE EDUCATION PROGRAM

SUBCHAPTER I—GENERAL PROVISIONS

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401 to 403. Omitted or Repealed.

SUBCHAPTER II—LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER LEARNING

421 to 429. Omitted or Repealed.

SUBCHAPTER III—FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS

PART A—GRANTS TO STATES

441 to 445. Omitted.

PART B—GRANTS TO LOCAL EDUCATIONAL AGENCIES

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Sec.
SUBCHAPTER IV—NATIONAL DEFENSE FELLOWSHIPS
461 to 465. Omitted.
SUBCHAPTER V—GUIDANCE, COUNSELING, AND TESTING; IDENTIFICATION AND ENCOURAGEMENT OF ABLE STUDENTS
PART A—STATE PROGRAMS
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PART A—CENTERS AND RESEARCH AND STUDIES
511 to 513. Repealed.
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SUBCHAPTER VII—RESEARCH AND EXPERIMENTATION IN MORE EFFECTIVE UTILIZATION OF TELEVISION, RADIO, MOTION PICTURES, AND RELATED MEDIA FOR EDUCATIONAL PURPOSES
PART A—RESEARCH AND EXPERIMENTATION
541, 542. Omitted.
PART B—DISSEMINATION OF INFORMATION ON NEW EDUCATIONAL MEDIA
551. Omitted.
PART C—GENERAL PROVISIONS
561 to 563. Omitted.
SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS
581 to 589. Omitted or Repealed.
SUBCHAPTER IX—INSTITUTES
PART I—GENERAL
591, 592. Omitted.
PART II—INTERNATIONAL AFFAIRS
601, 602. Omitted.

SUBCHAPTER I—GENERAL PROVISIONS

§ 401. Omitted

CODIFICATION

The programs provided for in this chapter have not been funded for a number of years. See Codification notes set out under sections 421, 441, 451, 461, 481, 541, and 591 of this title.

Section, Pub. L. 85–864, title I, §101, Sept. 2, 1958, 72 Stat. 1581; Pub. L. 88–665, title I, §101, Oct. 16, 1964, 78 Stat. 1100, provided findings and declaration of policy for National Defense Education Act of 1958.

§ 402. Repealed. Pub. L. 91–230, title IV, § 401(f)(2), Apr. 13, 1970, 84 Stat. 173

Section, Pub. L. 85–864, title I, §102, Sept. 2, 1958, 72 Stat. 1582, prohibited Federal control of education (curriculum, program of instruction, administration, or personnel of any educational institution or school system. See section 1232a of this title.

§ 403. Omitted

CODIFICATION

Section, Pub. L. 85–864, title I, §103, Sept. 2, 1958, 72 Stat. 1582; Pub. L. 86–70, §18(a)(1), June 25, 1959, 73 Stat. 144; Pub. L. 86–624, §14(a)(1), July 12, 1960, 74 Stat. 413; Pub. L. 88–210, title II, §201, formerly §21, Dec. 18, 1963, 77 Stat. 415, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title I, §§102, 103, Oct. 16, 1964, 78 Stat. 1100; Pub. L. 89–329, title IV, §491, formerly §461, Nov. 8, 1965, 79 Stat. 1251, renumbered Pub. L. 90–575, title I, §141, Oct. 16, 1968, 82 Stat. 1030; Pub. L. 89–752, §16(b), Nov. 3, 1966, 80 Stat. 1245; Pub. L. 90–575, title I, §174(a), title III, §351(c), Oct. 16, 1968, 82 Stat. 1035, 1058; Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 272; Pub. L. 94–482, title V, §501(m)(1), Oct. 12, 1976, 90 Stat. 2237; Pub. L. 96–88, title III, §301(a)(1), (2)(F), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, defined terms ''State'', ''institution of higher education'', ''Secretary'', ''State educational agency'', ''school-age population'', ''elementary school'', ''secondary school'', ''public'', ''nonprofit'', ''local educational agency'', ''school of nursing'', ''collegiate school of nursing'', ''associate degree school of nursing'', and ''accredited''. See Codification note set out under section 401 of this title.

SUBCHAPTER II—LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER LEARNING

§§ 421 to 425. Omitted

CODIFICATION

This subchapter has not been funded since fiscal year 1975.

Section 421, Pub. L. 85–864, title II, §201, Sept. 2, 1958, 72 Stat. 1583; Pub. L. 87–344, title II, §201(a), Oct. 3, 1961, 75 Stat. 759; Pub. L. 88–210, title II, §202(a), formerly §22(a), Dec. 18, 1963, 77 Stat. 415, renumbered Pub. L. 90–576, title II, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §201, Oct. 16, 1964, 75 Stat. 1100; Pub. L. 89–752, §15, Nov. 3, 1966, 80 Stat. 1245; Pub. L. 90–575, title I, §171(a), Oct. 16, 1968, 82 Stat. 1034; Pub. L. 91–95, §3, Oct. 22, 1969, 83 Stat. 143; Pub. L. 92–318, title I, §137(a)(1), June 23, 1972, 86 Stat. 272; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations for the years ending June 30, 1959, to June 30, 1972, and each of the next three fiscal years as necessary, for low-interest loans to students in institutes of higher education under sections 421 to 425 and 427 to 429 of this title.

Section 422, Pub. L. 85–864, title II, §202, Sept. 2, 1958, 72 Stat. 1583; Pub. L. 87–344, title II, §201(b), Oct. 3, 1961, 75 Stat. 759; Pub. L. 88–210, title II, §202(b), formerly §22(b), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §202, Oct. 16, 1964, 78 Stat. 1101; Pub. L. 90–575, title I, §171(b), Oct. 16, 1968, 82 Stat. 1034; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States from funds appropriated under section 421 of this title.

Section 423, Pub. L. 85–864, title II, §203, Sept. 2, 1958, 72 Stat. 1584; Pub. L. 88–210; title II, §202(c), formerly §22(c), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §203, Oct. 16, 1964, 78 Stat. 1101; Pub. L. 90–575, title I, §174(b), Oct. 16, 1968, 82 Stat. 1035; Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 272; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to Federal capital contributions to State institutions of higher education.

Section 424, Pub. L. 85–864, title II, §204, Sept. 2, 1958, 72 Stat. 1584; Pub. L. 88–665, title II, §204(a), Oct. 16, 1964, 78 Stat. 1101; Pub. L. 89–329, title IV, §§492, 496(b), formerly §§462, 466(b), Nov. 8, 1965, 79 Stat. 1252, 1254, renumbered and amended Pub. L. 90–575, title I, §§141, 172, 175, Oct. 16, 1968, 82 Stat. 1030, 1034, 1035; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to conditions of agreements between Secretary of Education and institutions of higher education and reimbursement of administrative expenses to such institutions.

Section 425, Pub. L. 85–864, title II, §205, Sept. 2, 1958, 72 Stat. 1584; Pub. L. 87–293, title I, §20, Sept. 22, 1961,

75 Stat. 623; Pub. L. 87–400, §1(a), Oct. 5, 1961, 75 Stat. 832; Pub. L. 88–210, title II, §202(d)(1), (2), formerly §22(d)(1), (2), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §205(a), (b), Oct. 16, 1964, 78 Stat. 1101, 1102; Pub. L. 89–253, §31(a), Oct. 9, 1965, 79 Stat. 979; Pub. L. 89–329, title IV, §§493(a), (b), 494(a), 495(a), 496(a), formerly §§463(a), (b), 464(a), 465(a), 466(a), Nov. 8, 1965, 79 Stat. 1252, 1253; Pub. L. 89–572, §5(a), Sept. 13, 1966, 80 Stat. 765; Pub. L. 89–752, §16(a), Nov. 3, 1966, 80 Stat. 1245; Pub. L. 89–794, title XI, §1101(a), Nov. 8, 1966, 80 Stat. 1476; renumbered and amended Pub. L. 90–575, title I, §§141, 173(a), Oct. 16, 1968, 82 Stat. 1030, 1034; Pub. L. 91–230, title V, §501(a), Apr. 13, 1970, 84 Stat. 174; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to terms of loans made to students from loan funds established by institutions of higher education.

§ 426. Repealed. Pub. L. 92–318, title I, § 137(d)(2), June 23, 1972, 86 Stat. 280

Section, Pub. L. 85–864, title II, §206, Sept. 2, 1958, 72 Stat. 1586; Pub. L. 87–344, title II, §201(c), Oct. 3, 1961, 75 Stat. 759; Pub. L. 88–210, title II, §202(e), formerly §22(e), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title II, §206, Oct. 16, 1964, 78 Stat. 1102; Pub. L. 90–575, title I, §171(c), Oct. 16, 1968, 82 Stat. 1034, provided for distributions of assets from student loan funds. See section 1087ff of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective June 23, 1972, see section 137(d)(2) of Pub. L. 92–318.

§§ 427 to 429. Omitted

CODIFICATION

This subchapter has not been funded since fiscal year 1975.

Section 427, Pub. L. 85–864, title II, §207, Sept. 2, 1958, 72 Stat. 1587; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to loans to help finance an institution's capital contribution to a student loan fund.

Section 428, Pub. L. 85–864, title II, §208, Sept. 2, 1958, 72 Stat. 1587; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to cover reductions in amounts of student loans.

Section 429, Pub. L. 85–864, title II, §209, Sept. 2, 1958, 72 Stat. 1587; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, contained administrative provisions relating to modification of agreements and loans, compromise, waiver, or release of rights, and finality and conclusiveness of financial transactions and vouchers of the Secretary.

SUBCHAPTER III—FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS

PART A—GRANTS TO STATES

§§ 441 to 445. Omitted

CODIFICATION

This part has not been funded since the fiscal year ending prior to Oct. 1, 1978.

Section 441, Pub. L. 85–864, title III, §301, Sept. 2, 1958, 72 Stat. 1588; Pub. L. 87–344, title II, §202(a), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §203(a), formerly §23(a), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title III, §302, Oct. 16, 1964, 78 Stat. 1103; Pub. L. 89–329, title IV, §497(a)(2), formerly §467(a)(2), Nov. 8, 1965, 79 Stat. 1254; Pub. L. 89–752, §17(b), Nov. 3, 1966, 80 Stat. 1245; renumbered and amended Pub. L. 90–575, title I, §141, title III, §§301(a), (b), 304(b), Oct. 16, 1968, 82 Stat. 1030, 1052, 1053; Pub. L. 91–230, title VIII, §807(a)(3), Apr. 13, 1970, 84 Stat. 192; Pub. L. 92–318, title V, §502, June 23, 1972, 86 Stat. 345; Pub. L. 93–380, title VI, §651(a), Aug. 21, 1974, 88 Stat. 588; Pub. L. 94–482, title III, §301, title V, §501(k)(1), Oct. 12, 1976, 90 Stat. 2215, 2237; Pub. L. 95–112, §4, Sept. 24, 1977, 91 Stat. 912, authorized appropriations for the fiscal year ending June 30, 1959, through the fiscal year ending prior to Oct. 1, 1978, for payments to State educational agencies under sections 441 to 445 of this title.

Section 442, Pub. L. 85–864, title III, §302, Sept. 2, 1958, 72 Stat. 1588; Pub. L. 86–70, §18(a)(2), June 25, 1959, 73 Stat. 144; Pub. L. 86–624, §14(a)(2)(A), (C), July 12, 1960, 74 Stat. 413; Pub. L. 87–344, title II, §202(b), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §203(b), formerly §23(b), Dec. 18, 1963, 77 Stat. 416, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title III, §303, Oct. 16, 1964, 78 Stat. 1103; Pub. L. 90–575, title III, §§303(b), 304(b), 351(b), Oct. 16, 1968, 82 Stat. 1053, 1058; Pub. L. 94–482, title V, §501(m)(2), Oct. 12, 1976, 90 Stat. 2237; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States from funds appropriated under section 441 of this title.

Section 443, Pub. L. 85–864, title III, §303, Sept. 2, 1958, 72 Stat. 1589; Pub. L. 88–210, title II, §203(c), formerly §23(c), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title III, §304, Oct. 16, 1964, 78 Stat. 1103; Pub. L. 89–329, title IV, §497(a)(1), formerly §467(a)(1), Nov. 8, 1965, 79 Stat. 1254; Pub. L. 89–752, §17(a), Nov. 3, 1966, 80 Stat. 1245; renumbered and amended Pub. L. 90–575, title I, §141, title III, §§302, 304(b), Oct. 16, 1968, 82 Stat. 1030, 1052, 1053; Pub. L. 91–230, title VIII, §807(a)(1), (2), Apr. 13, 1970, 84 Stat. 192; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the requirements of State plans of any State desiring to receive payments under sections 441 to 445 of this title.

Section 444, Pub. L. 85–864, title III, §304, Sept. 2, 1958, 72 Stat. 1589; Pub. L. 87–344, title II, §202(c), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §203(d), formerly §23(d), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title III, §305, Oct. 16, 1964, 78 Stat. 1104; Pub. L. 90–575, title III, §301(c), Oct. 16, 1968, 82 Stat. 1052; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to States with plans approved under section 443 of this title.

Section 445, Pub. L. 85–864, title III, §305, Sept. 2, 1958, 72 Stat. 1590; Pub. L. 88–665, title III, §306, Oct. 16, 1964, 78 Stat. 1104; Pub. L. 90–575, title III, §303(a), Oct. 16, 1968, 82 Stat. 1053; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to loans to private nonprofit elementary and secondary schools in any State.

PART B—GRANTS TO LOCAL EDUCATIONAL AGENCIES

§§ 451 to 455. Omitted

CODIFICATION

This part has not been funded since fiscal year 1971.

Section 451, Pub. L. 85–864, title III, §311, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1054, authorized appropriations for the years ending June 30, 1969, to June 30, 1971, for carrying out the provisions of sections 451 to 455 of this title.

Section 452, Pub. L. 85–864, title III, §312, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1054; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to local educational agencies from funds appropriated under section 451 of this title.

Section 453, Pub. L. 85–864, title III, §313, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1054; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applica-

tions for funds by local educational agencies, approved by the appropriate State educational agency.

Section 454, Pub. L. 85–864, title III, §314, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1055; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the requirements for applications of States desiring to participate in programs under sections 451 to 455 of this title.

Section 455, Pub. L. 85–864, title III, §315, as added Pub. L. 90–575, title III, §304(b), Oct. 16, 1968, 82 Stat. 1055; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to States for distribution to eligible local educational agencies of such States.

SUBCHAPTER IV—NATIONAL DEFENSE FELLOWSHIPS

§§ 461 to 465. Omitted

CODIFICATION

Fellowships under this subchapter have not been authorized since the fiscal year ending June 30, 1973.

Section 461, Pub. L. 85–864, title IV, §401, Sept. 2, 1958, 72 Stat. 1590, authorized appropriations to carry out sections 461 to 465 of this title.

Section 462, Pub. L. 85–864, title IV, §402, Sept. 2, 1958, 72 Stat. 1591; Pub. L. 87–344, title II, §203, Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §204(a), (b), formerly §24(a), (b), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title IV, §401, Oct. 16, 1964, 78 Stat. 1104; Pub. L. 90–575, title III, §§311(a), 312(a), Oct. 16, 1968, 82 Stat. 1056; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the number of fellowships to be awarded.

Section 463, Pub. L. 85–864, title IV, §403, Sept. 2, 1958, 72 Stat. 1591; Pub. L. 88–665, title IV, §402(a)–(c), Oct. 16, 1964, 78 Stat. 1104; Pub. L. 90–575, title III, §§311(b), 312(c), 314, Oct. 16, 1968, 82 Stat. 1056, 1057; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, contained requirements and limitations relating to the awarding of fellowships.

Section 464, Pub. L. 85–864, title IV, §404, Sept. 2, 1958, 72 Stat. 1591; Pub. L. 88–210, title II, §204(c), formerly §24(c), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title IV, §403, Oct. 16, 1964, 78 Stat. 1105; Pub. L. 90–575, title III, §313(a), Oct. 16, 1968, 82 Stat. 1056; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payment of stipends to persons awarded scholarships and payments to institutions of higher education at which such persons were pursuing courses of study.

Section 465, Pub. L. 85–864, title IV, §405, Sept. 2, 1958, 72 Stat. 1591; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided for conditions relating to continued receipt of payments under section 464 of this title to persons awarded fellowships.

SUBCHAPTER V—GUIDANCE, COUNSELING, AND TESTING; IDENTIFICATION AND ENCOURAGEMENT OF ABLE STUDENTS

PART A—STATE PROGRAMS

§§ 481 to 485. Omitted

CODIFICATION

This subchapter is no longer funded and was superseded by title III of the Elementary and Secondary Education Act of 1965, which was classified to subchapter II of chapter 24 of this title. Subchapter II of chapter 24 of this title was omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965 by Pub. L. 95–561.

Section 481, Pub. L. 85–864, title V, §501, Sept. 2, 1958, 72 Stat. 1592; Pub. L. 87–344, title II, §204(a), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §205(a), formerly, §25(a), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title V, §501, Oct. 16, 1964, 78 Stat. 1105; Pub. L. 90–575, title III, §321(a), Oct. 16, 1968, 82 Stat. 1057, authorized appropriations for the years ending June 30, 1963, to June 30, 1971, for making grants to State educational agencies under sections 481 to 484 of this title.

Section 482, Pub. L. 85–864, title V, §502, Sept. 2, 1958, 72 Stat. 1592; Pub. L. 88–210, title II, §205(b), formerly §25(b), Dec. 18, 1963, 77 Stat. 417, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 90–575, title III, §351(b), Oct. 16, 1968, 82 Stat. 1058, related to allotments to States from sums appropriated under section 481 of this title.

Section 483, Pub. L. 85–864, title V, §503, Sept. 2, 1958, 72 Stat. 1592; Pub. L. 88–210, title II, §205(c), formerly §25(c), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title V, §502, Oct. 16, 1964, 78 Stat. 1105; Pub. L. 90–575, title III, §322, Oct. 16, 1968, 82 Stat. 1057, related to requirements of State plans of any State desiring to receive payments under sections 481 to 484 of this title.

Section 484, Pub. L. 85–864, title V, §504, Sept. 2, 1958, 72 Stat. 1592; Pub. L. 87–344, title II, §204(b), (c), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §205(d), formerly §25(d), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title V, §503, Oct. 16, 1964, 78 Stat. 1105; Pub. L. 90–575, title III, §321(b), Oct. 16, 1968, 82 Stat. 1057, related to payments to States with plans approved under section 483 of this title.

Section 485, Pub. L. 85–864, title V, §505, as added Pub. L. 88–665, title V, §504, Oct. 16, 1964, 78 Stat. 1106, defined ''junior colleges or technical institutes'' as used in this subchapter.

PART B—COUNSELING AND GUIDANCE TRAINING INSTITUTES

§491. Omitted

CODIFICATION

Section, Pub. L. 85–864, title V, §511, Sept. 2, 1958, 72 Stat. 1593; Pub. L. 87–344, title II, §204(d), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §205(e), formerly §25(e), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title V, §505, Oct. 16, 1964, 78 Stat. 1106, authorized appropriations for the years ending June 30, 1959 and 1960 and the eight succeeding fiscal years for operation by institutes of higher education of institutes for advanced study. For further details see Codification note set out under section 481 of this title.

SUBCHAPTER VI—FOREIGN STUDIES AND LANGUAGE DEVELOPMENT

PART A—CENTERS AND RESEARCH AND STUDIES

§§ 511 to 513. Repealed. Pub. L. 96–374, title VI, §601(c)(1), Oct. 3, 1980, 94 Stat. 1471

Section 511, Pub. L. 85–864, title VI, §601, Sept. 2, 1958, 72 Stat. 1593; Pub. L. 87–344, title II, §205(a), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, §206(a), formerly §26(a), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title VI, §601(a), Oct. 16, 1964, 78 Stat. 1106; Pub. L. 89–698, title II, §201, Oct. 29, 1966, 80 Stat. 1069; Pub. L. 90–575, title III, §331(a), Oct. 16, 1968, 82 Stat. 1057; Pub. L. 92–318, title I, §182(a), June 23, 1972, 86 Stat. 311, provided for language and area centers and programs. See section 1121 et seq. of this title.

Section 512, Pub. L. 85–864, title VI, §602, Sept. 2, 1958, 72 Stat. 1594; Pub. L. 94–482, title III, §302(d), Oct. 12, 1976, 90 Stat. 2216; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a pro-

gram of research and studies. See section 1125 of this title.

Section 512a, Pub. L. 85–864, title VI, § 603, as added Pub. L. 94–482, title III, § 302(b), Oct. 12, 1976, 90 Stat. 2215; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, provided for a program of grants and contracts for promotion of cultural understanding.

Section 513, Pub. L. 85–864, title VI, § 604, formerly § 603, Sept. 2, 1958, 72 Stat. 1594; Pub. L. 88–665, title VI, § 601(b), Oct. 16, 1964, 78 Stat. 1107; Pub. L. 90–575, title III, § 331(b), Oct. 16, 1968, 82 Stat. 1057; Pub. L. 92–318, title I, § 182(b), June 23, 1972, 86 Stat. 312; renumbered and amended Pub. L. 94–482, title III, § 302(b), (c), Oct. 12, 1976, 90 Stat. 2215, 2216; Pub. L. 95–43, § 1(c), June 15, 1977, 91 Stat. 219; Pub. L. 96–49, § 15, Aug. 13, 1979, 93 Stat. 354, authorized appropriations for foreign studies and language development program. See section 1130b of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1980, see section 1393 of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

PART B—LANGUAGE INSTITUTES

§ 521. Repealed. Pub. L. 88–665, title VI, § 602, Oct. 16, 1964, 78 Stat. 1107

Section, Pub. L. 85–864, title VI, § 611, Sept. 2, 1958, 72 Stat. 1594; Pub. L. 87–344, title II, § 205(b), Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, § 206(b), formerly § 26(b), Dec. 18, 1963, 77 Stat. 418, renumbered Pub. L. 90–576, title I, § 101(a)(1), Oct. 16, 1968, 82 Stat. 1064, authorized appropriation of $7,250,000 for fiscal year ending June 30, 1959 and each of six succeeding fiscal years for language institutes.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1964, see section 602 of Pub. L. 88–665.

SUBCHAPTER VII—RESEARCH AND EXPERIMENTATION IN MORE EFFECTIVE UTILIZATION OF TELEVISION, RADIO, MOTION PICTURES, AND RELATED MEDIA FOR EDUCATIONAL PURPOSES

PART A—RESEARCH AND EXPERIMENTATION

§§ 541, 542. Omitted

CODIFICATION

This subchapter has not been funded since the fiscal year ending in 1968.

Section 541, Pub. L. 85–864, title VII, § 701, Sept. 2, 1958, 72 Stat. 1595; Pub. L. 88–210, title II, § 207(a), formerly § 27(a), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, § 101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, directed Secretary of Education, in cooperation with Advisory Committee on New Educational Media, to conduct, assist, and foster research and experimentation in development and evaluation of projects involving communication media of possible value to State or local educational agencies.

Section 542, Pub. L. 85–864, title VII, § 702, Sept. 2, 1958, 72 Stat. 1595; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized Secretary to make grants-in-aid or contracts for projects of research or experimentation referred to in section 541 of this title.

PART B—DISSEMINATION OF INFORMATION ON NEW EDUCATIONAL MEDIA

§ 551. Omitted

CODIFICATION

Section, Pub. L. 85–864, title VII, § 731, Sept. 2, 1958, 72 Stat. 1595; Pub. L. 88–210, title II, § 207(b), formerly § 27(b), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, § 101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to functions of Secretary of Education with respect to dissemination of information on new educational media. See Codification note set out under sections 541, 542 of this title.

PART C—GENERAL PROVISIONS

§§ 561 to 563. Omitted

CODIFICATION

This subchapter has not been funded since the fiscal year ending in 1968.

Section 561, Pub. L. 85–864, title VII, § 761, Sept. 2, 1958, 72 Stat. 1596; Pub. L. 88–210, title II, § 207(c), formerly § 27(c), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, § 101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 91–230, title IV, § 401(h)(1), Apr. 13, 1970, 84 Stat. 174; Pub. L. 96–88, title III, § 301, title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to establishment, functions and utilization of services of Advisory Committee on New Educational Media.

Section 562, Pub. L. 85–864, title VII, § 762, Sept. 2, 1958, 72 Stat. 1597; Pub. L. 90–575, title III, § 341, Oct. 16, 1968, 82 Stat. 1058; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to securing of assistance and advice of experts in utilization and adaptation of new media and technology for educational purposes.

Section 563, Pub. L. 85–864, title VII, § 763, Sept. 2, 1958, 72 Stat. 1597; Pub. L. 87–344, title II, § 206, Oct. 3, 1961, 75 Stat. 760; Pub. L. 88–210, title II, § 207(d), formerly § 27(d), Dec. 18, 1963; 77 Stat. 419, renumbered Pub. L. 90–576, title I, § 101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title VII, § 701, Oct. 16, 1964, 78 Stat. 1107, authorized appropriations for fiscal year ending June 30, 1959, and for each of nine succeeding fiscal years to carry out provisions of this subchapter.

SUBCHAPTER VIII—MISCELLANEOUS PROVISIONS

§ 581. Omitted

CODIFICATION

The programs provided for in this chapter have not been funded for a number of years. See Codification notes set out under section 421, 441, 451, 461, 481, 541, and 591 of this title.

Section, Pub. L. 85–864, title X, § 1001, Sept. 2, 1958, 72 Stat. 1602; Pub. L. 87–835, § 3, Oct. 16, 1962, 76 Stat. 1070; Pub. L. 90–575, title I, § 176, Oct. 16, 1968, 82 Stat. 1035; Pub. L. 91–230, title IV, § 401(c)(4), Apr. 13, 1970, 84 Stat. 173; Pub. L. 96–88, title III, § 301, title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, contained the general administrative provisions for the National Defense Education Act of 1958 [this chapter] including provisions as to reports to Congress, development of policies and procedures, consultation with agencies, agency functions and authority under other laws, restriction on loans, fellowships and stipends, oath or affirmation, statement of conviction, registration of Communist organization, criminal penalties, and authority to refuse or revoke fellowship awards.

§§ 582, 583. Repealed. Pub. L. 91–230, title IV, § 401(h)(1), Apr. 13, 1970, 84 Stat. 174

Section 582, Pub. L. 85–864, title X, § 1002, Sept. 2, 1958, 72 Stat. 1602, authorized Commissioner to appoint advisory committees to advise and consult with respect to administration of National Defense Act, prescribed a membership of twelve, four each from fields of science (engineering, mathematics, or science), humanities, and other appropriate fields, and provided for compensation ($50 per day limitation) and travel expenses of committee members.

Section 583, Pub. L. 85–864, title X, §1003, Sept. 2, 1958, 72 Stat. 1603, exempted members of advisory committees or information councils from conflict-of-interest laws, with certain exceptions.

§§ 584 to 589. Omitted

CODIFICATION

The programs provided for in this chapter have not been funded for a number of years. See Codification notes set out under sections 421, 441, 451, 461, 481, 541, and 591 of this title.

Section 584, Pub. L. 85–864, title X, §1004, Sept. 2, 1958, 72 Stat. 1603; Pub. L. 88–665, title VIII, §801, Oct. 16, 1964, 78 Stat. 1107; Pub. L. 90–575, title III, §304(c), Oct. 16, 1968, 82 Stat. 1055; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to administration of State plans, including the requirements for approval of State plans, notice and hearing prior to disapproval of a State plan, and restrictions on payments to States for failure to comply with provisions of this chapter.

Section 585, Pub. L. 85–864, title X, §1005, Sept. 2, 1958, 72 Stat. 1604; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided for judicial review where a State was dissatisfied with Secretary's final action with respect to the approval of its State plan or with respect to restriction of payments to the State for failure to maintain compliance with conditions governing original approval of such plan.

Section 586, Pub. L. 85–864, title X, §1006, Sept. 2, 1958, 72 Stat. 1604, provided that payments to any individual or to any State or Federal agency, institution of higher education, or any other organization, pursuant to a grant, loan, or contract, could be made in installments, and in advance or by way of reimbursement, and, in case of grants or loans, with necessary adjustments on account of overpayments or underpayments.

Section 587, Pub. L. 85–864, title X, §1007, Sept. 2, 1958, 72 Stat. 1604, authorized appropriations for fiscal year ending June 30, 1959, and for each fiscal year thereafter, of such sums as might be necessary for administrative costs, including administrative expenses of State commissions.

Section 588, Pub. L. 85–864, title X, §1008, Sept. 2, 1958, 72 Stat. 1605; Pub. L. 86–70, §18(a)(3), June 25, 1959, 73 Stat. 144; Pub. L. 86–624, §14(a)(3), July 12, 1960, 74 Stat. 413; Pub. L. 88–210, title II, §208(a), formerly §28(a), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 90–575, title III, §351(a), Oct. 16, 1968, 82 Stat. 1058; Pub. L. 94–482, title V, §501(m)(3), Oct. 12, 1976, 90 Stat. 2237; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to territories and possessions from amounts reserved by Secretary under provisions relating to allotments to States and educational institutions.

Section 589, Pub. L. 85–864, title X, §1009, Sept. 2, 1958, 72 Stat. 1605; Pub. L. 87–344, title II, §208, Oct. 3, 1961, 75 Stat. 761; Pub. L. 88–210, title II, §208(b), formerly §28(b), Dec. 18, 1963, 77 Stat. 419, renumbered Pub. L. 90–576, title I, §101(a)(1), Oct. 16, 1968, 82 Stat. 1064; Pub. L. 88–665, title VIII, §802, Oct. 16, 1964, 78 Stat. 1107, authorized appropriations for fiscal year ending June 30, 1959, and each of nine succeeding fiscal years for grants to States for improvement of statistical services of State educational agencies and prescribed terms and conditions for such grants.

SUBCHAPTER IX—INSTITUTES

PART I—GENERAL

§§ 591, 592. Omitted

CODIFICATION

This part has not been funded since the fiscal year ending June 30, 1968.

Section 591, Pub. L. 85–864, title XI, §1101, as added Pub. L. 88–665, title IX, §901(a), Oct. 16, 1964, 78 Stat. 1107; amended Pub. L. 89–329, title II, §225, title IV, §497(b), formerly §467(b), Nov. 8, 1965, 79 Stat. 1228, 1254, renumbered Pub. L. 90–575, title I, §141, Oct. 16, 1968, 82 Stat. 1030; Pub. L. 90–247, title VII, §705, Jan. 2, 1968, 81 Stat. 820; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations for fiscal years ending June 30, 1965, to June 30, 1968, for grants to institutions of higher education for operation of institutes for advanced study.

Section 592, Pub. L. 85–864, title XI, §1102, as added Pub. L. 88–665, title IX, §901(a), Oct. 16, 1964, 78 Stat. 1108; amended Pub. L. 89–698, title II, §202(2), Oct. 29, 1966, 80 Stat. 1070, related to receipt of stipends by individuals attending institutes for advanced study.

PART II—INTERNATIONAL AFFAIRS

§§ 601, 602. Omitted

CODIFICATION

This part has not been funded since the fiscal year ending June 30, 1968.

Section 601, Pub. L. 85–864, title XI, §1111, as added Pub. L. 89–698, title II, §202(3), Oct. 29, 1966, 80 Stat. 1070; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations for fiscal years ending June 30, 1967 and June 30, 1968, for international affairs institutes for secondary school teachers.

Section 602, Pub. L. 85–864, title XI, §1112, as added Pub. L. 89–698, title II, §202(3), Oct. 29, 1966, 80 Stat. 1070; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized payment of stipends to individuals studying in programs assisted under section 601 of this title.

CHAPTER 18—GRANTS FOR TEACHING IN THE EDUCATION OF HANDICAPPED CHILDREN

§§ 611 to 618. Repealed. Pub. L. 91–230, title VI, §662(2), (4), Apr. 13, 1970, 84 Stat. 188

Section 611, Pub. L. 85–926, §1, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 88–164, title III, §301(a)(1)–(3), (b), Oct. 31, 1963, 77 Stat. 294; Pub. L. 90–576, title III, §304, Oct. 16, 1968, 82 Stat. 1096, authorized grants to public or nonprofit institutions and enumerated certain uses of the grants.

Section 612, Pub. L. 85–926, §2, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 86–158, title II, §201, Aug. 14, 1959, 73 Stat. 346; Pub. L. 88–164, title III, §301(a)(3), Oct. 31, 1963, 77 Stat. 294, authorized grants to State educational agencies for fellowships.

Section 613, Pub. L. 85–926, §3, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 88–164, title III, §301(a)(4), Oct. 31, 1963, 77 Stat. 294, related to payment of grants.

Section 614, Pub. L. 85–926, §4, Sept. 6, 1958, 72 Stat. 1777, required submission of report to Commissioner, including financial statement.

Section 615, Pub. L. 85–926, §5, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 89–105, §7, Aug. 4, 1965, 79 Stat. 430, defined terms ''nonprofit institution'', ''State educational agency'' and ''State''.

Section 616, Pub. L. 85–926, §6, Sept. 6, 1958, 72 Stat. 1777, authorized delegation of functions.

Section 617, Pub. L. 85–926, §7, Sept. 6, 1958, 72 Stat. 1777; Pub. L. 88–164, title III, §301(a)(4), Oct. 31, 1963, 77 Stat. 294; Pub. L. 89–105, §8, Aug. 4, 1965, 79 Stat. 430; Pub. L. 90–170, §6, Dec. 4, 1967, 81 Stat. 530, authorized appropriations of $19,500,000; $29,500,000; $34,000,000; $37,500,000; and $55,000,000 for fiscal years ending June 30, 1966, 1967, 1968, 1969, and 1970, respectively.

Section 618, Pub. L. 88–164, title III, §302, Oct. 31, 1963, 77 Stat. 295; Pub. L. 89–105, §§4, 5, Aug. 4, 1965, 79 Stat. 429, 430; Pub. L. 90–247, title I, §156, Jan. 2, 1968, 81 Stat. 805, related to research and demonstration projects: authorization of appropriations, installments, advances, or reimbursements, and conditions; advisory commit-

tees; panel or experts; compensation and travel expenses; delegation of functions; construction, equipping and operation of facilities; wages of laborers and authority and functions of Secretary of Labor; definition of ''construction'' and ''cost of construction''; and definition of ''research and related purposes''.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1971, see section 662 of Pub. L. 91–230.

CHAPTER 18A—EARLY EDUCATION PROGRAMS FOR HANDICAPPED CHILDREN

§§ 621 to 624. Repealed. Pub. L. 91–230, title VI, § 662(5), Apr. 13, 1970, 84 Stat. 188

Sections 621 to 624, Pub. L. 90–538, §§ 2–5, Sept. 30, 1968, 82 Stat. 901, 902, popularly known as the ''Handicapped Children's Early Education Assistance Act'', related to the following subject matter:

Section 621, experimental preschool and early education programs for handicapped children: authorization, special problems of the handicapped, National distribution, urban and rural areas, and scope of activities and services; community coordination of programs; and Federal share and non-Federal contributions.

Section 622, evaluation.

Section 623, definition of handicapped children.

Section 624, appropriations authorization.

For general subject matter of these sections, see sections 1423, 1425, 1401(1), and 1426 of this title, respectively.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1971, see section 662 of Pub. L. 91–230.

CHAPTER 19—SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES

CODIFICATION

Act Sept. 23, 1950, ch. 995, 64 Stat. 967, as amended, was classified to chapter 14 (§ 251 et seq.) of this title prior to general amendment by Pub. L. 85–620, Aug. 12, 1958, 72 Stat. 548.

§§ 631 to 647. Repealed. Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965

Section 631, act Sept. 23, 1950, ch. 995, § 1, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 548; amended Apr. 28, 1988, Pub. L. 100–297, title II, § 2031(b), 102 Stat. 301, related to Congressional declaration of purpose and authorization of appropriations.

Section 632, act Sept. 23, 1950, ch. 995, § 2, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 548; amended Apr. 28, 1988, Pub. L. 100–297, title II, § 2032(a)(1), 102 Stat. 301, related to annual apportionment of funds and use of remainder of funds.

Section 633, act Sept. 23, 1950, ch. 995, § 3, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 548; amended Oct. 3, 1961, Pub. L. 87–344, title I, § 101(a), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, § 301(a), formerly § 31(a), 77 Stat. 419, renumbered title III, § 301(a), Oct. 16, 1968, Pub. L. 90–576, title I, § 101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, § 1101(a), 78 Stat. 1109; Nov. 3, 1966, Pub. L. 89–750, title II, § 221, 80 Stat. 1213; Jan. 2, 1968, Pub. L. 90–247, title III, § 301(d)(1), 81 Stat. 813; Apr. 13, 1970, Pub. L. 91–230, title II, §§ 201(a)(1), 203(c)(3), 84 Stat. 154, 156; Aug. 21, 1974, Pub. L. 93–380, title III, § 301(a)(1), 88 Stat. 521; Apr. 21, 1976, Pub. L. 94–273, § 2(13), 90 Stat. 375; Nov. 1, 1978, Pub. L. 95–561, title X, § 1021(a), 92 Stat. 2311; Oct. 19, 1984, Pub. L. 98–511, title III, § 301(b)(1), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§ 2031(a)(1), 2032(a)(1), 102 Stat. 301, related to dates for filing applications and priorities.

Section 634, act Sept. 23, 1950, ch. 995, § 4, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 549; amended Nov. 3, 1966, Pub. L. 89–750, title II, § 224, 80 Stat. 1214; Apr. 28, 1988, Pub. L. 100–297, title II, § 2032(a)(1), 102 Stat. 301, related to Federal share of cost of any project.

Section 635, act Sept. 23, 1950, ch. 995, § 5, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 549; amended Nov. 1, 1965, Pub. L. 89–313, § 5, 79 Stat. 1161; Nov. 3, 1966, Pub. L. 89–750, title II, §§ 222(a), (e), 223, 226, 227, 80 Stat. 1213–1215; Jan. 2, 1968, Pub. L. 90–247, title II, §§ 205(b), 207, 81 Stat. 809; Apr. 13, 1970, Pub. L. 91–230, title II, §§ 203(a)(3), 204, 84 Stat. 155, 157; May 21, 1970, Pub. L. 91–260, 84 Stat. 254; Aug. 21, 1974, Pub. L. 93–380, title III, § 302(a), 88 Stat. 521; Nov. 1, 1978, Pub. L. 95–561, title X, § 1022, 92 Stat. 2312; Apr. 28, 1988, Pub. L. 100–297, title II, § 2032(a)(1), 102 Stat. 301, related to limitation on total payments to local agencies.

Section 636, act Sept. 23, 1950, ch. 995, § 6, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 551; amended Apr. 13, 1970, Pub. L. 91–230, title IV, § 401(g)(4), 84 Stat. 174; Apr. 28, 1988, Pub. L. 100–297, title II, § 2032(a)(1), 102 Stat. 301, related to applications for payment.

Section 637, act Sept. 23, 1950, ch. 995, § 7, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 552; amended Apr. 28, 1988, Pub. L. 100–297, title II, § 2032(a)(1), 102 Stat. 301, related to payments to local agencies.

Section 638, act Sept. 23, 1950, ch. 995, § 8, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 552; amended Apr. 28, 1988, Pub. L. 100–297, title II, § 2032(a)(1), 102 Stat. 301, related to additional payments in unusual cases.

Section 639, act Sept. 23, 1950, ch. 995, § 9, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 553; amended Apr. 28, 1988, Pub. L. 100–297, title II, § 2032(a)(1), 102 Stat. 301, related to procedure in cases of temporary Federal activities and donation of temporary school facilities.

Section 640, act Sept. 23, 1950, ch. 995, § 10, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 553; amended May 6, 1960, Pub. L. 86–449, title V, § 502, 74 Stat. 89; July 21, 1965, Pub. L. 89–77, § 1, 79 Stat. 243; Nov. 3, 1966, Pub. L. 89–750, title II, §§ 228, 229, 80 Stat. 1215; Nov. 1, 1978, Pub. L. 95–561, title X, §§ 1023, 1031(b)(1), 92 Stat. 2312; Apr. 28, 1988, Pub. L. 100–297, title II, § 2032(a)(1), 102 Stat. 301, related to children for whom local agencies are unable to provide education.

Section 641, act Sept. 23, 1950, ch. 995, § 11, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 554; amended Apr. 28, 1988, Pub. L. 100–297, title II, § 2032(a)(1), (2), 102 Stat. 301, related to withholding of payments for noncompliance.

Section 642, act Sept. 23, 1950, ch. 995, § 12, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 554; amended Apr. 13, 1970, Pub. L. 91–230, title IV, § 401(f)(3), (g)(4), 84 Stat. 173, 174; Apr. 28, 1988, Pub. L. 100–297, title II, § 2032(a)(1), 102 Stat. 301, related to administration of this chapter.

Section 643, act Sept. 23, 1950, ch. 995, § 13, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 554; amended Apr. 13, 1970, Pub. L. 91–230, title IV, § 401(c)(3), 84 Stat. 173; Apr. 28, 1988, Pub. L. 100–297, title II, § 2032(a)(1), 102 Stat. 301, related to Federal departments and agencies under this chapter.

Section 644, act Sept. 23, 1950, ch. 995, § 14, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 555; amended Oct. 3, 1961, Pub. L. 87–344, title I, § 101(b), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, § 301(b), formerly § 31(b), 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, § 101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, § 1101(b), 78 Stat. 1109; Nov. 3, 1966, Pub. L. 89–750, title II, § 225, 80 Stat. 1214; Jan. 2, 1968, Pub. L. 90–247, title II, § 203, 81 Stat. 807; Apr. 13, 1970, Pub. L. 91–230, title II, §§ 205(a), 206, 84 Stat. 158, 159; Apr. 28, 1988, Pub. L. 100–297, title II, §§ 2032(a)(1), 2034, 102 Stat. 301, related to assistance in other federally-affected areas.

Section 645, act Sept. 23, 1950, ch. 995, § 15, as added Aug. 12, 1958, Pub. L. 85–620, title I, § 101, 72 Stat. 556; amended June 25, 1959, Pub. L. 86–70, § 18(c), 73 Stat. 144;

July 12, 1960, Pub. L. 86–624, §14(c), 74 Stat. 414; Oct. 3, 1961, Pub. L. 87–344, title I, §101(c), 75 Stat. 759; Dec. 18, 1963, Pub. L. 88–210, title III, §301(c), formerly §31(c), 77 Stat. 419, renumbered Oct. 16, 1968, Pub. L. 90–576, title I, §101(a)(1), 82 Stat. 1064; Oct. 16, 1964, Pub. L. 88–665, title XI, §1101(c), (d), 78 Stat. 1109; Nov. 3, 1966, Pub. L. 89–750, title II, §§222(b)–(d), 230–232, 80 Stat. 1213–1216; Jan. 2, 1968, Pub. L. 90–247, title II, §201, title III, §301(d)(2), 81 Stat. 806, 813; Apr. 13, 1970, Pub. L. 91–230, title II, §§201(a)(2), 203(a)(1), (2), 84 Stat. 154, 155; Aug. 12, 1970, Pub. L. 91–375, §§4(a), 6(*o*), 84 Stat. 773, 783; Aug. 21, 1974, Pub. L. 93–380, title III, §301(a)(2), 88 Stat. 521; Nov. 1, 1978, Pub. L. 95–561, title X, §§1021(b), 1031(b)(2), 92 Stat. 2312; Apr. 28, 1988, Pub. L. 100–297, title II, §§2031(a)(3), 2032(a)(1), (3), 102 Stat. 301, defined terms used in this chapter.

Section 646, act Sept. 23, 1950, ch. 995, §16, as added Nov. 1, 1965, Pub. L. 89–313, §1, 79 Stat. 1158; amended Jan. 2, 1968, Pub. L. 90–247, title II, §217, 81 Stat. 810; Oct. 21, 1968, Pub. L. 90–608, ch. IV, §402, 82 Stat. 1194; Apr. 13, 1970, Pub. L. 91–230, title II, §201(c), 84 Stat. 154; Dec. 31, 1970, Pub. L. 91–606, title III, §301(f), 84 Stat. 1759; 1973 Reorg. Plan No. 1, §§1, 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089; Dec. 10, 1973, Ex. Ord. No. 11749, §2(2), 38 F.R. 34177; May 22, 1974, Pub. L. 93–288, title VII, §702(f), formerly title VI, §602(f), 88 Stat. 164, renumbered title VII, §702(f), Oct. 5, 1994, Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), 108 Stat. 3100; Aug. 21, 1974, Pub. L. 93–380, title III, §§301(b), 302(b), 88 Stat. 521, 522; Apr. 21, 1976, Pub. L. 94–273, §3(6), 90 Stat. 376; Nov. 1, 1978, Pub. L. 95–561, title X, §§1010(b), 1021(a), 1024, 92 Stat. 2310–2312; July 20, 1979, Ex. Ord. No. 12148, §4–106, 44 F.R. 43239; Oct. 19, 1984, Pub. L. 98–511, title III, §301(b)(2), 98 Stat. 2388; Apr. 28, 1988, Pub. L. 100–297, title II, §§2031(a)(2), 2032(a)(1), (b), 2033, 102 Stat. 301; Nov. 23, 1988, Pub. L. 100–707, title I, §109(j), 102 Stat. 4709, related to assistance in cases of certain disasters.

Section 647, act Sept. 23, 1950, ch. 995, §17, as added Nov. 1, 1965, Pub. L. 89–313, §3, 79 Stat. 1161; amended Apr. 28, 1988, Pub. L. 100–297, title II, §2032(a)(1), 102 Stat. 301, provided that announcement of decrease in or cessation of Federal activities in certain areas not to affect determination of payment.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1994, see section 3(a)(3)(B) of Pub. L. 103–382, set out as a note under section 236 of this title.

CHAPTER 20—GRANTS FOR TEACHING IN THE EDUCATION OF THE DEAF

§§ 671 to 676. Omitted

Chapter consisted of Pub. L. 87–276, Sept. 22, 1961, 75 Stat. 575, in its entirety. Under the terms of section 6(b) thereof, as amended, the provisions of Pub. L. 87–276 terminated on June 30, 1964. See section 1401 et seq. of this title and section 2495 of Title 42, The Public Health and Welfare.

Section 671, Pub. L. 87–276, §1, Sept. 22, 1961, 75 Stat. 575, authorized Commissioner of Education to conduct a program of grants-in-aid to help provide courses of training and study for teachers of the deaf and to improve existing courses.

Section 672, Pub. L. 87–276, §2, Sept. 22, 1961, 75 Stat. 575, provided for making of payments by Commissioner under such a program.

Section 673, Pub. L. 87–276, §3, Sept. 22, 1961, 75 Stat. 575, defined ''nonprofit'', ''accredited'', and ''approved''.

Section 674, Pub. L. 87–276, §4, Sept. 22, 1961, 75 Stat. 576, authorized Commissioner to delegate his functions under this chapter except the making of regulations.

Section 675, Pub. L. 87–276, §5, Sept. 22, 1961, 75 Stat. 576, established Advisory Committee on the Training of Teachers of the Deaf to review and otherwise make recommendations in connection with grants-in-aid program.

Section 676, Pub. L. 87–276, §6, Sept. 22, 1961, 75 Stat. 576; Pub. L. 88–164, title III, §301(c), Oct. 31, 1963, 77 Stat. 295, authorized appropriations up through fiscal year ending June 30, 1964, and provided for termination of this chapter on June 30, 1964. Pub. L. 91–230, title VI, §662(4), Apr. 13, 1970, 84 Stat. 188, repealed title III of Pub. L. 88–164, cited above.

CHAPTER 20A—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

§§ 681 to 685. Repealed. Pub. L. 99–371, title II, §210(d), formerly title IV, §410(d), Aug. 4, 1986, 100 Stat. 794; renumbered title II, §210(d), Pub. L. 102–421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151

Section 681, Pub. L. 89–36, §2, June 8, 1965, 79 Stat. 125, stated purpose of and authorized appropriations for National Technical Institute for the Deaf. See section 4331 of this title.

Section 682, Pub. L. 89–36, §3, June 8, 1965, 79 Stat. 125; Pub. L. 96–88, title III, §301(a)(1), (2)(M), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, defined ''Secretary'', ''institution of higher education'', and ''construction''. See section 4351 of this title.

Section 683, Pub. L. 89–36, §4, June 8, 1965, 79 Stat. 125, related to proposals for establishing and operating a National Technical Institute for the Deaf.

Section 684, Pub. L. 89–36, §5, June 8, 1965, 79 Stat. 126, related to entering into an agreement for establishment and operation of a National Technical Institute for the Deaf. See section 4332 of this title.

Section 685, Pub. L. 89–36, §6, June 8, 1965, 79 Stat. 127, related to a National Advisory Board for the establishment of a national technical institute for the deaf.

SHORT TITLE

Pub. L. 89–36, §1, June 8, 1965, 79 Stat. 125, which provided that this chapter be cited as the ''National Technical Institute for the Deaf Act'', was repealed by Pub. L. 99–371, title II, §210(d), formerly title IV, §410(d), Aug. 4, 1986, 100 Stat. 794; renumbered title II, §210(d), Pub. L. 102–421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151.

§686. Transferred

Section, Pub. L. 95–355, title I, §100, Sept. 8, 1978, 92 Stat. 531, which authorized National Technical Institute for the Deaf to make purchases through General Services Administration, was transferred to section 4362 of this title.

CHAPTER 20B—GALLAUDET COLLEGE

SUBCHAPTER I—CONTINUATION AND ADMINISTRATION

§§ 691 to 691g. Repealed. Pub. L. 99–371, title II, §210(d), formerly title IV, §410(a), Aug. 4, 1986, 100 Stat. 794; renumbered title II, §210(a), Pub. L. 102–421, title I, §101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151

Section 691, act June 18, 1954, ch. 324, §1, 68 Stat. 265, directed that Gallaudet College be successor to Columbia Institution for the Deaf. See section 4301(a) of this title.

Section 691a, act June 18, 1954, ch. 324, §2, 68 Stat. 265, stated purposes of Gallaudet College. See section 4301(b) of this title.

Section 691b, acts June 18, 1954, ch. 324, §3, 68 Stat. 265; Sept. 13, 1960, Pub. L. 86–776, §4, 74 Stat. 917; Oct. 17, 1979, Pub. L. 96–88, title III, §301(a)(2)(M), title V, §507, 93 Stat. 677, 692, related to property rights of Gallaudet College, assumption of outstanding liabilities and obligations against corporation under any former name, and conveyance or mortgage of property. See section 4302 of this title.

Section 691c, act June 18, 1954, ch. 324, §4, 68 Stat. 265, related to gifts of property to Gallaudet College. See section 4352(a) of this title.

Section 691d, acts June 18, 1954, ch. 324, § 5, 68 Stat. 265; July 23, 1968, Pub. L. 90–415, §§ 1, 2, 82 Stat. 397, related to composition and appointment, etc., of Board of Directors of Gallaudet College. See section 4303(a) of this title.

Section 691e, act June 18, 1954, ch. 324, § 6, 68 Stat. 266, related to powers of Board of Directors of Gallaudet College. See section 4303(b) of this title.

Section 691f, acts June 18, 1954, ch. 324, § 7, 68 Stat. 266; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, 93 Stat. 677, 692, related to financial transactions and accounts of Gallaudet College and an annual report to Secretary of Education. See sections 4353 and 4354(a) of this title.

Section 691g, act June 18, 1954, ch. 324, § 8, 68 Stat. 266, authorized appropriations for Gallaudet College.

§§ 691h, 691i. Transferred

Section 691h, R.S. § 441; Mar. 4, 1911, ch. 285, 36 Stat. 1422; 1940 Reorg. Plan No. IV, § 11, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1234; 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; June 18, 1954, ch. 324, § 1, 68 Stat. 265; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, 93 Stat. 677, 692, which charged Secretary of Education with supervision of public business of Gallaudet College, was transferred to section 4361 of this title.

Section 691i, Pub. L. 95–355, title I, § 100, Sept. 8, 1978, 92 Stat. 531, which authorized Gallaudet College to make purchases through General Services Administration, was transferred to section 4362 of this title.

SUBCHAPTER II—MODEL SECONDARY SCHOOL FOR THE DEAF

§§ 693 to 693b. Repealed. Pub. L. 99–371, title II, § 210(c), formerly title IV, § 410(c), Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 210(c), Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151

Section 693, Pub. L. 89–694, § 2, Oct. 15, 1966, 80 Stat. 1027, authorized appropriations for a model secondary school for the deaf.

Section 693a, Pub. L. 89–694, § 3, Oct. 15, 1966, 80 Stat. 1027; Pub. L. 96–88, title III, § 301(a)(2)(N), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 695, defined ''Secretary'', ''construction'', and ''secondary school''. See section 4351 of this title.

Section 693b, Pub. L. 89–694, § 4, Oct. 15, 1966, 80 Stat. 1027, related to an agreement with Gallaudet College to establish a model secondary school. See section 4322 of this title.

SHORT TITLE

Pub. L. 89–694, § 1, Oct. 15, 1966, 80 Stat. 1027, which provided that this subchapter be cited as the ''Model Secondary School for the Deaf Act'', was repealed by Pub. L. 99–371, title II, § 210(c), formerly title IV, § 410(c), Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 210(c), Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151.

SUBCHAPTER III—DEMONSTRATION ELEMENTARY SCHOOL FOR THE DEAF

§§ 695 to 695c. Repealed. Pub. L. 99–371, title II, § 210(b), formerly title IV, § 410(b), Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 210(b), Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151

Section 695, Pub. L. 91–587, § 1, Dec. 24, 1970, 84 Stat. 1579, authorized Gallaudet College to operate Kendall School as a demonstration elementary school for the deaf. See section 4311 of this title.

Section 695a, Pub. L. 91–587, § 2, Dec. 24, 1970, 84 Stat. 1579, defined ''elementary school'' and ''construction''. See section 4351 of this title.

Section 695b, Pub. L. 91–587, § 3, Dec. 24, 1970, 84 Stat. 1579, authorized appropriations for establishment and operation, including construction and equipment, of demonstration elementary school.

Section 695c, Pub. L. 91–587, § 4, Dec. 24, 1970, 84 Stat. 1579, related to design and construction of facilities of demonstration elementary school.

CHAPTER 21—HIGHER EDUCATION FACILITIES

CONTINUATION OF PROGRAMS

Pub. L. 92–318, § 161(b)(1), June 23, 1972, 86 Stat. 303, provided that: ''The programs authorized by title VII of the Higher Education Act of 1965 [title VII of Pub. L. 89–329, which was classified to section 1132a et seq. of this title, prior to being amended generally by Pub. L. 105–244] shall be deemed to be a continuation of the comparable programs authorized by the Higher Education Facilities Act of 1963 [this chapter].''

§ 701. Omitted

CODIFICATION

Section, Pub. L. 88–204, § 2, Dec. 16, 1963, 77 Stat. 363, related to congressional findings and declaration of policy.

SUBCHAPTER I—GRANTS FOR CONSTRUCTION OF UNDERGRADUATE ACADEMIC FACILITIES

§§ 711 to 721. Repealed. Pub. L. 92–318, title I, § 161(b)(2), June 23, 1972, 86 Stat. 303

Section 711, Pub. L. 88–204, title I, § 101, Dec. 16, 1963, 77 Stat. 364; Pub. L. 89–329, title VII, § 701(b), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89–752, § 2(a), (b), Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, title IV, § 401(a)(1), (2), Oct. 16, 1968, 82 Stat. 1059, authorized appropriations for grants for construction of undergraduate academic facilities.

Section 712, Pub. L. 88–204, title I, § 102, Dec. 16, 1963, 77 Stat. 364; Pub. L. 89–752, § 2(c), Nov. 3, 1966, 80 Stat. 1241 provided for allotment of funds.

Section 713, Pub. L. 88–204, title I, § 103, Dec. 16, 1963, 77 Stat. 365; Pub. L. 89–329, title VII, § 702(a)(1), (2), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89–752, § 2(d), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90–575, title IV, §§ 401(a)(4), 406(a), Oct. 16, 1968, 82 Stat. 1059, 1061, provided for allotments for public community colleges and technical institutes, providing in former subsec. (a) for basis of computation and minimum amount; subsec. (b) availability of funds; subsec. (c) reallotment of unreserved funds at close of fiscal year and factors considered; subsec. (d) allotment ratio, specification and promulgation thereof, and definition of high school graduate.

Section 714, Pub. L. 88–204, title I, § 104, Dec. 16, 1963, 77 Stat. 366; Pub. L. 89–329, title VII, § 702(b)(1), (2), Nov. 8, 1965, 79 Stat. 1267; Pub. L. 89–752, § 2(d), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90–575, title IV, §§ 401(a)(4), 406(a), Oct. 16, 1968, 82 Stat. 1059, 1061, provided for allotments for institutions of higher education other than public community colleges and technical institutes, providing in former subsec. (a) for considerations and determinations affecting allotments and minimum; subsec. (b) availability of funds; and subsec. (c) reallotment of unreserved funds at close of fiscal year and factors considered.

Section 715, Pub. L. 88–204, title I, § 105, Dec. 16, 1963, 77 Stat. 367; Pub. L. 89–329, title VII, § 702(a)(3), (4), (b)(3), (c)(1), Nov. 8, 1965, 79 Stat. 1267, 1268; Pub. L. 89–752, § 3(a), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90–575, title IV, § 401(a)(3), Oct. 16, 1968, 82 Stat. 1059, provided for State commissions and plans and authorized expenditures.

Section 716, Pub. L. 88–204, title I, § 106, Dec. 16, 1963, 77 Stat. 368; Pub. L. 89–329, title VII, § 701(a), Nov. 8, 1965, 79 Stat. 1266; Pub. L. 90–575, title IV, § 402(a)(1),

(b)(1), Oct. 16, 1968, 82 Stat. 1059, 1060, related to eligibility of institutions for grants and expansion of student enrollment capacity.

Section 717, Pub. L. 88–204, title I, §107, Dec. 16, 1963, 77 Stat. 368; Pub. L. 89–329, title VII, §702(c)(2), Nov. 8, 1965, 79 Stat. 1268; Pub. L. 90–575, title IV, §§402(a)(2), 405(a), Oct. 16, 1968, 82 Stat. 1059, 1061, provided basic criteria for determining priorities and Federal share.

Section 718, Pub. L. 88–204, title I, §108, Dec. 16, 1963, 77 Stat. 369; Pub. L. 90–575, title IV, §402(a)(3), Oct. 16, 1968, 82 Stat. 1059, related to applications for grants, providing in former subsec. (a) for submission of applications by institutions; subsec. (b) conditions for approval; and subsec. (c) amendments of applications.

Section 719, Pub. L. 88–204, title I, §109, Dec. 16, 1963, 77 Stat. 370, provided for reservation and payment of grant.

Section 720, Pub. L. 88–204, title I, §110, Dec. 16, 1963, 77 Stat. 370, provided for disapproval of State plans, notice and hearing, findings of Commissioner, and notification of non-eligibility.

Section 721, Pub. L. 88–204, title I, §111, Dec. 16, 1963, 77 Stat. 370, related to judicial review, providing in former subsec. (a) for appeal by State of Commissioner's final action to court of appeals; subsec. (b) findings of Commissioner conclusive if substantially supported, remand for taking further evidence, and new or modified findings conclusive if supported; subsec. (c) jurisdiction of court of appeals and review by Supreme Court.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1972, see section 161(b)(2) of Pub. L. 92–318.

SUBCHAPTER II—GRANTS FOR CONSTRUCTION OF GRADUATE ACADEMIC FACILITIES

§§ 731, 732. Repealed. Pub. L. 92–318, title I, § 161(b)(2), June 23, 1972, 86 Stat. 303

Section 731, Pub. L. 88–204, title II, §201, Dec. 16, 1963, 77 Stat. 371; Pub. L. 89–329, title VII, §§701(c), 702(d), Nov. 8, 1965, 79 Stat. 1267, 1268; Pub. L. 89–752, §4, Nov. 3, 1966, 80 Stat. 1242; Pub. L. 90–575, title IV, §401(b), Oct. 16, 1968, 82 Stat. 1059, authorized appropriations for grants for construction of graduate academic facilities.

Section 732, Pub. L. 88–204, title II, §202, Dec. 16, 1963, 77 Stat. 371; Pub. L. 90–575, title II, §291(b)(2), title IV, §405(b), Oct. 16, 1968, 82 Stat. 1050, 1061, related to grants, providing in subsec. (a) for eligible institutions and requirement of an application; subsec. (b) maximum allowable percentile of development cost; subsec. (c) action by panel of specialists required for application approval and considerations affecting approval; and subsec. (d) maximum amount of payments in any fiscal year.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1972, see section 161(b)(2) of Pub. L. 92–318.

§ 733. Repealed. Pub. L. 90–575, title II, § 291(b)(1), Oct. 16, 1968, 82 Stat. 1050

Section, Pub. L. 88–204, title II, §203, Dec. 16, 1963, 77 Stat. 371, established an Advisory Committee on Graduate Education.

SUBCHAPTER III—LOANS FOR CONSTRUCTION OF ACADEMIC FACILITIES

§§ 741 to 745. Omitted

CODIFICATION

Section 741, Pub. L. 88–204, title III, §301, Dec. 16, 1963, 77 Stat. 372, authorized the Commissioner to make loans for construction of academic facilities.

Section 742, Pub. L. 88–204, title III, §302, Dec. 16, 1963, 77 Stat. 372, prescribed the maximum amount of loans allowable within any State.

Section 743, Pub. L. 88–204, title III, §303, Dec. 16, 1963, 77 Stat. 372; Pub. L. 89–329, title VII, §§702(e), 703(a), Nov. 8, 1965, 79 Stat. 1268; Pub. L. 89–429, §4(a), May 24, 1966, 80 Stat. 166; Pub. L. 89–752, §5, Nov. 3, 1966, 80 Stat. 1242; Pub. L. 90–575, title IV, §§401(c), 402(a)(4), Oct. 16, 1968, 82 Stat. 1059, 1060, related to eligibility conditions, amounts and terms of loans, and authorization of appropriations.

Section 744, Pub. L. 88–204, title III, §304, Dec. 16, 1963, 77 Stat. 373; Pub. L. 89–752, §7, Nov. 3, 1966, 80 Stat. 1243, related to finality and conclusiveness of Commissioner's transactions and additional powers and duties of Commissioner.

Section 745, Pub. L. 88–204, title III, §305, as added Pub. L. 89–429, §4(b), May 24, 1966, 80 Stat. 166, related to Revolving Loan Fund.

§ 746. Repealed. Pub. L. 92–318, title I, § 161(b)(3), June 23, 1972, 86 Stat. 303

Section, Pub. L. 88–204, title III, §306, as added Pub. L. 90–575, title IV, §403, Oct. 16, 1968, 82 Stat. 1060, related to annual interest grants, providing in: subsec. (a) for power of Commissioner; subsec. (b) for maximum period and amount and approval by Secretary; subsec. (c) for authorization of appropriations and limitation on aggregate amount of contracts; subsec. (d) for maximum amount of funds usable in one State; and subsec. (e) certain prerequisites and nature of financing.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1972, see section 161(b)(3) of Pub. L. 92–318.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 751. Omitted

CODIFICATION

Section, Pub. L. 88–204, title IV, §401, Dec. 16, 1963, 77 Stat. 374; Pub. L. 89–329, title VII, §702(c)(3), (f), Nov. 8, 1965, 79 Stat. 1268; Pub. L. 89–752, §§6, 8, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title IV, §§402(a)(5), 405(a), Oct. 16, 1968, 82 Stat. 1060, 1061, defined ''academic facilities'', ''construction'', ''equipment'', ''development cost'', ''Federal share'', ''higher education building agency'', ''institution of higher education'', ''public community college and public technical institute'', ''cooperative graduate center'', ''cooperative graduate center board'', ''high school'', ''nonprofit educational institution'', ''public educational institution'', and ''State''.

§ 752. Repealed. Pub. L. 91–230, title IV, § 401(c)(6), (h)(2), Apr. 13, 1970, 84 Stat. 173, 174

Section, Pub. L. 88–204, title IV, §402, Dec. 16, 1963, 77 Stat. 377, related to Federal administration as to higher education facilities, providing in subsecs. (a) and (b) for delegation of functions by Commissioner and for utilization of services and facilities of other agencies and payment for services in advance or by way of reimbursement, now superseded by section 1231 of this title, and in subsec. (c) for appointment of advisory committees and for compensation ($75 per day limitation) and travel expenses of members of such advisory committees.

§§ 753 to 756. Omitted

CODIFICATION

Section 753, Pub. L. 88–204, title IV, §403, Dec. 16, 1963, 77 Stat. 378, related to labor standards on projects assisted by grant or loan.

Section 754, Pub. L. 88–204, title IV, §404, Dec. 16, 1963, 77 Stat. 378, related to period of Federal interest in project and recovery of payments.

Section 755, Pub. L. 88–204, title IV, § 405, Dec. 16, 1963, 77 Stat. 378, related to method of payment.

Section 756, Pub. L. 88–204, title IV, § 406, Dec. 16, 1963, 77 Stat. 379, related to authorization of appropriations for administration.

§ 757. Repealed. Pub. L. 91–230, title IV, § 401(f)(4), Apr. 13, 1970, 84 Stat. 173

Section, Pub. L. 88–204, title IV, § 407, Dec. 16, 1963, 77 Stat. 379, prohibited Federal control of education (personnel, curriculum, methods of instruction, or administration), and was superseded by section 1232a of this title.

§ 758. Omitted

CODIFICATION

Section, Pub. L. 88–204, title IV, § 408, as added Pub. L. 89–769, § 7(a), Nov. 6, 1966, 80 Stat. 1318; amended Pub. L. 90–21, title I, § 101, May 29, 1967, 81 Stat. 36; Pub. L. 90–575, title IV, § 404, Oct. 16, 1968, 82 Stat. 1061; Pub. L. 91–606, title III, § 301(g), Dec. 31, 1970, 84 Stat. 1759; Pub. L. 93–288, title VII, § 702(g), formerly title VI, § 602(g), May 22, 1974, 88 Stat. 164, renumbered title VII, § 702(g), Pub. L. 103–337, div. C, title XXXIV, § 3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100, related to assistance for higher education construction in major disaster areas.

CHAPTER 22—NATIONAL COUNCIL ON THE ARTS

§§ 781 to 788. Repealed. Pub. L. 91–346, § 5(d)(3)(B), July 20, 1970, 84 Stat. 445

For general subject matter of sections 781 to 788, see section 955 of this title.

Section 781, Pub. L. 88–579, § 2, Sept. 3, 1964, 78 Stat. 905, set forth a Congressional declaration of policy to encourage and promote the Nation's artistic and cultural progress by establishing a National Council on the Arts.

Section 782, Pub. L. 88–579, § 3, Sept. 3, 1964, 78 Stat. 905, proscribed Federal control over policy or program determination in the administration of this chapter.

Section 783, Pub. L. 88–579, § 4, Sept. 3, 1964, 78 Stat. 905, established in the Executive Office of the President a National Council on the Arts. See section 955 of this title and notes thereunder.

Section 784, Pub. L. 88–579, § 5, Sept. 3, 1964, 78 Stat. 905; Pub. L. 89–209, § 6(d)(1), (2), Sept. 29, 1965, 79 Stat. 849, 850, provided for appointment, composition, terms of office and vacancies in the National Council on the Arts.

Section 785, Pub. L. 88–579, § 6, Sept. 3, 1964, 78 Stat. 906; Pub. L. 89–209, § 5(d)(2)(A), Sept. 29, 1965, 79 Stat. 847; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223, provided for appointment of a Chairman of the National Council on the Arts, his term of office and reimbursement for his expenses.

Section 786, Pub. L. 88–579, § 7, Sept. 3, 1964, 78 Stat. 906; Pub. L. 89–209, § 6(d)(3), (4), Sept. 29, 1965, 79 Stat. 850, provided that the National Council on the Arts meet at the call of the Chairman at least twice a year, established 14 Council members as constituting a quorum, and set forth functions and duties of the Council.

Section 787, Pub. L. 88–579, § 8, Sept. 3, 1964, 78 Stat. 907, provided for compensation of Council members.

Section 788, Pub. L. 88–579, § 9, Sept. 3, 1964, 78 Stat. 907, authorized appointment of and compensation for secretarial, clerical, and other staff and further authorized procurement by the Chairman of temporary and intermittent services.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1970, see section 5(d)(3)(B) of Pub. L. 91–346.

§ 789. Repealed. Pub. L. 89–209, § 6(d)(5), Sept. 29, 1965, 79 Stat. 850

Section, Pub. L. 88–579, § 10, Sept. 3, 1964, 78 Stat. 907; Pub. L. 89–125, Aug. 13, 1965, 79 Stat. 518, authorized $150,000 per annum to be appropriated to the Council to carry out the purpose of this chapter. See section 960 of this title.

Section was also repealed by Pub. L. 91–346, § 5(d)(3)(B), July 20, 1970, 84 Stat. 445.

§ 790. Repealed. Pub. L. 91–346, § 5(d)(3)(B), July 20, 1970, 84 Stat. 445

Section, Pub. L. 88–579, § 11, Sept. 3, 1964, 78 Stat. 907, provided that this chapter would not invalidate any act of Congress or Executive order vesting authority in the Commission of Fine Arts or any other Federal advisory body nor would this chapter authorize the National Council on the Arts to undertake any duty or responsibility which belongs to any other Federal advisory body established as of Sept. 3, 1964.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1970, see section 5(d)(3)(B) of Pub. L. 91–346.

CHAPTER 23—TRAINING AND FELLOWSHIP PROGRAMS FOR COMMUNITY DEVELOPMENT

Sec.

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§ 801. Congressional findings and purpose

(a) Need for training and research related to community development

The Congress finds that the rapid expansion of the Nation's urban areas and urban population has caused severe problems in urban and suburban development and created a national need to (1) provide special training in skills needed for economic and efficient community development, and (2) support research in new or improved methods of dealing with community development problems.

(b) Fellowships for specialists and personnel in urban affairs; grants to institutions of higher education; assistance to States and localities

It is the purpose of this chapter to provide fellowships for the graduate training of profes-

sional city and regional planning, management, and housing specialists, and professionally trained personnel with a general capacity in urban affairs and problems: to make grants to and contracts with institutions of higher education (or combinations of such institutions) to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the preparation of graduate or professional students to enter the public service; and to assist and encourage the States and localities, in cooperation with public and private universities and colleges and urban centers and with business firms and associations, labor unions, and other interested associations and organizations, to (1) organize, initiate, develop, and expand programs which will provide special training in skills needed for economic and efficient community development to those technical, professional, and other persons with the capacity to master and employ such skills who are, or are training to be, employed by a governmental or public body which has responsibility for community development, or by a private nonprofit organization which is conducting or has responsibility for housing and community development programs, and (2) support State and local research that is needed in connection with housing programs and needs, public improvement programing, code problems, efficient land use, urban transportation, and similar community development problems.

(Pub. L. 88–560, title VIII, § 801, Sept. 2, 1964, 78 Stat. 802; Pub. L. 90–448, title XVII, § 1707(a), Aug. 1, 1968, 82 Stat. 605; Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 392; Pub. L. 93–383, title IV, § 402(a), Aug. 22, 1974, 88 Stat. 691.)

CODIFICATION

Pub. L. 93–383, § 402, provided for amendments to title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such title VIII have been executed to comparable sections of title VIII of the Housing Act of 1964 as the probable intent of Congress.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–383 expanded purposes of chapter to include graduate training in regional planning and for training of personnel with a general capacity in urban affairs and problems and authorizing grants and contracts with institutions of higher education for training of graduate or professional students.

1969—Subsec. (a). Pub. L. 91–152 inserted a comma before ''and (2)''.

Subsec. (b). Pub. L. 91–152 inserted provision that it is the purpose of this chapter to grant fellowships for the graduate training of professional city planning and urban and housing technicians and specialists.

1968—Subsec. (b). Pub. L. 90–448 provided for cooperation with business firms and associations, labor unions, and other interested associations or organizations, included employment by a private nonprofit organization which is conducting or has responsibility for housing and community development programs, and substituted ''technical, professional, and other persons with the capacity to master and employ such skills'' for ''technical and professional people.''

§ 802. Fellowships for city planning, management, housing specialists, and persons with general capacity in urban affairs and problems

(a) Criteria

The Secretary is authorized to provide fellowships for the graduate training of professional city planning, management, and housing specialists, and other persons who wish to develop a general capacity in urban affairs and problems as herein provided. Persons shall be selected for such fellowships solely on the basis of ability and upon the recommendation of the Urban Studies Fellowship Advisory Board established pursuant to subsection (b) of this section. Fellowships shall be solely for training in public and private nonprofit institutions of higher education having programs of graduate study in the field of city planning or in related fields (including architecture, civil engineering, economics, municipal finance, public administration, urban affairs, and sociology) which programs are oriented to training for careers in city and regional planning, housing, urban renewal, and community development.

(b) Urban Studies Fellowship Board

There is hereby established the Urban Studies Fellowship Advisory Board (hereinafter referred to as the ''Board''), which shall consist of nine members to be appointed by the Secretary as follows: Three from public institutions of higher learning and three from private nonprofit institutions of higher education, who are the heads of departments which provide academic courses appropriately related to the fields referred to in subsection (a) of this section, and three from national organizations which are directly concerned with problems relating to urban, regional, and community development. The Board shall meet upon the request of the Secretary and shall make recommendations to him with respect to persons to be selected for fellowships under this section. Members of the Board shall be entitled to receive transportation expenses and a per diem in lieu of subsistence as authorized for members of advisory committees created pursuant to section 1701h of title 12.

(Pub. L. 88–560, title VIII, § 802, Sept. 2, 1964, 78 Stat. 802; Pub. L. 89–117, title XI, § 1103(a), Aug. 10, 1965, 79 Stat. 503; Pub. L. 90–19, § 21(d), May 25, 1967, 81 Stat. 26; Pub. L. 90–448, title XVII, § 1707(a)(2), (3), Aug. 1, 1968, 82 Stat. 606; Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 392; Pub. L. 93–383, title IV, § 402(b), Aug. 22, 1974, 88 Stat. 691.)

CODIFICATION

Pub. L. 93–383, § 402, provided for amendments to title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such title VIII have been executed to comparable sections of title VIII of the Housing Act of 1964 as the probable intent of Congress.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–383 expanded authority of Secretary to include fellowships in graduate training in city management and for persons wishing to develop a general capacity in urban affairs and added urban affairs to authorized fields of study.

1969—Pub. L. 91–152 substituted provisions authorizing the Secretary to grant fellowships solely on the basis of ability for training in city planning at public and private nonprofit institutions of higher education and establishing the Urban Studies Fellowship Advisory Board for provisions authorizing the Secretary to make matching grants to States to assist in programs providing special training in community development and to support local research and setting forth the provisions required in any plan submitted to the Secretary in order to obtain grants. The former provisions of this section are now set forth in section 803 of this title with minor amendments.

1968—Subsec. (a)(1). Pub. L. 90–448 substituted ''technical, professional, and other persons with the capacity to master and employ such skills'' for ''technical and professional people'', and inserted provisions to include employment by a private nonprofit organization which is conducting or has responsibility for housing and community development programs.

1967—Subsecs. (a), (b). Pub. L. 90–19 substituted ''Secretary'' for ''Administrator'' wherever appearing.

1965—Subsec. (d). Pub. L. 89–117 substituted ''$30,000,000'' for ''$10,000,000''.

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 803. Matching grants to States

(a) Purposes

Subject to the provisions of this chapter and in accordance with regulations prescribed by him, the Secretary may make matching grants to States to assist in—

(1) organizing, initiating, developing, or expanding programs to provide special training in skills needed for economic and efficient community development to those technical, professional, and other persons with the capacity to master and employ such skills who are, or are training to be, employed by a governmental or public body which has responsibilities for community development, or by a private nonprofit organization which is conducting or has responsibility for housing and community development programs; and

(2) supporting State and local research that is needed in connection with housing programs and needs, public improvement programing, code problems, efficient land use, urban transportation, and similar community development problems, and collecting, collating, and publishing statistics and information relating to such research.

(b) Training in housing management

Grants may be made under subsection (a) of this section to support (1) the training of persons, especially persons of low income, in acquiring the skills needed in the management of housing for low- and moderate-income persons, and (2) research and the dissemination of information with respect to the problems involved in the management of housing for low- and moderate-income persons.

(c) State plan; required provisions

No grants may be made to a State under this section unless the Secretary has approved a plan for the State which—

(1) sets forth the proposed use of the funds and the objectives to be accomplished;

(2) explains the method by which the required amounts from non-Federal sources will be obtained;

(3) provides such fiscal control and fund accounting procedures as may be reasonably necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State under this section;

(4) designates an officer or agency of the State government who has responsibility and authority for the administration of a statewide research and training program as the officer or agency with responsibility and authority for the execution of the State's program under this section; and

(5) provides that such officer or agency will make such reports to the Secretary, in such form, and containing such information, as may be reasonably necessary to enable the Secretary to perform his duties under this section.

(d) Matching funds from non-Federal sources

No grant may be made under this section for any use unless an amount at least equal to such grant is made available from non-Federal sources for the same purpose and for concurrent use.

(Pub. L. 88–560, title VIII, § 803, Sept. 2, 1964, 78 Stat. 803; Pub. L. 89–117, title XI, § 1103(b), Aug. 10, 1965, 79 Stat. 503; Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 393; Pub. L. 91–609, title IX, § 904, Dec. 31, 1970, 84 Stat. 1809.)

AMENDMENTS

1970—Subsecs. (b) to (d). Pub. L. 91–609 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1969—Pub. L. 91–152 substituted provisions authorizing the Secretary to make matching grants to States to assist in programs providing special training in community development and to support State and local research, provisions setting forth the required contents of any plan submitted to the Secretary in order to obtain grants, and provisions requiring the matching from non-Federal sources of any grant made pursuant to this section, for provisions requiring not more than 10 per centum of the total amount appropriated be used for making grants to any one State. The former provisions of this section are now set forth in section 804 of this title with minor amendments.

1965—Pub. L. 89–117 substituted ''appropriated for the purposes of this subchapter'' for ''authorized to be appropriated by section 802(d) of this title''.

§ 803a. Project grants and contracts

(a) Authorization; purposes; application

The Secretary is authorized to make grants to or contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects (1) for the preparation of graduate or professional students in the fields of city and regional planning and management, housing, and urban affairs, or (2) for research into, or develop-

ment or demonstration of, improved methods of education for these professions. Such grants or contracts may include payment of all or part of the cost of programs or projects.

(b) Contents; use of payments

(1) A grant or contract authorized by this section shall be made only upon application to the Secretary at such time or times and containing such information as he may prescribe, except that no such application shall be approved unless it—

(A) sets forth programs, activities, research, or development for which a grant is authorized under this section;

(B) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subsection; and

(C) provides for making such reports, in such form and containing such information, as the Secretary may require to carry out his functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(2) Payments under this section may be used, in accordance with regulations of the Secretary, and subject to the terms and conditions set forth in an application approved under paragraph (1), to pay part of the compensation of students employed in professions referred to in subsection (a)(1) of this section, except students employed in any branch of the Government of the United States, as part of a program for which a grant has been approved pursuant to this subsection.

(Pub. L. 88–560, title VIII, § 804, as added Pub. L. 93–383, title IV, § 402(c)(2), Aug. 22, 1974, 88 Stat. 692.)

CODIFICATION

Pub. L. 93–383, § 402, provided for amendments to title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such title VIII have been executed to comparable sections of title VIII of the Housing Act of 1964 as the probable intent of Congress.

§ 804. Limitation on grants to any one State

Not more than 10 per centum of the total amount appropriated for the purposes of this chapter may be used for making grants to any one State.

(Pub. L. 88–560, title VII, § 805, formerly § 804, Sept. 2, 1964, 78 Stat. 803; Pub. L. 90–19, § 21(d), May 25, 1967, 81 Stat. 26; Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 394; renumbered § 805, Pub. L. 93–383, title IV, § 402(c)(1), Aug. 22, 1974, 88 Stat. 692.)

AMENDMENTS

1969—Pub. L. 91–152 substituted provisions that not more than 10 per centum of the total amount appropriated be used for making grants to any one State for provisions that authorized the Secretary to provide technical assistance, etc., to State and local bodies. The former provisions of the section are now set forth in section 805 of this title with minor amendments.

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Administrator'' wherever appearing.

§ 805. Technical assistance, studies, and publication of information

In order to carry out the purpose of this chapter, the Secretary is authorized to provide technical assistance to State and local governmental or public bodies and to undertake such studies and publish and distribute such information, either directly or by contract, as he shall determine to be desirable. Nothing contained in this chapter shall limit any authority of the Secretary under any other provision of law.

(Pub. L. 88–560, title VIII, § 806, formerly § 805, Sept. 2, 1964, 78 Stat. 803; Pub. L. 90–19, § 21(e), May 25, 1967, 81 Stat. 26; Pub. L. 90–448, title XVII, § 1707(b), Aug. 1, 1968, 82 Stat. 606; Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 394; renumbered § 806, Pub. L. 93–383, title IV, § 402(c)(1), Aug. 22, 1974, 88 Stat. 692.)

AMENDMENTS

1969—Pub. L. 91–152 substituted provisions authorizing the Secretary to provide technical assistance, etc., to State and local bodies to carry out the purposes of this chapter for provisions defining ''State'' and ''Secretary'' and authorizing to be appropriated such sums as may be necessary for administrative and other expenses. The former provisions of this section are now set forth in section 807 of this title with minor amendments.

1968—Subsec. (a). Pub. L. 90–448 inserted ''Guam, American Samoa, the Trust Territory of the Pacific Islands,''.

1967—Subsec. (a). Pub. L. 90–19 substituted definition of ''Secretary'' meaning the Secretary of Housing and Urban Development for ''Administrator'' meaning the Housing and Home Finance Administrator.

§ 806. Authorization of appropriations; availability of funds

There is authorized to be appropriated for the purpose of making grants and providing fellowships under this chapter, without fiscal year limitation, not to exceed $30,000,000, which amount shall be increased by $3,500,000 on July 1, 1974, and by $3,500,000 on July 1, 1975. Any amounts appropriated under this section shall remain available until expended.

(Pub. L. 88–560, title VIII, § 807, formerly § 806, as added Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 394; renumbered § 807 and amended Pub. L. 93–383, title IV, § 402(c)(1), (d), Aug. 22, 1974, 88 Stat. 692.)

CODIFICATION

Pub. L. 93–383, § 402, provided for amendments to title VIII of the Housing and Urban Development Act of 1964. The amendments of the enumerated sections of such title VIII have been executed to comparable sections of title VIII of the Housing Act of 1964 as the probable intent of Congress.

AMENDMENTS

1974—Pub. L. 93–383, § 402(d), inserted provisions increasing amount by $3,500,000 on July 1, 1974, and by $3,500,000 on July 1, 1975.

§ 807. Definitions; authorization of appropriations for administrative and other expenses

(a) As used in this chapter the term ''State'' means any State of the United States, the Dis-

trict of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands; and the term ''Secretary'' means the Secretary of Housing and Urban Development.

(b) There are authorized to be appropriated such sums as may be necessary for administrative and other expenses in carrying out this chapter.

(Pub. L. 88–560, title VIII, § 808, formerly § 807, as added Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 394; renumbered § 808, Pub. L. 93–383, title IV, § 402(c)(1), Aug. 22, 1974, 88 Stat. 692.)

CODIFICATION

This chapter formerly consisted of subchapters I and II prior to its general reorganization by Pub. L. 91–152, title III, § 307, Dec. 24, 1969, 83 Stat. 394. Former subchapter II, consisting of section 811, Pub. L. 88–560, VIII, § 810, Sept. 2, 1964, 78 Stat. 803; Pub. L. 90–19, § 21(d), (f), May 25, 1967, 81 Stat. 26; Pub. L. 90–66, Aug. 19, 1967, 81 Stat. 167, was omitted in the general reorganization of this chapter by Pub. L. 91–152. For subject matter of former section 811, see section 802 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CHAPTER 24—GRANTS FOR EDUCATIONAL MATERIALS, FACILITIES AND SERVICES, AND STRENGTHENING OF EDUCATIONAL AGENCIES

CODIFICATION

Titles I to IX of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which were classified to this chapter (§ 821 et seq.), subchapter II (§ 241a et seq.) of chapter 13, and subchapter I (§ 1801 et seq.) of chapter 40 of this title, were amended generally by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2152, known as the Education Amendments of 1978, and the Elementary and Secondary Education Act of 1965 was transferred to chapter 47 (§ 2701 et seq.) of this title. Subsequently, that act was amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519, and transferred to chapter 70 (§ 6301 et seq.) of this title.

SUBCHAPTER I—SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

§§ 821 to 827. Omitted

CODIFICATION

Sections were omitted in the general revision of title II of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 36, by Pub. L. 95–561, title II, § 201, Nov. 1, 1978, 92 Stat. 2201.

Section 821, Pub. L. 89–10, title II, § 201, Apr. 11, 1965, 79 Stat. 36; Pub. L. 89–750, title I, § 121, Nov. 3, 1966, 80 Stat. 1199; Pub. L. 90–247, title III, § 301(b), Jan. 2, 1968, 81 Stat. 813; Pub. L. 91–230, title I, § 121(a), Apr. 13, 1970, 84 Stat. 130; Pub. L. 93–380, title I, § 102(a), Aug. 21, 1974, 88 Stat. 501; Pub. L. 95–112, § 2(b)(1), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for grants for the acquisition of books and school library resources for fiscal years ending prior to Oct. 1, 1979.

Section 822, Pub. L. 89–10, title II, § 202, Apr. 11, 1965, 79 Stat. 36; Pub. L. 89–750, title I, § 122, Nov. 3, 1966, 80 Stat. 1199; Pub. L. 90–247, title I, § 121, Jan. 2, 1968, 81 Stat. 788; Pub. L. 91–230, title I, § 121(b), Apr. 13, 1970, 84 Stat. 130; Pub. L. 92–318, title IV, § 421(b)(1)(A), June 23, 1972, 86 Stat. 341; Pub. L. 93–380, title I, § 102(b), title VIII, § 843(a), Aug. 21, 1974, 88 Stat. 502, 611, authorized additional appropriations for the territories and provided for the allotment of funds to States.

Section 823, Pub. L. 89–10, title II, § 203, Apr. 11, 1965, 79 Stat. 37; Pub. L. 89–750, title I, § 123, Nov. 3, 1966, 80 Stat. 1200; Pub. L. 92–318, title V, § 509(a)(1), June 23, 1972, 86 Stat. 353, set out the requirements for State plans.

Section 824, Pub. L. 89–10, title II, § 204, Apr. 11, 1965, 79 Stat. 38; Pub. L. 91–230, title I, § 121(c), Apr. 13, 1970, 84 Stat. 130; Pub. L. 94–482, title V, § 501(c), Oct. 12, 1976, 90 Stat. 2236; Pub. L. 95–112, § 2(b)(2), Sept. 24, 1977, 91 Stat. 911, made provision for payments to States.

Section 825, Pub. L. 89–10, title II, § 205, Apr. 11, 1965, 79 Stat. 38, provided for public control of furnished materials.

Section 826, Pub. L. 89–10, title II, § 206, Apr. 11, 1965, 79 Stat. 39, related to the administration of State plans.

Section 827, Pub. L. 89–10, title II, § 207, Apr. 11, 1965, 79 Stat. 39, related to judicial review of the Commissioner's final action.

SUBCHAPTER II—SUPPLEMENTARY EDUCATIONAL CENTERS AND SERVICES

§ 841. Omitted

CODIFICATION

Section, Pub. L. 89–10, title III, § 301, Apr. 11, 1965, 79 Stat. 39; Pub. L. 89–750, title I, § 131, Nov. 3, 1966, 80 Stat. 1201; Pub. L. 90–247, title I, § 131, Jan. 2, 1968, 81 Stat. 788; Pub. L. 91–230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 130; Pub. L. 93–380, title I, § 103(a), Aug. 21, 1974, 88 Stat. 502; Pub. L. 94–482, title V, § 501(a)(2), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 95–112, § 2(c)(1), Sept. 24, 1977, 91 Stat. 911, which authorized appropriations for the making of grants for supplementary educational centers and services for fiscal years ending prior to Oct. 1, 1979, was omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95–561, title III, § 301, Nov. 1, 1978, 92 Stat. 2210.

APPROPRIATION UNDER NATIONAL DEFENSE PROVISIONS AS APPROPRIATION UNDER THIS SECTION

Pub. L. 91–230, title I, § 131(c), Apr. 13, 1970, 84 Stat. 141, provided that any appropriation for the purposes of title V of the National Defense Education Act of 1958, section 481 et seq. of this title, for any fiscal year ending after June 30, 1970, was to be deemed to have been appropriated pursuant to this section.

§§ 842 to 844a. Omitted

CODIFICATION

Sections were omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95–561, title III, § 301, Nov. 1, 1978, 92 Stat. 2210.

Section 842, Pub. L. 89–10, title III, § 302, Apr. 11, 1965, 79 Stat. 40; Pub. L. 89–750, title I, § 132, Nov. 3, 1966, 80 Stat. 1201; Pub. L. 90–247, title I, § 131, Jan. 2, 1968, 81 Stat. 789; Pub. L. 91–230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 131; Pub. L. 92–318, title IV, § 421(b)(1)(B), June 23, 1972, 86 Stat. 341; Pub. L. 93–380, title I, § 103(b), title VIII, § 843(a), Aug. 21, 1974, 88 Stat. 502, 611, provided for the allotment of appropriated funds for supplementary educational centers and services.

Section 843, Pub. L. 89–10, title III, § 303, Apr. 11, 1965, 79 Stat. 40; Pub. L. 89–750, title I, § 152(b), Nov. 3, 1966, 80 Stat. 1203; Pub. L. 90–247, title I, § 131, Jan. 2, 1968, 81 Stat. 790; Pub. L. 91–230, title I, § 131(a)(1), Apr. 13, 1970, 84 Stat. 132; Pub. L. 92–318, title V, § 509(a)(2), June 23, 1972, 86 Stat. 353, related to the uses of Federal funds for supplementary educational centers and services.

Section 844, Pub. L. 89–10, title III, § 304, Apr. 11, 1965, 79 Stat. 41; Pub. L. 89–750, title I, §§ 133, 134, Nov. 3, 1966,

80 Stat. 1201, 1202; Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 791; Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 133, related to the content and form of applications for grant funds for supplementary educational centers and services.

Section 844a, Pub. L. 89–10, title III, §305, as added Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 792; amended Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 135; Pub. L. 93–380, title I, §103(c), title IV, §402(c)(2)(i), Aug. 21, 1974, 88 Stat. 502, 546; Pub. L. 94–273, §3(8), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95–112, §2(c)(2), Sept. 24, 1977, 91 Stat. 911, set out the requisites for State plans for supplementary educational centers and services.

A prior section 305 of Pub. L. 89–10 was renumbered section 307 by section 131 of Pub. L. 90–247 and was set out as section 845 of this title.

§844b. Repealed. Pub. L. 93–380, title IV, §402(c)(2)(ii), Aug. 21, 1974, 88 Stat. 546

Section, Pub. L. 89–10, title III, §306, as added Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 796; amended Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 139, provided for special programs and projects.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1975, see section 402(c)(2) of Pub. L. 93–380.

§§845 to 848. Omitted

CODIFICATION

Section 845, Pub. L. 89–10, title III, §307, formerly §305, Apr. 11, 1965, 79 Stat. 43, renumbered and amended Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 796; Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 139; Pub. L. 93–380, title I, §103(d), title IV, §402(c)(2)(iii), title VIII, §843(a)(2), Aug. 21, 1974, 88 Stat. 502, 546, 611; Pub. L. 94–482, title III, §323(a)(2), Oct. 12, 1976, 90 Stat. 2217, which related to the payments to States to carry out plans for supplementary educational centers and services, was omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95–561, title III, §301, Nov. 1, 1978, 92 Stat. 2210.

Section 846, Pub. L. 89–10, title III, §306, Apr. 11, 1965, 79 Stat. 43, required the establishment of an Advisory Committee on Supplementary Educational Centers and Services in the Office of Education, specified its membership and functions and provided for the compensation of its members, and was omitted in the general reorganization of this subchapter by Pub. L. 90–247.

Sections 847 and 847a were omitted in the general revision of title III of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title III, Apr. 11, 1965, 79 Stat. 39, by Pub. L. 95–561, title III, §301, Nov. 1, 1978, 92 Stat. 2210.

Section 847, Pub. L. 89–10, title III, §308, formerly §307, Apr. 11, 1965, 79 Stat. 44, renumbered Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 797; amended Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 140, related to the recovery of payments to supplementary educational centers and services.

Section 847a, Pub. L. 89–10, title III, §309, as added Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 797; amended Pub. L. 91–230, title I, §131(a)(1), Apr. 13, 1970, 84 Stat. 140; Pub. L. 93–380, title VIII, §845(b), Aug. 21, 1974, 88 Stat. 612; Pub. L. 94–273, §3(8), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95–112, §2(c)(3), Sept. 24, 1977, 91 Stat. 911, provided for the establishment of a National Advisory Council on Supplementary Centers and Services.

Section 848, Pub. L. 89–10, title III, §310, formerly §308, Apr. 11, 1965, 79 Stat. 44, renumbered Pub. L. 90–247, title I, §131, Jan. 2, 1968, 81 Stat. 798, which related to labor standards for grant-assisted construction projects, was eliminated in the general amendment of this subchapter by section 131(a)(1) of Pub. L. 91–230. See section 1232b of this title.

SUBCHAPTER III—STRENGTHENING STATE AND LOCAL EDUCATIONAL AGENCIES

PART A—GRANTS TO STRENGTHEN STATE DEPARTMENTS OF EDUCATION

§§861 to 865. Omitted

CODIFICATION

Sections were omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240.

Section 861, Pub. L. 89–10, title V, §501, Apr. 11, 1965, 79 Stat. 47; Pub. L. 89–750, title I, §151, Nov. 3, 1966, 80 Stat. 1203; Pub. L. 90–247, title I, §141, Jan. 2, 1968, 81 Stat. 799; Pub. L. 91–230, title I, §§141, 143(a)(4)(B), Apr. 13, 1970, 84 Stat. 141, 142; Pub. L. 93–380, title I, §104(a), Aug. 21, 1974, 88 Stat. 503; Pub. L. 95–112, §2(e)(1), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for grants to strengthen State departments of education for fiscal years ending prior to Oct. 1, 1979.

Section 862, Pub. L. 89–10, title V, §502, Apr. 11, 1965, 79 Stat. 48; Pub. L. 89–750, title I, §152(c), Nov. 3, 1966, 80 Stat. 1203; Pub. L. 90–247, title I, §§142(a), 143, 145(b)(1), (2), Jan. 2, 1968, 81 Stat. 799, 800; Pub. L. 91–230, title I, §143(a)(4)(B), Apr. 13, 1970, 84 Stat. 142; Pub. L. 93–380, title VIII, §843(a)(2), (3), Aug. 21, 1974, 88 Stat. 611, related to the apportionment of grant funds among States.

Section 863, Pub. L. 89–10, title V, §503, Apr. 11, 1965, 79 Stat. 49; Pub. L. 89–750, title I, §§152(a), 154, Nov. 3, 1966, 80 Stat. 1203, 1204; Pub. L. 90–247, title I, §§144, 145(a), Jan. 2, 1968, 81 Stat. 799, 800; Pub. L. 91–230, title I, §§142(a), 143(a)(4)(C), Apr. 13, 1970, 84 Stat. 142; Pub. L. 92–318, title V, §509(a)(3), June 23, 1972, 86 Stat. 353, related to programs and activities covered.

Section 864, Pub. L. 89–10, title V, §504, Apr. 11, 1965, 79 Stat. 50; Pub. L. 89–750, title I, §152(d), Nov. 3, 1966, 80 Stat. 1203; Pub. L. 91–230, title I, §143(a)(4)(B), Apr. 13, 1970, 84 Stat. 142, related to the findings prerequisite to the approval of applications for apportioned funds.

Section 865, Pub. L. 89–10, title V, §505, Apr. 11, 1965, 79 Stat. 51; Pub. L. 90–247, title I, §§145(b)(3), 146, Jan. 2, 1968, 81 Stat. 800, related to special project grants.

PART B—LOCAL EDUCATIONAL AGENCIES

§§866 to 866d. Omitted

CODIFICATION

Sections were omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240.

Section 866, Pub. L. 89–10, title V, §521, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 142; amended Pub. L. 93–380, title I, §104(b), Aug. 21, 1974, 88 Stat. 503; Pub. L. 95–112, §2(e)(2), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for grants to local educational agencies for fiscal years ending prior to Oct. 1, 1979.

A prior section 866, Pub. L. 89–10, title V, §506, Apr. 11, 1965, 79 Stat. 51, provided for payments to States: installments; advances or reimbursement; and adjustments, prior to repeal by Pub. L. 91–230, title I, §143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142.

Section 866a, Pub. L. 89–10, title V, §522, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 143; amended Pub. L. 93–380, title VIII, §843(a)(2), (3), Aug. 21, 1974, 88 Stat. 611, related to the apportionment of grant funds among States.

Section 866b, Pub. L. 89–10, title V, §523, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 143, related to grants from apportioned funds and to the programs and activities covered.

Section 866c, Pub. L. 89–10, title V, §524, as added Pub. L. 91–230, title I, §143(a)(4)(D), Apr. 13, 1970, 84 Stat. 144, related to the approval of applications by the Commissioner.

Section 866d, Pub. L. 89–10, title V, § 525, as added Pub. L. 91–230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 144, related to the approval of applications by State educational agencies.

PART C—COMPREHENSIVE EDUCATIONAL PLANNING AND EVALUATION

§§ 867 to 867c. Omitted

CODIFICATION

Sections were omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240.

Section 867, Pub. L. 89–10, title V, § 531, as added Pub. L. 91–230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 145; amended Pub. L. 93–380, title I, § 104(c), title VIII, § 843(a)(2), (3), Aug. 21, 1974, 88 Stat. 503, 611; Pub. L. 95–112, § 2(e)(3), Sept. 24, 1977, 91 Stat. 911, authorized the appropriation of funds for comprehensive planning and evaluation grants for fiscal years ending prior to Oct. 1, 1979.

A prior section 867, Pub. L. 89–10, title V, § 507, Apr. 11, 1965, 79 Stat. 51, as amended, was renumbered § 553 by Pub. L. 91–230, title I, § 143(a)(3), Apr. 13, 1970, 84 Stat. 142, and was classified to section 869b of this title which was repealed by Pub. L. 91–648, title IV, § 403, Jan. 5, 1971, 84 Stat. 1925.

Section 867a, Pub. L. 89–10, title V, § 532, as added Pub. L. 91–230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 146, related to comprehensive planning and evaluation grants and to the establishment and functioning of State planning and evaluation agencies.

Section 867b, Pub. L. 89–10, title V, § 533, as added Pub. L. 91–230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 147, related to the form and content of grant applications.

Section 867c, Pub. L. 89–10, title V, § 534, as added Pub. L. 91–230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 148, related to the required annual reports.

§ 868. Omitted

CODIFICATION

Section, Pub. L. 89–10, title V, § 541, as added Pub. L. 91–230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 148; amended Pub. L. 95–112, § 2(e)(4), Sept. 24, 1977, 91 Stat. 912, which provided for the establishment of a National Council on Quality in Education and State advisory councils, was omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240.

A prior section 868, Pub. L. 89–10, title V, § 508, Apr. 11, 1965, 79 Stat. 54, which provided for administration of State plan, was repealed by Pub. L. 91–230, title I, § 143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142.

Provisions similar to those comprising subsecs. (a)(1), (2)(A), (E), and (a)(3) of this section were contained in section 510(a), (b), (d) of Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 54, which was classified to section 870(a), (b), (d) of this title, prior to repeal of section 870 and general amendment of title V by section 143(a)(4)(A) and (D) of Pub. L. 91–230, respectively.

PART E—GENERAL PROVISIONS

§§ 869, 869a. Omitted

CODIFICATION

Section 869, Pub. L. 89–10, title V, § 551, as added Pub. L. 91–230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 150, which related to the administration of plans, to hearings, and to the steps following a failure to comply with the provisions related of this subchapter, was omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240.

A prior section 869, Pub. L. 89–10, title V, § 509, Apr. 11, 1965, 79 Stat. 54, which provided for judicial review, was repealed by Pub. L. 91–230, title I, § 143(a)(4)(A), Apr. 13, 1970, 84 Stat. 142.

Provisions similar to those comprising this section were contained in section 508 of Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 54, which was classified to section 868 of this title, prior to repeal of section 868 and general amendment of title V by section 143(a)(4)(A) and (D) of Pub. L. 91–230, respectively.

Section 869a, Pub. L. 89–10, title V, § 552, as added Pub. L. 91–230, title I, § 143(a)(4)(D), Apr. 13, 1970, 84 Stat. 151, which provided for judicial review of Commissioner's decision concerning approval of application or withholding of payments, was omitted in the general revision of title V of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 47, by Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2240.

Provisions similar to those comprising this section were contained in section 509 of Pub. L. 89–10, title V, Apr. 11, 1965, 79 Stat. 54, which was classified to section 869 of this title, prior to repeal of section 869 and general amendment of title V by section 143(a)(4)(A) and (D) of Pub. L. 91–230, respectively.

§ 869b. Repealed. Pub. L. 91–648, title IV, § 403, Jan. 5, 1971, 84 Stat. 1925

Section, Pub. L. 89–10, title V, § 553, formerly § 507, Apr. 11, 1965, 79 Stat. 51, amended Pub. L. 89–750, title I, § 153, Nov. 3, 1966, 80 Stat. 1204; renumbered and amended Pub. L. 91–230, title I, § 143(a)(3), Apr. 13, 1970, 84 Stat. 142, relating to interchange of personnel of Office of Education with States, provided in subsec. (a), definitions; subsec. (b), authorization for interchange and period of assignment; subsec. (c), Federal personnel assigned to States, compensation, continuation of Federal employment benefits, and disability; subsec. (d), reimbursement by States for services of assigned Federal personnel; subsec. (e), travel expenses of assigned Federal personnel; subsec. (f), State personnel assigned duty with Office of Education; subsec. (g), conflict of interest, disability of State personnel assigned with Office of Education; subsec. (h), travel expenses of assigned personnel; and subsec. (i), assignments of personnel subject to regulations of Commissioner.

EFFECTIVE DATE OF REPEAL

Repeal effective sixty days after Jan. 5, 1971, see section 404 of Pub. L. 91–648, set out as an Effective Date note under section 3371 of Title 5, Government Organization and Employees.

§ 870. Repealed. Pub. L. 91–230, title I, § 143(a)(4)(A), title IV, § 401(h)(3), Apr. 13, 1970, 84 Stat. 142, 174

Section, Pub. L. 89–10, title V, § 510, Apr. 11, 1965, 79 Stat. 54, related to the Advisory Council on State Departments of Education, providing in: subsec. (a) for its appointment by the Secretary within ninety days after April 11, 1965 and its functions; subsec. (b) for the membership and their qualifications; subsec. (c) for engagement of technical, clerical, and other assistance and access to pertinent data of the Department; subsec. (d) for an annual report to the Secretary and transmittal of it to the President and Congress; and (e) for compensation ($100 per day limitation, including travel time) and travel expenses of members of the Council.

SUBCHAPTER IV—EDUCATION OF HANDICAPPED CHILDREN

§§ 871 to 880a. Repealed. Pub. L. 91–230, title VI, § 662(3), Apr. 13, 1970, 84 Stat. 188

Section 871, Pub. L. 89–10, title VI, § 601, formerly § 601(a), as added Pub. L. 89–750, title I, § 161, Nov. 3, 1966, 80 Stat. 1204; renumbered § 601 and amended Pub.

L. 90–247, title I, §§151(4), 152(b)(2), title III, §301(c)(1), Jan. 2, 1968, 81 Stat. 800, 803, 813, authorized grants to States for education of handicapped children.

Section 872, Pub. L. 89–10, title VI, §602, formerly §601(b), as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered §602 and amended Pub. L. 90–247, title I, §§151(4), 152(b)(3), title III, §301(c)(2), Jan. 2, 1968, 81 Stat. 800, 803, 813, authorized appropriations of $50,000,000; $150,000,000; $162,500,000; and $200,000,000 for fiscal years ending June 30, 1967, 1968, 1969, 1970, respectively.

Section 873, Pub. L. 89–10, title VI, §603, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1205; amended Pub. L. 90–247, title I, §§152(b)(3), 153 Jan. 2, 1968, 81 Stat. 803, 804, related to allotment of appropriated funds: additional appropriation for outlying areas, payments to Secretaries of Interior and Defense, allotment among States; determination of population figures by Commissioner; reallotment.

Section 874, Pub. L. 89–10, title VI, §604, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1205; amended Pub. L. 90–247, title I, §151(4), Jan. 2, 1968, 81 Stat. 800, related to submission of State plans to Commissioner and requirements of such plans.

Section 875, Pub. L. 89–10, title VI, §605, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1207, provided for payments.

Section 876, Pub. L. 89–10, tile VI, §606, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1207; amended Pub. L. 90–247, title I, §151(4), Jan. 2, 1968, 81 Stat. 800, related to administration of State plans.

Section 877, Pub. L. 89–10, title VI, §607, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1207, provided for judicial review: jurisdiction, record; findings, substantial evidence, remand; review by United States Supreme Court.

Section 877a, Pub. L. 89–10, title VI, §608, as added Pub. L. 90–247, title I, §151(5), Jan. 2, 1968, 81 Stat. 801, related to regional resource centers: authorization of appropriations of $7,500,000; $7,750,000; and $10,000,000 for fiscal years ending June 30, 1968, 1969, and 1970, respectively; availability of appropriations for grants and contracts, functions of centers; considerations governing approval, of application; and manner of payment, adjustment of overpayments and underpayments.

Section 877b, Pub. L. 89–10, title VI, §609, as added Pub. L. 90–247, title I, §151(5), Jan. 2, 1968, 81 Stat. 801, related to model centers for deaf-blind children: Congressional declaration of purpose; authorization of Secretary to make grants and contracts; considerations governing making of grants or contracts; necessary services to be provided by centers; payment of costs of research, development, training and dissemination; definition of ''construction''; recovery of payments; determination of children who are both deaf and blind; manner of payment, adjustment of overpayments and underpayments; and authorization of appropriations of $1,000,000; $3,000,000; and $7,000,000 for fiscal years ending June 30, 1968, 1969, and 1970, respectively.

Section 877c, Pub. L. 89–10, title VI, §610, as added Pub. L. 90–247, title I, §151(5), Jan. 2, 1968, 81 Stat. 803, authorized grants or contracts to improve recruitment of educational personnel and dissemination of information concerning educational opportunities for handicapped.

Section 878, Pub. L. 89–10, title VI, §611, formerly §608, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1207; renumbered §611, Pub. L. 90–247, title I, §151(3), Jan. 2, 1968, 81 Stat. 800, provided for National Advisory Committee on Handicapped Children: membership; functions, annual report, recommendations; compensation, travel and per diem expenses; advisory professional and technical personnel.

Section 879, Pub. L. 89–10, title VI, §612, formerly §609, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1208; renumbered §612, Pub. L. 90–247, title I, §151(3), Jan. 2, 1968, 81 Stat. 800, provided for a bureau for education and training of the handicapped.

Section 880, Pub. L. 89–10, title VI, §613, formerly §610, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1208; renumbered §613, Pub. L. 90–247, title I, §151(3), Jan. 2, 1968, 81 Stat. 800, provided for labor standards requirement (prevailing wage rates).

Section 880a, Pub. L. 89–10, title VI, §614, formerly §602, as added Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered §614, Pub. L. 90–247, title I, §152(a), Jan. 2, 1968, 81 Stat. 803, defined ''handicapped children''.

Such sections 871 to 877 comprised Part A—Assistance to States for education of handicapped children.

Section 877a comprised Part B—Regional resource centers for improvement of education of handicapped children.

Section 877b comprised Part C—Centers and services for deaf-blind children.

Section 877c comprised Part D—Recruitment of personnel and information on education of handicapped.

Sections 878 to 880a comprised Part E—General provisions.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1971, see section 662 of Pub. L. 91–230.

SHORT TITLE

Section 615 of Pub. L. 89–10, as added by Pub. L. 90–247, title I, §154, Jan. 2, 1968, 81 Stat. 804, which provided that title VI of Pub. L. 89–10 [enacting this subchapter] was to be cited as the ''Education of the Handicapped Act'', was repealed by Pub. L. 91–230, title VI, §662(3), Apr. 13, 1970, 84 Stat. 188.

SUBCHAPTER IV–A—BILINGUAL EDUCATION

§ 880b. Omitted

CODIFICATION

Section 880b, Pub. L. 89–10, title VII, §702, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 503, which set out the Congressional declaration of policy with regard to bilingual education and authorized appropriations for fiscal years through the 1978 fiscal year, was omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

A prior section 880b, Pub. L. 89–10, title VII, §702, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, provided for Congressional declaration of policy and defined ''children of limited English-speaking ability''. Such provision remaining in effect through June 30, 1975, to the extent not inconsistent with the amendment made by section 105 of Pub. L. 93–380, see section 105(a)(2)(A) of Pub. L. 93–380, title I, Aug. 21, 1974, 88 Stat. 503.

SHORT TITLE

Pub. L. 89–10, title VII, §701, as added by Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, and reenacted by Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 503, which provided that this subchapter be cited as the ''Bilingual Education Act'', was omitted in the general revision of this subchapter, title VII of the Elementary and Secondary Education Act of 1965, as added by Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268. See Codification note above.

§ 880b–1. Omitted

CODIFICATION

Section 880b–1, Pub. L. 89–10, title VII, §703, as added and amended Pub. L. 93–380, title I, §105(a)(1), (b), Aug. 21, 1974, 88 Stat. 504, 512, which made general provisions for the bilingual education program, was omitted in the general revision of title VII of the Elementary and Sec-

ondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

A prior section 880b–1, Pub. L. 89–10, title VII, §703, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816; amended Pub. L. 91–230, title I, §151, Apr. 13, 1970, 84 Stat. 151, authorized appropriation of 15, 30, 40, 80, 100, and 135 million dollars for fiscal years ending June 30, 1968 through 1973, respectively, and for distribution of funds.

§§ 880b–2 to 880b–5. Omitted

CODIFICATION

Sections 880b–2 to 880b–5, were to remain in effect through June 30, 1975. See section 105(a)(2)(A) of Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 512.

Section 880b–2, Pub. L. 89–10, title VII, §704, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 817, related to uses for Federal funds.

Section 880b–3, Pub. L. 89–10, title VII, §705, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 817 related to applications for grants, providing in subsec.: (a) for time of and contents of applications; (b) conditions for approval; and (c) amendments.

Section 880b–3a, Pub. L. 89–10, title VII, §706, as added Pub. L. 91–230, title I, §152(a), Apr. 13, 1970, 84 Stat. 151; amended Pub. L. 92–318, title IV, §452, June 23, 1972, 86 Stat. 345, provided for children in schools on or near reservations, subsec. (a) relating to local educational agency status of Indian institution or organization and subsec. (b) to payments to Secretary of Interior and criteria for such payments.

Section 880b–4, Pub. L. 89–10, title VII, §707, formerly §706, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 819; renumbered §707 and amended Pub. L. 91–230, title I, §152(a), (b), Apr. 13, 1970, 84 Stat. 151, 152, related to payments to applicants.

Section 880b–5, Pub. L. 89–10, title VII, §708, formerly §707, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 819; renumbered §708 and amended Pub. L. 91–230, title I, §§152(a), 153, title IV, §401(h)(3), Apr. 13, 1970, 84 Stat. 151, 152, 174; Pub. L. 93–380, title VIII, §845(c), Aug. 21, 1974, 88 Stat. 612; Pub. L. 94–482, title V, §501(a)(21), Oct. 12, 1976, 90 Stat. 2236, related to establishment of an Advisory Committee on Education of Bilingual Children.

§ 880b–6. Repealed. Pub. L. 91–230, title IV, § 401(g)(5), Apr. 13, 1970, 84 Stat. 174

Section, Pub. L. 89–10, title VII, §709, formerly §708, as added Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 819; renumbered §709 Pub. L. 91–230, title I, §152(a), Apr. 13, 1970, 84 Stat. 151, related to labor standards requirement (prevailing wage rates).

PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

§§ 880b–7 to 880b–9. Omitted

CODIFICATION

Sections were omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

Section 880b–7, Pub. L. 89–10, title VII, §721, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 506, provided for bilingual education programs.

Section 880b–8, Pub. L. 89–10, title VII, §722, as added Pub. L. 93–380, Title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 507, related to Indian children in schools.

Section 880b–9, Pub. L. 89–10, title VII, §723, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 508; amended Pub. L. 94–273, §3(7), Apr. 21, 1976, 90 Stat. 376; S. Res. 4, Feb. 4, 1977, related to grants and contract for training.

PART B—ADMINISTRATION

§§ 880b–10, 880b–11. Omitted

CODIFICATION

Sections were omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

Section 880b–10, Pub. L. 89–10, title VII, §731, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 509; amended Pub. L. 94–273, §3(7), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title V, §501(d)(1), Oct. 12, 1976, 90 Stat. 2237, established the Office of Bilingual Education.

Section 880b–11, Pub. L. 89–10, title VII, §732, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 510; amended Pub. L. 94–482, title V, §501(a)(21), (d)(2), Oct. 12, 1976, 90 Stat. 2236, 2237, provided for the establishment of the National Advisory Council on Bilingual Education.

APPOINTMENT OF NATIONAL ADVISORY COUNCIL ON BILINGUAL EDUCATION

Pub. L. 93–380, title I, §105(a)(2)(B), Aug. 21, 1974, 88 Stat. 512, provided for the appointment of the National Advisory Council on Bilingual Education, which Council was provided for by section 880b–11, within 90 days after Aug. 21, 1974. See Codification note above.

PART C—SUPPORTIVE SERVICES AND ACTIVITIES

§§ 880b–12, 880b–13. Omitted

CODIFICATION

Sections were omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

Section 880b–12, Pub. L. 89–10, title VII, §741, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, provided for the administration of the research and demonstration projects program.

Section 880b–13, Pub. L. 89–10, title VII, §742, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511; amended Pub. L. 94–482, title V, §501(d)(3), Oct. 12, 1976, 90 Stat. 2237, related to research and demonstration projects.

SUBCHAPTER V—GENERAL PROVISIONS

§ 881. Transferred

CODIFICATION

Section, Pub. L. 89–10, title VIII, §801, formerly title VI, §601, Apr. 11, 1965, 79 Stat. 55, renumbered title VII, §701, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204, renumbered title VIII, §801, and amended Pub. L. 90–247, title I, §§142(b), 152(c), title VII, §§702, 703, Jan. 2, 1968, 81 Stat. 799, 803, 816, 819; Pub. L. 91–230, title I, §162, Apr. 13, 1970, 84 Stat. 152; Pub. L. 94–193, §1(c), Dec. 31, 1975, 89 Stat. 1102; Pub. L. 94–482, title V, §501(*l*), Oct. 12, 1976, 90 Stat. 2237, which related to definitions, was renumbered Pub. L. 89–10, title X, §1001 by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3381 of this title, and was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

§ 882. Repealed. Pub. L. 91–230, title IV, § 401(h)(3), Apr. 13, 1970, 84 Stat. 174

Section, Pub. L. 89–10, title VIII, §802, formerly title VI, §602, Apr. 11, 1965, 79 Stat. 57, renumbered title VII, §702, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204, renumbered title VIII, §802, Pub. L. 90–247, title

VII, §702, Jan. 2, 1968, 81 Stat. 816, provided for appointment of advisory council and for compensation ($100 per day limitation, including travel time) and travel expenses of the members.

§§ 883 to 885. Transferred

CODIFICATION

Section 883, Pub. L. 89–10, title VIII, §803, formerly title VI, §603, Apr. 11, 1965, 79 Stat. 57; renumbered title VII, §703, and amended Pub. L. 89–750, title I, §§111(f), 161, Nov. 3, 1966, 80 Stat. 1196, 1204; renumbered title VIII, §803, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816; amended Pub. L. 91–230, title I, §163, title IV, §401(c)(2), Apr. 13, 1970, 84 Stat. 152, 173, was comprised of subsecs. (a) to (c). Subsecs. (a) and (b) were repealed by Pub. L. 91–230, title IV, §401(c)(2), Apr. 13, 1970, 84 Stat. 173. Subsec. (c), which related to federal administration, was renumbered Pub. L. 89–10, title X, §1002 by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3382 of this title, and was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 884, Pub. L. 89–10, title VIII, §804, as added Pub. L. 93–380, title I, §106, Aug. 21, 1974, 88 Stat. 512, which related to limitations on refund of payments, was renumbered Pub. L. 89–10, title X, §1003 by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3383 of this title, and was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

A prior section 884, Pub. L. 89–10, title VIII, §804, formerly title VI, §604, Apr. 11, 1965, 79 Stat. 57; renumbered title VII, §704, and amended Pub. L. 89–750, title I, §§161, 181, Nov. 3, 1966, 80 Stat. 1204, 1209; renumbered title VIII, §804, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, prohibited Federal control of education (curriculum, program of instruction, administration, personnel of any educational institution or system, selection of library resources, textbooks, or other printed or published instructional material, and assignment or transportation of students or teachers in order to overcome racial imbalance), was repealed by Pub. L. 91–230, title IV, §401(f)(5), Apr. 13, 1970, 84 Stat. 173.

Section 885, Pub. L. 89–10, title VIII, §805, formerly title VI, §605, Apr. 11, 1965, 79 Stat. 58; renumbered title VII, §705, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered title VIII, §805, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816, which prohibited the use of funds for religious worship or instruction, was renumbered Pub. L. 89–10, title X, §1004 by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284 and transferred to section 3384 of this title. Section 1004 of Pub. L. 89–10, as so renumbered, was amended by Pub. L. 95–561, title IX, §901(b), Nov. 1, 1978, 92 Stat. 2305, by substituting provisions waiving requirements for certain jurisdictions for those prohibiting use of funds for religious worship or instruction.

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

Section, Pub. L. 89–10, title VIII, §806, formerly title VII, §706, as added Pub. L. 89–750, title I, §171, Nov. 3, 1966, 80 Stat. 1209; renumbered §806 and amended Pub. L. 90–247, title I, §171, title VII, §702, Jan. 2, 1968, 81 Stat. 805, 816, provided for dissemination of information and authorization of appropriations of $1,500,000; $3,500,000; $3,700,000; and $4,000,000 for fiscal years ending June 30, 1967, 1968, 1969, and 1970.

TERMINATION OF SECTION

Pub. L. 90–576, title III, §303(e), Oct. 16, 1968, 82 Stat. 1096, which provided that this section shall become ineffective the first fiscal year for which funds are appropriated to carry out the provisions of section 6 of this title, was repealed by section 401(d)(3) of Pub. L. 91–230.

§§ 887, 887a. Omitted

CODIFICATION

Section 887, Pub. L. 89–10, title VIII, §807, formerly title VII, §707, as added and renumbered Pub. L. 90–247, title I, §172, title VII, §702, Jan. 2, 1968, 81 Stat. 806, 816; amended Pub. L. 91–230, title I, §161, Apr. 13, 1970, 84 Stat. 152; Pub. L. 93–380, title I, §107(a), Aug. 21, 1974, 88 Stat. 512; Pub. L. 95–112, §2(f)(1), Sept. 24, 1977, 91 Stat. 912, which related to dropout prevention projects, was omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

Section 887a, Pub. L. 89–10, title VIII, §808, as added Pub. L. 91–230, title I, §164, Apr. 13, 1970, 84 Stat. 153; amended Pub. L. 93–380, title I, §108(a), Aug. 21, 1974, 88 Stat. 513; Pub. L. 95–112, §2(f)(2), Sept. 24, 1977, 91 Stat. 912, which related to school nutrition and health services for children from low-income families, was omitted in the general revision of title VII of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title VII, as added Pub. L. 93–380, title I, §105(a)(1), Aug. 21, 1974, 88 Stat. 511, by Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268.

§887b. Repealed. Pub. L. 93–380, title IV, §402(c)(3), Aug. 21, 1974, 88 Stat. 546

Section, Pub. L. 89–10, title VIII, §809, as added Pub. L. 91–230, title I, §164, Apr. 13, 1970, 84 Stat. 154; amended Pub. L. 93–380, title I, §109(a), Aug. 21, 1974, 88 Stat. 513, related to correction education services, providing in subsecs. (a) for grants for research and demonstration projects; (b) for appointment and functions of advisory committees and furnishing of advice and recommendations of Federal officials and other persons and organizations to the Commissioner; and (c) for authorization of $500,000 for fiscal years ending June 30, 1974, and 1975.

Section 109(b) of Pub. L. 93–380 made such authorizations effective on and after July 1, 1974.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1975, see section 402(c)(3) of Pub. L. 93–380.

§§ 887c to 887c–2. Transferred

CODIFICATION

Section 887c, Pub. L. 89–10, title VIII, §810, as added Pub. L. 92–318, title IV, §421(a), June 23, 1972, 86 Stat. 339; amended Pub. L. 93–380, title VI, §§631(a), 632(a), Aug. 21, 1974, 88 Stat. 585, 586, which related to improvement of educational opportunities for Indian children, was renumbered Pub. L. 89–10, title X, §1005, by Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3385 of this title, and was subsequently repealed by Pub. L. 100–297, title V, §5352(2), Apr. 28, 1988, 102 Stat. 414.

Section 887c–1, Pub. L. 92–318, title IV, §422, as added Pub. L. 93–380, title VI, §632(c), Aug. 21, 1974, 88 Stat. 586; amended Pub. L. 95–561, title XI, §§1141(c)(1), 1152(a), Nov. 1, 1978, 92 Stat. 2329, 2333, which related to special educational training programs for teachers of Indian people, was transferred to section 3385a of this title, and was subsequently repealed by Pub. L. 100–297, title V, §5352(4), Apr. 28, 1988, 102 Stat. 414.

Section 887c–2, Pub. L. 92–318, title IV, §423, as added Pub. L. 93–380, title VI, §632(c), Aug. 21, 1974, 88 Stat. 586; amended Pub. L. 95–561, title XI, §§1141(c)(2), 1152(b), Nov. 1, 1978, 92 Stat. 2329, 2333, which related fellowships for Indian students, was transferred to section 3385b of this title, and was subsequently repealed by Pub. L. 100–297, title V, §5352(4), Apr. 28, 1988, 102 Stat. 414.

§ 887d. Repealed. Pub. L. 95–561, title III, § 301(b)(1)(F), Nov. 1, 1978, 92 Stat. 2228

Section, Pub. L. 89–10, title VIII, § 811, as added Pub. L. 92–318, title V, § 505(a)(3), June 23, 1972, 86 Stat. 348; amended Pub. L. 93–380, title IV, § 407(a), Aug. 21, 1974, 88 Stat. 553, related to consumers' education programs.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 30, 1979, see section 301(b)(1) of Pub. L. 95–561.

CONGRESSIONAL DECLARATION OF FINDINGS AND PURPOSE

Pub. L. 92–318, § 505(a)(1), (2), June 23, 1972, 86 Stat. 348, provided the findings and purpose of Congress for this section.

§ 887e. Transferred

CODIFICATION

Section, Pub. L. 89–10, title VIII, § 812, as added Pub. L. 93–380, title I, § 110, Aug. 21, 1974, 88 Stat. 513, which provided for open meetings of educational agencies, was renumbered Pub. L. 89–10, title X, § 1006, by Pub. L. 95–561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and transferred to section 3386 of this title, and was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

§ 888. Repealed. Pub. L. 91–230, title IV, § 401(e)(1), Apr. 13, 1970, 84 Stat. 173

Section, Pub. L. 90–247, § 2, Jan. 2, 1968, 81 Stat. 783, which was not enacted as part of Pub. L. 89–10 which comprised this subchapter, provided for citation of authority and uniform application of rules and regulations.

SUBCHAPTER VI—ETHNIC HERITAGE PROGRAM

§§ 900 to 900a–5. Omitted

CODIFICATION

Sections were omitted in the general revision of title IX of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, title IX, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347, by Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2292.

Section 900, Pub. L. 89–10, title IX, § 901, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 346, contained the Congressional statement of policy with regard to the ethnic heritage program.

Section 900a, Pub. L. 89–10, title IX, § 902, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347, authorized grants for the ethnic heritage studies program.

Section 900a–1, Pub. L. 89–10, title IX, § 903, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347; amended Pub. L. 93–380, title I, § 111(b), Aug. 21, 1974, 88 Stat. 513, described the authorized activities for the ethnic heritage program.

Section 900a–2, Pub. L. 89–10, title IX, § 904, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347, related to the form and content of applications for assistance.

Section 900a–3, Pub. L. 89–10, title IX, § 905, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 347, related to the administration of the program.

Section 900a–4, Pub. L. 89–10, title IX, § 906, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 348, established the National Advisory Council on Ethnic Heritage Studies.

Section 900a–5, Pub. L. 89–10, title IX, § 907, as added Pub. L. 92–318, title V, § 504(a), June 23, 1972, 86 Stat. 348; amended Pub. L. 93–380, title I, § 111(a)(1), Aug. 21, 1974, 88 Stat. 513, authorized appropriations for fiscal years through fiscal year 1978.

CHAPTER 25—PAY AND PERSONNEL PROGRAM FOR OVERSEAS TEACHERS

Sec.

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  (f) Lease of military family housing by teacher assigned to teach at Guantanamo Bay Naval Station, Cuba.
906. Entitlements in addition to basic compensation.
  (a) Cost-of-living increase and additional compensation.
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907. Applicability of other laws.

§ 901. Definitions

For the purposes of this chapter, the term—

(1) ''teaching position'' means those duties and responsibilities which—

(A) are performed on a school-year basis principally in a school operated by the Department of Defense in an overseas area for dependents of members of the Armed Forces and dependents of civilian employees of the Department of Defense, or are performed by an individual who carried out certain teaching activities identified in regulations prescribed by the Secretary of Defense; and

(B) involve—

(i) classroom or other instruction or the supervision or direction of classroom or other instruction; or

(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credits in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity.

(2) ''teacher'' means an individual—

(A) who is a citizen of the United States,

(B) who is a civilian, and

(C) who is employed in a teaching position described in paragraph (1).

(3) ''overseas area'' means any area situated outside the United States.

(4) ''United States'', when used in a geographical sense, means the several States of the United States of America, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Islands).

(Pub. L. 86–91, § 2, July 17, 1959, 73 Stat. 213; Pub. L. 104–201, div. A, title XVI, § 1606(a), Sept. 23, 1996, 110 Stat. 2736; Pub. L. 105–85, div. A, title X, § 1073(c)(9)(A), Nov. 18, 1997, 111 Stat. 1904.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in par. (4), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Section was formerly classified to section 2351 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1997—Par. (1)(A). Pub. L. 105–85 made technical corrections to Pub. L. 104–201, § 1606(a)(1). See 1996 Amendment note below.

1996—Par. (1)(A). Pub. L. 104–201, § 1606(a)(1), as amended by Pub. L. 105–85, inserted ''or are performed by an individual who carried out certain teaching activities identified in regulations prescribed by the Secretary of Defense;'' after ''Defense,''.

Par. (2)(C). Pub. L. 104–201, § 1606(a)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: ''whose services are required on a school-year basis in a teaching position.''

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1073(c) of Pub. L. 105–85 provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, as enacted.

SHORT TITLE

Section 1 of Pub. L. 86–91 provided that: ''This Act [enacting this chapter and provisions now contained in section 5102(c)(22) of Title 5, Government Organization and Employees] may be cited as the 'Defense Department Overseas Teachers Pay and Personnel Practices Act'.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 902. Regulations of Secretary of Defense

(a) Employment, compensation, etc., of teachers

Not later than the ninetieth day following July 17, 1959, the Secretary of Defense shall prescribe and issue regulations to carry out the purposes of this chapter. Such regulations shall govern—

(1) the establishment of teaching positions;

(2) the fixing of basic compensation for teachers and teaching positions at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population;

(3) the entitlement of teachers to compensation;

(4) the payment of compensation to teachers;

(5) the appointment of teachers;

(6) the conditions of employment of teachers;

(7) the length of the school year or school years applicable to teaching positions;

(8) the leave system for teachers;

(9) quarters, allowances, and additional compensation for teachers; and

(10) such other matters as may be relevant and appropriate to the purposes of this chapter.

(b) Effective date of regulations

The regulations prescribed and issued by the Secretary of Defense under subsection (a) of this section shall become effective on such date as the Secretary of Defense shall prescribe but not later than the ninetieth day following the date of issuance of such regulations.

(Pub. L. 86–91, § 4, July 17, 1959, 73 Stat. 214; Pub. L. 89–391, § 1(a), Apr. 14, 1966, 80 Stat. 117.)

CODIFICATION

Section was formerly classified to section 2352 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1966—Subsec. (a)(2). Pub. L. 89–391 substituted provisions for issuance of regulations to fix basic compensation for teachers and teaching positions at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population for former provisions fixing basic compensation for teaching positions in relation to rates of basic compensation for similar positions in the United States.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2 of Pub. L. 89–391 provided that: ''The amendments made by the first section of this Act [amending this section and section 903 of this title] shall become effective on the first day of the first pay period which begins after the date of enactment of this Act [Apr. 14, 1966].''

§ 903. Administration

(a) Employment and salary practices

The Secretary of Defense shall conduct the employment and salary practices applicable to teachers and teaching positions in the Department of Defense in accordance with this chapter, other applicable law, and the regulations prescribed and issued by the Secretary of Defense under section 902 of this title.

(b) Determination of exempt positions and individuals; establishment of annual salary rate

Subject to section 5103 of title 5, the Secretary of Defense—

(1) shall determine the applicability of paragraph (22) of section 5102(c) of title 5 to positions and individuals in the Department of Defense; and

(2) shall establish the appropriate annual salary rate in accordance with this chapter for each such position and individual to which such paragraph (22) is determined to be applicable.

(c) Rates of basic compensation

The Secretary of Defense shall fix the basic compensation for teachers and teaching positions in the Department of Defense at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population.

(d) Issuance of regulations by Secretary of Defense

The Secretary of Defense may prescribe and issue such regulations as he deems appropriate to carry out his functions under this chapter.

(Pub. L. 86–91, § 5, July 17, 1959, 73 Stat. 214; Pub. L. 86–370, § 6(b), Sept. 23, 1959, 73 Stat. 652; Pub. L. 89–391, § 1(b), (c), Apr. 14, 1966, 80 Stat. 117; Pub. L. 96–470, title I, § 104(b), Oct. 19, 1980, 94 Stat. 2238; Pub. L. 104–201, div. A, title XVI, § 1606(b), Sept. 23, 1996, 110 Stat. 2737; Pub. L. 105–85, div. A, title X, § 1073(c)(9)(B), (C), Nov. 18, 1997, 111 Stat. 1904.)

CODIFICATION

In subsec. (b), ''section 5103 of title 5'' and ''paragraph (22) of section 5102(c) of title 5'' substituted for ''section 202 of the Classification Act of 1949'' and ''paragraph (33) of section 202 of such Act, added by section 3 of this Act'' respectively, on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions of section 1(b) and (c) of Pub. L. 89–391 for amendment of subsec. (c) of this section and addition of other provisions as another subsec. (c), have been executed in the Code as an amendment of subsec. (c) of this section and addition of subsec. (e) of this section, respectively.

Section was formerly classified to section 2353 of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1997—Subsec. (a). Pub. L. 105–85, § 1073(c)(9)(B), made technical correction to Pub. L. 104–201, § 1606(b)(1)(A). See 1996 Amendment note below.

Subsec. (b)(1). Pub. L. 105–85, § 1073(c)(9)(C), made technical correction to Pub. L. 104–201, § 1606(b)(2)(B). See 1996 Amendment note below.

1996—Subsec. (a). Pub. L. 104–201, § 1606(b)(1)(B), substituted ''the Department of Defense'' for ''his military department''.

Pub. L. 104–201, § 1606(b)(1)(A), as amended by Pub. L. 105–85, § 1073(c)(9)(B), substituted ''Secretary of Defense shall'' for ''secretary of each military department in the Department of Defense shall''.

Subsec. (b). Pub. L. 104–201, § 1606(b)(2)(A), substituted ''Secretary of Defense—'' for ''secretary of each military department—'' in introductory provisions.

Subsec. (b)(1). Pub. L. 104–201, § 1606(b)(2)(B), as amended by Pub. L. 105–85, § 1073(c)(9)(C), substituted ''the Department of Defense;'' for ''his military department,''.

Subsec. (c). Pub. L. 104–201, § 1606(b)(3), substituted ''Secretary of Defense'' for ''Secretary of each military department'' and ''the Department of Defense'' for ''his military department''.

Subsec. (d). Pub. L. 104–201, § 1606(b)(4), substituted ''Secretary of Defense'' for ''Secretary of each military department''.

1980—Subsec. (e). Pub. L. 96–470 struck out subsec. (e) which required the Secretary of Defense, on or before the 15th day of January in each calendar year beginning after Apr. 14, 1966, to report to the respective Committees on Post Office and Civil Service of the Senate and House of Representatives information on teachers separated from teaching positions subsequent to the close of the immediately preceding full school year and the number of new teachers appointed to teaching positions at the beginning of the school year current at time of the report, including the number of such new teachers obtained through voluntary reciprocal interchange agreements with school jurisdictions in the United States.

1966—Subsec. (c). Pub. L. 89–391, § 1(b), substituted provisions for fixing the basic compensation for teachers and teaching positions at rates equal to the average of the range of rates of basic compensation for similar positions of a comparable level of duties and responsibilities in urban school jurisdictions in the United States of 100,000 or more population for former provisions fixing such rates in relation to the rates of basic compensation for similar positions in the United States but not exceeding the highest rate of basic compensation for similar positions of a comparable level of duties and responsibilities under the municipal government of the District of Columbia.

Subsec. (e). Pub. L. 89–391, § 1(c), inserted provisions designated as subsec. (c) to section 5 of Pub. L. 86–91, but codified as subsec. (e) of this section.

1959—Subsec. (b). Pub. L. 86–370 substituted ''(33)'' for ''(32)'' in two places.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1073(c) of Pub. L. 105–85 provided that the amendment made by that section is effective as of Sept. 23, 1996, and as if included in the National Defense Authorization Act for Fiscal Year 1997, Pub. L. 104–201, as enacted.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendments of this section by Pub. L. 89–391 effective on first day of first pay period beginning after Apr. 14, 1966, see section 2 of Pub. L. 89–391, set out as a note under section 902 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86–370 effective on first day of first pay period which begins after Sept. 23, 1959, see section 7(b) of Pub. L. 86–370, set out as a note under section 3 of Title 35, Patents.

TEACHERS EMPLOYED BY CANAL ZONE GOVERNMENT SCHOOL SYSTEM ON SEPTEMBER 30, 1979

Subsec. (c) of this section not to apply with respect to any teacher who was employed by the Canal Zone Government school system on September 30, 1979, and who was transferred from such position to a teaching position which is under the Department of Defense Overseas Dependent School System and the permanent duty station of which is in the Republic of Panama, until the rates of basic compensation established under subsec. (c) of this section equal or exceed the rates of basic compensation then in effect for teachers who were so transferred, see section 3671(c)(1) of Title 22, Foreign Relations and Intercourse.

§ 904. Leave

(a) Entitlement; amount

Subject to the regulations prescribed and issued by the Secretary of Defense under section 902 of this title, each teacher (other than an individual employed as a substitute teacher) shall be entitled to cumulative leave, with pay, which shall accrue at the rate of one day for each calendar month, or part thereof, of a school year, except that if the school year includes more than eight months, any such teacher who shall have served for the entire school year shall be entitled to ten (or, if such teacher is employed in a supervisory position or higher, not less than ten and not more than thirteen) days of cumulative leave with pay.

(b) Saturdays, Sundays, holidays, and nonwork days

Saturdays, Sundays, regularly scheduled holidays, and other administratively authorized nonwork days shall not be considered to be days of leave for the purposes of subsection (a) of this section.

(c) Purposes for taking leave

Subject to the regulations prescribed and issued by the Secretary of Defense, leave earned by any teacher under subsection (a) of this section may be used by such teacher—

(1) for maternity purposes,

(2) in the event of the illness of such teacher,

(3) in the event of illness, contagious disease, or death in the immediate family of such teacher, and

(4) in the event of any personal emergency.

If appropriate advance notice is given of the intended absence of a teacher, not to exceed three days of such leave may be granted for any purpose in each school year to such teacher.

(d) Credit for persons holding teaching positions and for employees transferred, promoted or reappointed

Any individual—

(1) who is holding a position which is determined to be a teaching position, or

(2) who is an employee of the Federal Government or the municipal government of the District of Columbia who is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to a teaching position,

shall be credited, for the purposes of the leave system provided by this section, with the annual and sick leave to his credit immediately prior to the effective date of such determination, transfer, promotion, or reappointment. Sick leave so credited shall be included in the leave provided for in subsection (a) of this section. Annual leave so credited shall not be included in the leave provided for in such subsection but shall be used under regulations which shall be prescribed by the Secretary of Defense.

(e) Excess of maximum amount of accumulated leave; reduction

In any case in which the amount of sick leave, which is to the credit of any individual under a different leave system immediately prior to the date on which he becomes subject as a teacher to the leave system provided by this section and which is included in the leave provided for in subsection (a) of this section, is in excess of the maximum amount of accumulated leave allowable under subparagraph (2) of such subsection, such excess shall remain to the credit of such teacher until used, but the use during any leave year of an amount in excess of the aggregate amount which shall have accrued during such year shall reduce automatically the maximum allowable amount of accumulated leave at the beginning of the next leave year until such amount no longer exceeds the maximum amount allowable under subparagraph (2) of subsection (a) of this section.

(f) Liquidation of unused leave upon separation

Any annual leave remaining, upon his separation from the service, to the credit of an individual within the purview of this section shall be liquidated in accordance with section 5551 of title 5, except that leave earned or included under subsection (a) of this section shall not be liquidated.

(g) Transfer of leave credit for teachers transferred, promoted or reappointed to positions under different leave system

In the case of any teacher who is transferred, promoted, or reappointed, without break in service, to a position under a different leave system, the annual leave, and any other leave earned or credited under this section, which is to his credit immediately prior to such transfer, promotion, or reappointment, shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Director of the Office of Personnel Management.

(h) Voluntary leave transfer and bank programs

The Director of Dependents' Education, in consultation with the Director of the Office of Personnel Management—

(1) shall establish for teachers a voluntary leave transfer program similar to the one under subchapter III of chapter 63 of title 5; and

(2) may establish for teachers a voluntary leave bank program similar to the one under subchapter IV of chapter 63 of title 5.

Only leave described in the last sentence of subsection (c) of this section (relating to leave that may be used by a teacher for any purpose) may be transferred under any program established under this subsection.

(Pub. L. 86–91, § 6, July 17, 1959, 73 Stat. 214; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 98–369, div. B, title II, § 2204, July 18, 1984, 98 Stat. 1059; Pub. L. 103–425, § 1, Oct. 31, 1994, 108 Stat. 4369.)

CODIFICATION

In subsec. (f), ''section 5551 of title 5'' substituted for ''the Act of December 21, 1944 (5 U.S.C. 61b and the following)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2354 of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–425, § 1(1), inserted ''(or, if such teacher is employed in a supervisory position or higher, not less than ten and not more than thirteen)'' after ''ten''.

Subsec. (d). Pub. L. 103–425, § 1(2), substituted ''Secretary of Defense'' for ''Secretary of the military department concerned'' in concluding provisions.

Subsec. (h). Pub. L. 103–425, § 1(3), added subsec. (h).

1984—Subsec. (a). Pub. L. 98–369 struck out provisions which had directed that not more than seventy-five days of leave could be accumulated to the credit of a teacher at any one time under this subsection.

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' substituted for ''United States Civil Service Commission'' in subsec. (g), pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 905. Quarters, quarters allowances, and storage

(a) Entitlement

Under regulations which shall be prescribed by or under authority of the President, each teacher (other than a teacher employed in a substitute capacity) shall be entitled, in addition to basic compensation, to quarters, quarters allowance, and storage as provided by this section.

(b) Furnishing of living quarters or grant of allowance

Each teacher (other than a teacher employed in a substitute capacity) shall be entitled, for each school year for which he performs services as a teacher, to quarters or a quarters allowance equal to those authorized by section 5912 of title 5.

(c) Recess periods

Each teacher (other than a teacher employed in a substitute capacity) who is performing services as a teacher at the close of a school year and agrees in writing to serve as a teacher for the next school year may be authorized, for the recess period immediately preceding such next school year—

(1) quarters or a quarters allowance equal to those authorized by section 5912 of title 5, or

(2) in lieu of such quarters or quarters allowance, storage (including packing, drayage, unpacking, and transportation to and from storage) of his household effects and personal possessions.

(d) Failure to report for service; liability to United States

If a teacher does not report for service at the beginning of the next school year, he shall, except for reasons beyond his control and acceptable to the Department of Defense, be obligated to the United States in an amount equal to any quarters allowance which he may have received under subsection (c) of this section or in an amount equal to the reasonable value of any quarters or storage which he may have received under such subsection, or both, as the case may be.

(e) Employment in other positions during recess periods

Quarters, quarters allowance, and storage provided under this section shall be in lieu of any quarters, quarters allowance, and storage to which he otherwise might be entitled by reason of employment in another position during any recess period between two school years.

(f) Lease of military family housing by teacher assigned to teach at Guantanamo Bay Naval Station, Cuba

(1) A teacher assigned to teach at Guantanamo Bay Naval Station, Cuba, who is not accompanied at such station by any dependent shall be offered for lease any available military family housing at such station that is suitable for occupancy by the teacher and is not needed to house members of the armed forces and dependents accompanying them or other civilian personnel and any dependents accompanying them.

(2) For any period for which military family housing is leased under paragraph (1) to a teacher described in such paragraph, the teacher shall receive a quarters allowance in the amount determined under subsection (b) of this section. The teacher is entitled to such quarters allowance without regard to whether other Government furnished quarters are available for occupancy by the teacher without charge to the teacher.

(Pub. L. 86–91, § 7, July 17, 1959, 73 Stat. 216; Pub. L. 87–172, § 1, Aug. 30, 1961, 75 Stat. 409; Pub. L. 107–314, div. A, title III, § 342, Dec. 2, 2002, 116 Stat. 2515.)

CODIFICATION

In subsecs. (b) and (c)(1), ''section 5912 of title 5'' substituted for ''the Act of June 26, 1930 (5 U.S.C. 118a)'' on authority of Pub. L. 89–554, § 7(b), June 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2355 of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

2002—Subsec. (f). Pub. L. 107–314 added subsec. (f).

1961—Subsec. (d). Pub. L. 87–172 inserted ''except for reasons beyond his control and acceptable to the Department of Defense''.

DELEGATION OF FUNCTIONS

Functions vested in President by subsec. (a) of this section concerning authority to prescribe regulations relating to quarters and quarters allowances delegated to Secretary of State pursuant to Ex. Ord. No. 12228, July 24, 1980, 45 F.R. 49903, set out as a note under section 707 of Title 38, Veterans' Benefits.

Authority of President under subsec. (a) of this section to prescribe regulations relating to storage (including packing, drayage, unpacking, and transportation to and from storage) of household effects and personal possessions delegated to Administrator of General Services, see section 1(19) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Secretary of State empowered to prescribe regulations relating to cost-of-living allowances, see section 4(a) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of Title 5, Government Organization and Employees.

§ 906. Entitlements in addition to basic compensation

(a) Cost-of-living increase and additional compensation

Under regulations which shall be prescribed by or under authority of the President, each teacher (other than a teacher employed in a substitute capacity) shall be entitled, in addition to basic compensation, to—

(1) cost-of-living allowances equal to those authorized by section 5924 of title 5, and

(2) additional compensation equal to that authorized under section 5941 of title 5.

(b) Post differential

The cost-of-living allowances and additional compensation provided under subsection (a) of this section for any teacher shall be based on the teaching position in which he rendered services on a school-year basis, except that, if such teacher is employed in another position during any recess period between two school years, such allowances and compensation for such recess period shall be based on the position in which he is employed during such recess period.

(Pub. L. 86–91, § 8, July 17, 1959, 73 Stat. 216; Pub. L. 96–465, title II, § 2206(d), Oct. 17, 1980, 94 Stat. 2162.)

CODIFICATION

In subsec. (a)(2), ''section 5941 of title 5'' substituted for ''section 207 of the Independent Offices Appropriation Act, 1949 (5 U.S.C. 118h)'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2356 of Title 5 prior to the general revision and enactment of Title 5 by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1980—Subsec. (a)(1). Pub. L. 96–465 substituted reference to section 5924 of title 5 for reference to section 1131(2) of title 22.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96–465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

DELEGATION OF FUNCTIONS

Functions vested in President by subsec. (a) of this section concerning authority to prescribe regulations relating to cost of living allowances delegated to Secretary of State pursuant to Ex. Ord. No. 12228, July 24, 1980, 45 F.R. 49903, set out as a note under section 707 of Title 38, Veterans' Benefits.

Functions of President under subsec. (a) of this section delegated to Director of Bureau of the Budget, now Director of Office of Management and Budget, see section 1(10) of Ex. Ord. No. 11230, June 28, 1965, 30 F.R. 8447, set out as a note under section 301 of Title 3, The President.

Secretary of State empowered to prescribe regulations relating to quarters and quarters allowance, see section 4(a) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of Title 5, Government Organization and Employees.

REGULATIONS APPLICABLE TO PAYMENT OF ADDITIONAL COMPENSATION

For provisions relating to payment of additional compensation authorized by subsec. (a)(2) of this section in accordance with the regulations contained in Ex. Ord. No. 10000, see section 1–101 of Ex. Ord. No. 12228, July 24, 1980, 45 F.R. 49903, set out as a note under section 707 of Title 38, Veterans' Benefits.

§ 907. Applicability of other laws

In the case of any teacher who—

(1) is performing services as a teacher at the close of a school year,

(2) agrees in writing to serve as a teacher for the next school year, and

(3) is employed in another position in the recess period immediately preceding such next school year, or, during such recess period, receives quarters, allowances, or additional compensation referred to in sections 905 and 906 of this title, or both, as the case may be,

section 5533 of title 5 shall not apply to such teacher by reason of any such employment during a recess period or any such receipt of quarters, allowances, or additional compensation, or both, as the case may be.

(Pub. L. 86–91, § 10(b), July 17, 1959, 73 Stat. 217; Pub. L. 88–448, title IV, § 401(n), Aug. 19, 1964, 78 Stat. 492.)

CODIFICATION

''Section 5533 of title 5'' substituted in text for ''section 301 of the Dual Compensation Act'' on authority of Pub. L. 89–554, § 7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 2358(b) of Title 5 period to the general revision and enactment of Title 5 by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

AMENDMENTS

1964—Subsec. (b). Pub. L. 88–448 made section 301 of the Dual Compensation Act inapplicable and struck out provisions which referred to former section 62 of title 5 and section 6 of the act of May 10, 1916.

CHAPTER 25A—OVERSEAS DEFENSE DEPENDENTS' EDUCATION

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§ 921. Defense dependents' education system

(a) Establishment

The Secretary of Defense shall establish and operate a program (hereinafter in this chapter referred to as the ''defense dependents' education system'') to provide a free public education through secondary school for dependents in overseas areas.

(b) Program purposes and activities

(1) The Secretary shall ensure that individuals eligible to receive a free public education under subsection (a) of this section receive an education of high quality.

(2) In establishing the defense dependents' education system under subsection (a) of this section, the Secretary shall provide programs designed to meet the special needs of—

(A) the handicapped,

(B) individuals in need of compensatory education,

(C) individuals with an interest in vocational education,

(D) gifted and talented individuals, and

(E) individuals of limited English-speaking ability.

(3) The Secretary shall provide a developmental preschool program to individuals eligible to receive a free public education under subsection (a) of this section who are of preschool age if a preschool program is not otherwise available for such individuals and if funds for such a program are available.

(c) Consultation requirements

The Secretary of Defense shall consult with the Secretary of Education on the educational programs and practices of the defense dependents' education system.

(d) Optional summer school programs

(1) The Secretary of Defense may provide optional summer school programs in the defense dependents' education system.

(2) The Secretary shall provide any summer school program under this subsection on the same financial basis as programs offered during the regular school year, except that the Secretary may charge reasonable fees for all or portions of such summer school programs to the extent that the Secretary determines appropriate.

(3) The amounts received by the Secretary in payment of the fees shall be available to the Department of Defense for defraying the costs of conducting summer school programs under this subsection.

(Pub. L. 95–561, title XIV, § 1402, Nov. 1, 1978, 92 Stat. 2365; Pub. L. 99–145, title XII, § 1204(b)(1), Nov. 8, 1985, 99 Stat. 720; Pub. L. 102–484, div. A, title III, § 382, Oct. 23, 1992, 106 Stat. 2392; Pub. L. 106–65, div. A, title III, § 354(1), Oct. 5, 1999, 113 Stat. 572; Pub. L. 107–314, div. A, title III, § 343, Dec. 2, 2002, 116 Stat. 2515.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this title'', meaning title XIV of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2365, as amended, known as the Defense Dependents' Education Act of 1978, which enacted this chapter, section 429 of Title 37, Pay and Allowances of the Uniformed Services, and section 1769b of Title 42, The Public Health and Welfare, amended sections 1773 and 1789 of Title 42, and enacted provisions set out as notes under this section. For complete classification of this title to the Code, see Short Title note below and Tables.

AMENDMENTS

2002—Subsec. (d)(2). Pub. L. 107–314 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall provide in regulations for fees to be charged for the students enrolling in a summer school program under this subsection in amounts determined on the basis of family income.''

1999—Subsec. (b)(1). Pub. L. 106–65 substituted ''to receive'' for ''to recieve''.

1992—Subsec. (d). Pub. L. 102–484 added subsec. (d).

1985—Subsec. (c). Pub. L. 99–145 added subsec. (c).

EFFECTIVE DATE

Section 1415 of title XIV of Pub. L. 95–561 provided that:

''(a)(1) Except as provided in paragraph (2) this title [see Short Title note below] shall take effect on July 1, 1979.

''(2) Section 1407(b) [enacting section 926(b) of this title] and the amendments made by section 1407(c) [enacting section 429 of Title 37, Pay and Allowances of the Uniformed Services], 1408(a) [enacting section 1769b of Title 42, The Public Health and Welfare], and 1408(b) [amending sections 1773 and 1789 of Title 42] shall take effect on October 1, 1978.

''(b) Notwithstanding subsection (a) or any other provision of this title no provision of this title shall be

construed to impair or prevent the taking effect of the provision of any other Act providing for the transfer of the functions described in this title to an executive department having responsibility for education.''

SHORT TITLE

Section 1401 of title XIV of Pub. L. 95–561 provided that: ''This title [enacting this chapter, section 429 of Title 37, Pay and Allowances of the Uniformed Services, and section 1769b of Title 42, The Public Health and Welfare, amending sections 1773 and 1789 of Title 42, and enacting provisions set out as a note under this section] may be cited as the 'Defense Dependents' Education Act of 1978'.''

PILOT PROGRAM ON PRIVATE OPERATION OF DEFENSE DEPENDENTS' SCHOOLS

Pub. L. 104–106, div. A, title III, §355, Feb. 10, 1996, 110 Stat. 269, provided that:

''(a) PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program to evaluate the feasibility of using private contractors to operate schools of the defense dependents' education system established under section 1402(a) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(a)).

''(b) SELECTION OF SCHOOL FOR PROGRAM.—If the Secretary conducts the pilot program, the Secretary shall select one school of the defense dependents' education system for participation in the program and provide for the operation of the school by a private contractor for not less than one complete school year.

''(c) REPORT.—Not later than 30 days after the end of the first school year in which the pilot program is conducted, the Secretary shall submit to Congress a report on the results of the program. The report shall include the recommendation of the Secretary with respect to the extent to which other schools of the defense dependents' education system should be operated by private contractors.''

§ 922. Administration of defense dependents' education system

(a) Operation; Director

The defense dependents' education system is operated through the field activity of the Department of Defense known as the Department of Defense Education Activity. That activity is headed by a Director, who is a civilian and is selected by the Secretary of Defense. The Director reports to an Assistant Secretary of Defense designated by the Secretary of Defense for purposes of this chapter.

(b) Implementation of program functions of Secretary of Defense through Director

Except with respect to the authority to prescribe regulations, the Secretary of Defense may carry out his functions under this chapter through the Director.

(c) Functions of Director

The Director shall—

(1) establish personnel policies, consistent with the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 901 et seq.), for employees in the defense dependents' education system,

(2) have authority to transfer professional employees in the defense dependents' education system from one position to another,

(3) prepare a unified budget for each fiscal year, which shall include necessary funds for construction and operation and maintenance of facilities, for the defense dependents' education system for inclusion in the Department of Defense budget for that year,

(4) have authority to establish, in accordance with section 928 of this title, local school advisory committees,

(5) have authority to arrange for inservice and other training programs for employees in the defense dependents' education system, and

(6) perform such other functions as may be required or delegated by the Secretary of Defense or the Assistant Secretary of Defense designated under subsection (a) of this section.

(d) Establishment of regional or area offices; reports to Congress on reorganizations; authorized number of civilian employees

(1) The Director shall establish appropriate regional or area offices in order to provide for thorough and efficient administration of the defense dependents' education system.

(2) Whenever the Department of Defense Education Activity is reorganized in a manner that affects the defense dependents' education system, the Secretary of Defense shall submit a report to the Congress describing the reorganization.

(3) Subject to the approval of the Secretary of Defense, the Department of Defense Education Activity is authorized an appropriate number of civilian employees in its central office and such regional or area office as are established pursuant to paragraph (1).

(Pub. L. 95–561, title XIV, §1403, Nov. 1, 1978, 92 Stat. 2365; Pub. L. 106–65, div. A, title III, §354(2), Oct. 5, 1999, 113 Stat. 572; Pub. L. 106–398, §1 [[div. A], title X, §1087(g)(8)], Oct. 30, 2000, 114 Stat. 1654, 1654A–294.)

REFERENCES IN TEXT

The Defense Department Overseas Teachers Pay and Personnel Practices Act, referred to in subsec. (c)(1), is Pub. L. 86–91, July 17, 1959, 73 Stat. 213, as amended, which is classified generally to chapter 25 (§901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables.

AMENDMENTS

2000—Subsec. (c)(6). Pub. L. 106–398 struck out ''the'' before ''the Assistant Secretary of Defense''.

1999—Pub. L. 106–65, §354(2)(A), amended section catchline.

Subsec. (a). Pub. L. 106–65, §354(2)(A), added subsec. (a) and struck out former subsec. (a) which read as follows:

''(1) There is established within the Department of Defense an office to be known as the Office of Dependents' Education.

''(2) The Office of Dependents' Education shall be headed by a Director of Dependents' Education (hereinafter in this chapter referred to as the 'Director'), who shall be a civilian and who shall be selected by the Secretary of Defense and shall report to the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics.''

Subsec. (b). Pub. L. 106–65, §354(2)(B), made technical amendment to reference in original act which appears in text as reference to this chapter.

Subsec. (c)(1). Pub. L. 106–65, §354(2)(C), inserted ''(20 U.S.C. 901 et seq.)'' after ''Personnel Practices Act''.

Subsec. (c)(2). Pub. L. 106–65, §354(2)(D), substituted a comma for the period at end.

Subsec. (c)(6). Pub. L. 106–65, §354(2)(E), substituted ''the Assistant Secretary of Defense designated under subsection (a) of this section'' for ''Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics''.

Subsec. (d)(1). Pub. L. 106–65, § 354(2)(F), struck out ''for the Office of Dependents' Education'' after ''area offices''.

Subsec. (d)(2). Pub. L. 106–65, § 354(2)(G), struck out first sentence which read: ''Not later than six months after November 1, 1978, the Secretary of Defense shall submit to the Congress a report (A) describing the organization of the Office of Dependents' Education in accordance with paragraph (1), (B) describing the assignment of personnel to the central office of the Office of Dependents' Education and to such regional or area offices as are established pursuant to paragraph (1), and (C) detailing the personnel requirements of the defense dependents' education system.'' and substituted ''Whenever the Department of Defense Education Activity'' for ''Whenever the Office of Dependents' Education'', ''in a manner that affects the defense dependents' education system'' for ''after the submission of the report required under the preceding sentence'', and ''a report'' for ''an additional report''.

Subsec. (d)(3). Pub. L. 106–65, § 354(2)(H), substituted ''the Department of Defense Education Activity'' for ''the Office of Dependents' Education''.

§ 923. Space-available enrollment of students; tuition

(a) Enrollment of ineligible child in system school

Subject to subsection (b) of this section and in accordance with regulations issued under subsection (c) of this section, the Director may authorize the enrollment in a school of the defense dependents' education system of a child not otherwise eligible to enroll in such a school if and to the extent that there is space available for such child in the school.

(b) Determination of amount of tuition; use of payments

(1) Except as otherwise provided under subsection (c) of this section, any child permitted to enroll in a school of the defense dependents' education system under this section shall be required to pay tuition at a rate determined by the Secretary of Defense, which shall not be less than the rate necessary to defray the average cost of the enrollment of children in the system under this section.

(2) Amounts received under paragraph (1) shall be available to the defense dependents' education system to assist in defraying the cost of enrollment of children in the system under this section.

(c) Regulations respecting enrollment requirements

(1) The Secretary of Defense may by regulation identify classes of children who shall be eligible to enroll in schools of the defense dependents' education system under this section if and to the extent that there is space available, establish priorities among such classes, waive the tuition requirement of subsection (b)(1) of this section with respect to any such class, and issue such other regulations as may be necessary to carry out this section.

(2)(A) The Secretary shall include in the regulations prescribed under this subsection a requirement that children in the class of children described in subparagraph (B) shall be subject to the same tuition requirements, or waiver of tuition requirements, as children in the class of children described in subparagraph (C).

(B) The class of children described in this subparagraph are children of members of reserve components of the Armed Forces who—

(i) are on active duty under an order to active duty under section 12301 or 12302 of title 10;

(ii) were ordered to active duty from a location in the United States (other than in Alaska or Hawaii); and

(iii) are serving on active duty outside the United States or in Alaska or Hawaii.

(C) The class of children described in this subparagraph are children of members of reserve components of the Armed Forces who—

(i) are on active duty under an order to active duty under section 12301 or 12302 of title 10;

(ii) were ordered to active duty from a location outside the United States (or in Alaska or Hawaii); and

(iii) are serving on active duty outside the United States or in Alaska or Hawaii.

(d) Enrollment of certain children in overseas schools

(1) The Secretary of Defense may authorize the enrollment in schools of the defense dependents' education system of children in the following classes:

(A) Children of officers and employees of the United States (other than civilian officers and employees who are sponsors under section 932(2) of this title) stationed in overseas areas.

(B) Children of employees of contractors employed in carrying out work for the United States in overseas areas.

(C) Children of other citizens or nationals of the United States or of foreign nationals, if the Secretary determines that enrollment of such children is in the national interest.

(2) Notwithstanding subsection (c) of this section, the Secretary may not waive the tuition requirements of subsection (b)(1) of this section with respect to children referred to in paragraph (1).

(Pub. L. 95–561, title XIV, § 1404, Nov. 1, 1978, 92 Stat. 2366; Pub. L. 99–145, title XII, § 1205, Nov. 8, 1985, 99 Stat. 721; Pub. L. 101–189, div. A, title III, § 325(b), Nov. 29, 1989, 103 Stat. 1415; Pub. L. 108–136, div. A, title V, § 563, Nov. 24, 2003, 117 Stat. 1483.)

AMENDMENTS

2003—Pub. L. 108–136, § 563(b), substituted ''Space-available enrollment of students; tuition'' for ''Tuition-paying students'' in section catchline.

Subsec. (c). Pub. L. 108–136, § 563(a), designated existing provisions as par. (1) and added par. (2).

1989—Subsec. (d)(1)(A). Pub. L. 101–189 substituted ''(other than civilian officers and employees who are sponsors under section 932(2) of this title)'' for ''(including employees of nonappropriated fund activities of the Department of Defense)''.

1985—Subsec. (d). Pub. L. 99–145 added subsec. (d).

EFFECTIVE DATE OF 1989 AMENDMENT

Section 325(c) of Pub. L. 101–189 provided that: ''The amendments made by this section [amending this section and section 932 of this title] shall apply with respect to periods of enrollment in schools of the defense dependents' education system beginning after September 30, 1989.''

§ 923a. Enrollment of certain additional children on tuition-free basis

(a) Enrollment authorized

Under regulations to be prescribed by the Secretary of Defense, the Secretary may authorize the enrollment in schools of the defense dependents' education system on a tuition-free basis of the children of full-time, locally-hired employees of the Department of Defense in an overseas area if such employees are citizens or nationals of the United States.

(b) Funding

The Secretary may use funds available for the defense dependents' education system to provide for the education of children enrolled in the defense dependents' education system under subsection (a) of this section.

(Pub. L. 95–561, title XIV, § 1404A, as added Pub. L. 109–163, div. A, title V, § 571, Jan. 6, 2006, 119 Stat. 3270.)

§ 924. Annual educational assessment

(a) Contents

The Director shall assess each year the performance of the defense dependents' education system in providing an education of high quality to children enrolled in the system. Such assessment may include the use of educational assessment measures and such other means as the Director determines to be suitable for assessing student performance.

(b) Availability

The results of each annual assessment under subsection (a) of this section with respect to an individual enrolled in the defense dependents' education system shall be made available to the sponsor of such individual, and summary results of each such annual assessment shall be made available to Members of Congress and to professional employees in the system.

(Pub. L. 95–561, title XIV, § 1405, Nov. 1, 1978, 92 Stat. 2366.)

§ 925. Budget request for school construction funds for Director of Dependents' Education

The President shall include in his budget for each fiscal year a separate request for funds for construction of school facilities by the Director.

(Pub. L. 95–561, title XIV, § 1406, Nov. 1, 1978, 92 Stat. 2367.)

§ 926. School system for dependents in overseas areas

(a) Establishment and operation

The Secretary of Defense shall establish and operate a school system for dependents in overseas areas as part of the defense dependents' education system.

(b) Tuition and assistance when schools unavailable

(1) Under such circumstances as the Secretary of Defense may prescribe in regulations, the Secretary may provide tuition to allow dependents in an overseas area where a school operated by the Secretary is not reasonably available to attend schools other than schools established under subsection (a) of this section on a tuition-free basis. Any school to which tuition is paid under this subsection to allow a dependent in an overseas area to attend such school shall provide an educational program satisfactory to the Secretary.

(2)(A) The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service of the Navy, may provide financial assistance to sponsors of dependents in overseas areas where schools operated by the Secretary of Defense under subsection (a) of this section are not reasonably available in order to assist the sponsors to defray the costs incurred by the sponsors for the attendance of the dependents at schools in such areas other than schools operated by the Secretary of Defense.

(B) The Secretary of Defense and the Secretary of Homeland Security shall each prescribe regulations relating to the availability of financial assistance under subparagraph (A). Such regulations shall, to the maximum extent practicable, be consistent with Department of State regulations relating to the availability of financial assistance for the education of dependents of Department of State personnel overseas.

(c) Continuation of enrollment for certain dependents of members of Armed Forces involuntarily separated

(1) A member of the Armed Forces serving on active duty on September 30, 1990, who is involuntarily separated during the period beginning on October 1, 1990, and ending on December 31, 2001, and who has a dependent described in paragraph (2) who is enrolled in a school of the defense dependents' education system (or a school for which tuition is provided under subsection (b) of this section) on the date of that separation shall be eligible to enroll or continue the enrollment of that dependent at that school (or another school serving the same community) for the final year of secondary education of that dependent in the same manner as if the member were still on active duty.

(2) A dependent referred to in paragraph (1) is a dependent who on the date of the separation of the member has completed the eleventh grade and is likely to complete secondary education within the one-year period beginning on that date.

(d) Auxiliary services available to home school students

(1) A dependent who is educated in a home school setting, but who is eligible to enroll in a school of the defense dependents' education system, shall be permitted to use or receive auxiliary services of that school without being required to either enroll in that school or register for a minimum number of courses offered by that school. The dependent may be required to satisfy other eligibility requirements and comply with standards of conduct applicable to students actually enrolled in that school who use or receive the same auxiliary services.

(2) For purposes of paragraph (1), the term ''auxiliary services'' includes use of academic resources, access to the library of the school, after hours use of school facilities, and partici-

pation in music, sports, and other extracurricular and interscholastic activities.

(Pub. L. 95–561, title XIV, § 1407, Nov. 1, 1978, 92 Stat. 2367; Pub. L. 101–510, div. A, title V, § 504(a), Nov. 5, 1990, 104 Stat. 1559; Pub. L. 103–160, div. A, title V, § 561(n), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 105–261, div. A, title V, § 561(k), title VI, § 657, Oct. 17, 1998, 112 Stat. 2026, 2054; Pub. L. 106–398, § 1 [[div. A], title V, § 571(k)], Oct. 30, 2000, 114 Stat. 1654, 1654A–135; Pub. L. 107–107, div. A, title III, § 353, Dec. 28, 2001, 115 Stat. 1063; Pub. L. 107–296, title XVII, § 1704(e)(7), Nov. 25, 2002, 116 Stat. 2315.)

CODIFICATION

Section is comprised of section 1407 of Pub. L. 95–561. Subsec. (e), formerly subsec. (c), of section 1407 enacted section 429 of Title 37, Pay and Allowances of the Uniformed Services.

AMENDMENTS

2002—Subsec. (b)(2). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation'' in two places.

2001—Subsec. (d). Pub. L. 107–107 added subsec. (d) and redesignated former subsec. (d) as (e). See Codification note above.

2000—Subsec. (c)(1). Pub. L. 106–398 substituted ''December 31, 2001'' for ''September 30, 2001''.

1998—Subsec. (b). Pub. L. 105–261, § 657, inserted heading, designated existing provisions as par. (1), substituted ''Under such circumstances as the Secretary of Defense may prescribe in regulations, the Secretary'' for ''Under such circumstances as he may by regulation prescribe, the Secretary of Defense'', and added par. (2).

Subsec. (c)(1). Pub. L. 105–261, § 561(k), substituted ''during the period beginning on October 1, 1990, and ending on September 30, 2001'' for ''during the nine-year period beginning on October 1, 1990''.

1993—Subsec. (c)(1). Pub. L. 103–160 substituted ''nine-year period'' for ''five-year period''.

1990—Subsec. (c). Pub. L. 101–510 added subsec. (c) and redesignated former subsec. (c) as (d). See Codification note above.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

§ 927. Allotment formula

(a) Establishment by regulation of minimum allotment formula; criteria

The Director shall by regulation establish a formula for determining the minimum allotment of funds necessary for the operation of each school in the defense dependents' education system. In establishing such formula, the Director shall take into consideration—

(1) the number of students served by a school and the size of the school;

(2) special cost factors for a school, including—

(A) geographic isolation of the school,

(B) a need for special staffing, transportation, or educational programs at the school, and

(C) unusual food and housing costs,

(3) the cost of providing academic services of a high quality as required by section 921(b)(1) of this title; and

(4) such other factors as the Director considers appropriate.

(b) Issuance, etc., of regulations

Any regulation under subsection (a) of this section shall be issued, and shall become effective, in accordance with the procedures applicable to regulations required to be issued by the Secretary of Education in accordance with section 1232 of this title.

(c) Applicability of certain provisions

(1) Children with disabilities

Notwithstanding the provisions of section 921(b)(3) of this title, the provisions of part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.], other than the funding and reporting provisions, shall apply to all schools operated by the Department of Defense under this chapter, including the requirement that children with disabilities, aged 3 to 5, inclusive, receive a free appropriate public education.

(2) Infants and toddlers with disabilities

The responsibility to provide comparable early intervention services to infants and toddlers with disabilities and their families in accordance with individualized family service plans described in section 636 of the Individuals with Disabilities Education Act [20 U.S.C. 1436] and to comply with the procedural safeguards set forth in part C of such Act [20 U.S.C. 1431 et seq.] shall apply with respect to all eligible dependents overseas.

(3) Implementation

In carrying out paragraph (2), the Secretary shall have in effect a comprehensive, coordinated, multidisciplinary program of early intervention services for infants and toddlers with disabilities among Department of Defense entities involved in the provision of such services to such individuals.

(Pub. L. 95–561, title XIV, § 1409, Nov. 1, 1978, 92 Stat. 2369; Pub. L. 102–119, § 24, Oct. 7, 1991, 105 Stat. 605; Pub. L. 106–65, div. A, title III, § 354(3), Oct. 5, 1999, 113 Stat. 573; Pub. L. 108–446, title III, § 305(b), Dec. 3, 2004, 118 Stat. 2804.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c)(1), (2), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Parts B and C of the Act are classified generally to subchapters II (§ 1411 et seq.) and III (§ 1431 et seq.), respectively, of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

2004—Subsec. (c)(2). Pub. L. 108–446 substituted ''section 636'' for ''section 677'' and ''part C'' for ''part H''.

1999—Subsec. (b). Pub. L. 106–65, § 354(3)(A), substituted ''Secretary of Education'' for ''Department of Health, Education, and Welfare'' and made technical amendment to reference in original act which appears in text as reference to section 1232 of this title.

Subsec. (c)(1). Pub. L. 106–65, § 354(3)(B), struck out ''by academic year 1993–1994'' after ''public education''.

Subsec. (c)(3). Pub. L. 106–65, § 354(3)(C), substituted ''Implementation'' for ''Implementation timelines'' in heading, substituted ''In carrying out paragraph (2), the Secretary shall have in effect a comprehensive'' for

''In carrying out the provisions of paragraph (2), the Secretary shall—'', struck out the subpar. (A) designation and ''in academic year 1991–1992 and the 2 succeeding academic years, plan and develop a comprehensive'' before '', coordinated'', substituted a period for the semicolon after ''such individuals'', and struck out subpars. (B) and (C) which related to implementation in academic years 1994–1995, 1995–1996, and succeeding academic years.

1991—Subsec. (c). Pub. L. 102–119 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The provisions of the Education for All Handicapped Children Act of 1975 shall apply with respect to all schools operated by the Department of Defense under this chapter.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 27 of Pub. L. 102–119 provided that:

''(a) SECTIONS 8, 9, AND 10.—The amendments made by sections 8, 9, and 10 [amending sections 1423, 1431, 1434, and 1435 of this title] shall take effect on October 1, 1991, or on the date of enactment of this Act [Oct. 7, 1991], whichever is later.

''(b) SECTIONS 5, 12, 13, 14, 15, 17, AND 18.—The amendments made by sections 5, 12, 13, 14, 15, 17, and 18 [amending sections 1413, 1472, 1476, 1477, 1478, 1480, and 1482 of this title] shall take effect July 1, 1992, except that each State shall have the option to have any of the amendments apply earlier than such date.

''(c) REMAINING PROVISIONS.—The remaining sections of this Act [enacting section 1484a of this title, amending this section, sections 241, 1087ee, 1400 to 1402, 1404, 1405, 1407, 1411 to 1417, 1419, 1421 to 1425, 1431 to 1433, 1435, 1442, 1443, 1451, 1452, 1461, 1471 to 1473, and 1475 to 1485 of this title, sections 2503 and 2504 of Title 25, Indians, sections 721, 774, 777a, 795m, and 796d of Title 29, Labor, and sections 1396b, 1396n, 6022, 6024, 9835, 9855d, 9862, and 9886 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and sections 1400 and 1484 of this title] and the amendments made by such sections shall take effect on the date of the enactment of this Act [Oct. 7, 1991].''

§ 928. School advisory committees

(a) Establishment; functions; membership

(1) The Director shall provide for the establishment of an advisory committee for each school in the defense dependents' education system. An advisory committee for a school shall advise the principal or superintendent of the school with respect to the operation of the school, may make recommendations with respect to curriculum and budget matters, and, except as provided under paragraph (2), shall advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander. The membership of each such advisory committee shall include an equal number of parents of students enrolled in the school and of employees working at the school and, when appropriate, may include a student enrolled in the school. The membership of each such advisory committee shall also include one nonvoting member designated by the organization recognized as the exclusive bargaining representative of the employees working at the school.

(2) In the case of any military installation or overseas area where there is more than one school in the defense dependents' education system, the Director shall provide for the establishment of an advisory committee for such military installation or overseas area to advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander.

(b) Election of members; regulations respecting qualifications and election procedures

Except in the case of a nonvoting member designated under the last sentence of subsection (a)(1) of this section, members of a school advisory committee established under this section shall be elected by individuals of voting age residing in the area to be served by the advisory committee. The Secretary of Defense shall by regulation prescribe the qualifications for election to an advisory committee and procedures for conducting elections of advisory committee members.

(c) Members to serve without pay

Members of school advisory committees established under this section shall serve without pay.

(Pub. L. 95–561, title XIV, § 1410, Nov. 1, 1978, 92 Stat. 2369; Pub. L. 96–88, title V, § 508(j)(1), (2), Oct. 17, 1979, 93 Stat. 693; Pub. L. 99–145, title XII, § 1204(b)(2), Nov. 8, 1985, 99 Stat. 720.)

AMENDMENTS

1985—Subsec. (a)(1). Pub. L. 99–145, § 1204(b)(2)(A), included as member of the advisory committee the designee of the exclusive bargaining representative of the employees.

Subsec. (b). Pub. L. 99–145, § 1204(b)(2)(B), (C), substituted ''Except in the case of a nonvoting member designated under the last sentence of subsection (a)(1) of this section, members'' for ''Members'' and ''The Secretary of Defense'' for ''The Secretary of Education, in consultation with the Secretary of Defense,''.

1979—Subsec. (a)(1). Pub. L. 96–88, § 508(j)(1), substituted ''parents'' for ''representatives of sponsors''.

Subsec. (b). Pub. L. 96–88, § 508(j)(2), empowered the Secretary of Education, in consultation with the Secretary of Defense, to prescribe election qualifications and procedures in regard to advisory committees rather than vesting such power in the Secretary of Defense exclusively.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–88, effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 929. Advisory Council on Dependents' Education

(a) Establishment; membership; Director

(1) There is established in the Department of Defense an Advisory Council on Dependents' Education (hereinafter in this section referred to as the ''Council''). The Council shall be composed of—

(A) the Secretary of Defense and the Secretary of Education, or their respective designees;

(B) 12 individuals appointed jointly by the Secretary of Defense and the Secretary of Education who shall be individuals who have demonstrated an interest in the field of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, and parents of students enrolled in the defense dependents' education system, and one student enrolled in such system; and

(C) a representative of the Secretary of Defense and of the Secretary of Education.

(2) Individuals appointed to the Council from professional employee organizations shall be individuals designated by those organizations.

(3) The Secretary of Defense, or the Secretary's designee, and the Secretary of Education, or the Secretary's designee, shall serve as cochairmen of the Council.

(4) The Director shall be the Executive Secretary of the Council.

(b) Terms of office of members

The term of office of each member of the Council appointed under subsection (a)(2) of this section shall be three years, except that—

(1) of the members first appointed under such paragraph, four shall serve for a term of one year, four shall serve for a term of two years, and four shall serve for a term of three years, as determined by the Secretary of Defense and the Secretary of Education at the time of their appointment, and

(2) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

No member appointed under subsection (a)(2) of this section shall serve more than two full terms on the Council.

(c) Meetings; functions

The Council shall meet at least two times each year. The functions of the Council shall be to—

(1) recommend to the Director general policies for operation of the defense dependents' education system with respect to curriculum selection, administration, and operation of the system,

(2) provide information to the Director from other Federal agencies concerned with primary and secondary education with respect to education programs and practices which such agencies have found to be effective and which should be considered for inclusion in the defense dependents' education system,

(3) advise the Director on the design of the study and the selection of the contractor referred to in section 930(a)(2) of this title, and

(4) perform such other tasks as may be required by the Secretary of Defense.

(d) Compensation, etc., of members

Members of the Council who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Council or otherwise engaged in the business of the Council, be entitled to receive compensation at the daily equivalent of the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5, including traveltime, and while so serving on the business of the Council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons employed intermittently in the Government service.

(e) Termination

The Council shall continue in existence until terminated by law.

(Pub. L. 95–561, title XIV, § 1411, Nov. 1, 1978, 92 Stat. 2370; Pub. L. 96–88, title V, § 508(j)(3)–(8), Oct. 17, 1979, 93 Stat. 693, 694; Pub. L. 99–145, title XII, § 1204(b)(3)–(5), Nov. 8, 1985, 99 Stat. 720, 721; Pub. L. 106–65, div. A, title III, § 354(4), Oct. 5, 1999, 113 Stat. 573.)

AMENDMENTS

1999—Subsec. (d). Pub. L. 106–65 substituted ''level IV of the Executive Schedule under section 5315 of title 5'' for ''grade GS–18 in section 5332 of title 5''.

1985—Subsec. (a). Pub. L. 99–145, § 1204(b)(3)(A), amended subsec. (a) generally. Prior to amendment subsec. (a) read as follows: ''There is established in the Department of Education an Advisory Council on Dependents' Education (hereinafter in this section referred to as the 'Council'). The Council shall be composed of—

''(1) the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, and the Administrator of Education for Overseas Dependents of such department, who shall be co-chairman of the Council;

''(2) twelve individuals appointed by the Secretary of Education, who shall be individuals who have demonstrated an interest in the fields of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, parents of dependents enrolled in the dependents' education system, and one student enrolled in such system;

''(3) a representative of the Secretary of Education and of the Secretary of Defense.

The Director shall be the Executive Secretary of the Council.''

Subsec. (b)(1). Pub. L. 99–145, § 1204(b)(4), inserted reference to Secretary of Defense.

Subsec. (c). Pub. L. 99–145, § 1204(b)(5)(A), substituted ''two times each year'' for ''four times each year'' in provisions before par. (1).

Subsec. (c)(2), (3). Pub. L. 99–145, § 1204(b)(5)(B), (C), redesignated par. (3) as (2), and struck out par. (2) which required the Council to make recommendations to the Director and to the Secretary of Education on the orderly transfer of the functions under this chapter to the Secretary and Department of Education.

Subsec. (c)(4), (5). Pub. L. 99–145, § 1204(b)(5)(C), (D), redesignated par. (5) as (4), and substituted Secretary of Defense for Secretary of Education. Former par. (4) redesignated (3).

1979—Subsec. (a). Pub. L. 96–88, § 508(j)(3), substituted ''Department of Education'' for ''Department of Defense'' in text preceding par. (1).

Subsec. (a)(1). Pub. L. 96–88, § 508(j)(4), provided that the Administrator of Education for Overseas Dependents of the Department of Education was to be a member of the council and its co-chairman.

Subsec. (a)(2). Pub. L. 96–88, § 508(j)(5), substituted ''Secretary of Education'' for ''Assistant Secretary'', ''demonstrated an interest'' for ''versed by training or experience'', ''parents of dependents'' for ''sponsors of students'', and ''dependents' education system'' for ''defense dependents' education system''.

Subsec. (a)(3). Pub. L. 96–88, § 508(j)(5), required membership on the Council for representatives of the Secretaries of Education and Defense and struck out requirements for representation of the Commissioner of Education, Director of the National Institute of Education, Director of the Educational Directorate of the National Science Foundation, Chairman of the National Endowment for the Arts, Chairman of the National Endowment for the Humanities, and the Secretaries of the military departments.

Subsec. (b)(1). Pub. L. 96–88, § 508(j)(6), substituted ''Secretary of Education'' for ''Assistant Secretary''.

Subsec. (c)(2) to (5). Pub. L. 96–88, § 508(j)(7), (8), added par. (2), redesignated former pars. (2), (3), and (4) as (3), (4), and (5), respectively, and in par. (5), as so redesignated, substituted ''Secretary of Education'' for ''Assistant Secretary''.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–88 effective May 4, 1980, with specified exceptions, see section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§ 930. Study of defense dependents' education system

(a) Scope; conduct and report to Director by contractor

(1) The Director may from time to time, but not more frequently than once a year, provide for a comprehensive study of the entire defense dependents' education system. Any such study shall include a detailed analysis of the education programs and the facilities of the system.

(2) Any study under paragraph (1) shall be conducted by a contractor selected by the Director after an open competition. After conducting such study, the contractor shall submit a report to the Director describing the results of the study and giving its assessment of the defense dependents' education system.

(b) Consultation requirements respecting study specifications and contractor selection

In designing the specifications for any study to be conducted pursuant to subsection (a)(1) of this section, and in selecting a contractor to conduct such study under subsection (a)(2) of this section, the Director shall consult with the Advisory Council on Dependents' Education established under section 929 of this title.

(c) Reporting requirements of Director

The Director shall submit to the Congress any report submitted to him under subsection (a)(2) of this section describing the results of a study carried out pursuant to subsection (a)(1) of this section, together with the recommendations, if any, of the contractor for legislation or any increase in funding needed to improve the defense dependents' education system. Notwithstanding any law, rule, or regulation to the contrary, such report shall not be submitted to any review before its transmittal to the Congress, but the Secretary of Defense shall, at the time of the transmittal of such report, submit to the Congress such recommendations as he may have with respect to legislation or any increase in funding needed to improve the defense dependents' education system.

(Pub. L. 95–561, title XIV, § 1412, Nov. 1, 1978, 92 Stat. 2371; Pub. L. 96–46, § 2(a)(8), Aug. 6, 1979, 93 Stat. 340; Pub. L. 106–65, div. A, title III, § 354(5), Oct. 5, 1999, 113 Stat. 573.)

AMENDMENTS

1999—Subsec. (a)(1). Pub. L. 106–65, § 354(5)(A), substituted ''The Director may from time to time, but not more frequently than once a year, provide for'' for ''As soon as practicable after November 1, 1978, the Director shall provide for'' and ''system. Any such study'' for ''system, which''.

Subsec. (a)(2). Pub. L. 106–65, § 354(5)(B), substituted ''Any study under paragraph (1)'' for ''The study required by this subsection'' and struck out ''not later than two years after July 1, 1979,'' after ''shall submit a report to the Director''.

Subsec. (b). Pub. L. 106–65, § 354(5)(C), substituted ''any study'' for ''the study''.

Subsec. (c). Pub. L. 106–65, § 354(5)(D), substituted ''any report'' for ''not later than one year after July 1, 1979, the report'' and ''a study'' for ''the study''.

Subsec. (d). Pub. L. 106–65, § 354(5)(E), struck out subsec. (d) which read as follows: ''The Director may provide for additional studies of the defense dependents' education system to be conducted in accordance with the provisions of this section, but such studies shall not be conducted more frequently than once a year. A report of each study shall be submitted to the Congress in accordance with subsection (c) of this section, and the second sentence of such subsection shall apply with respect to the transmission of each such report.''

1979—Subsec. (a)(2). Pub. L. 96–46 substituted ''two years after July 1, 1979'' for ''one year after July 1, 1979''.

EFFECTIVE DATE OF 1979 AMENDMENT

Section 8 of Pub. L. 96–46 provided that: ''The amendments made by this Act [enacting section 3164 of this title, amending this section, sections 240, 241–1, 1211a, 1221–3, 1221h, 1226c, 1232g, 2308, 2310, 2603, 2721, 2733 to 2735, 2740, 2762, 2763, 2772, 2782, 2902, 3084, 3163, 3200, 3289, 3381 to 3386 of this title, and sections 2001, 2002, 2006, 2008, 2012 of Title 25, Indians, enacting a provision set out as a note under section 1221e of this title, and amending provisions set out as notes under sections 236, 1211b, 1221–1, 1231a, and 2701 of this title and section 13 of Title 25] shall take effect October 1, 1978.''

§ 931. Regulations; issuance and contents

The Secretary of Defense shall issue regulations to carry out this chapter. Such regulations shall—

(1) prescribe the educational goals and objectives of the defense dependents' education system,

(2) establish standards for the development of curricula for the system and for the selection of instructional materials,

(3) prescribe professional standards for professional personnel employed in the system,

(4) provide for arrangements between the Director and commanders of military installations for necessary logistic support for schools of the system located on military installations,

(5) provide for a recertification program for professional personnel employed in the system, and

(6) provide for such other matters as may be necessary to ensure the efficient organization and operation of the defense dependents' education system.

(Pub. L. 95–561, title XIV, § 1413, Nov. 1, 1978, 92 Stat. 2372; Pub. L. 106–65, div. A, title III, § 354(6), Oct. 5, 1999, 113 Stat. 574.)

AMENDMENTS

1999—Subsec. (d). Pub. L. 106–65 substituted ''The Secretary'' for ''Not later than 180 days after July 1, 1979, the Secretary'' in introductory provisions.

§ 932. Definitions

For purposes of this chapter:

(1) The term ''dependent'' means a minor individual—

(A) who has not completed secondary schooling, and

(B) who is the child, stepchild, adopted child, ward, or spouse of a sponsor, or who is a resident in the household of a sponsor who stands in loco parentis to such individual and who receives one-half or more of his support from such sponsor.

(2) The term ''sponsor'' means a person—

(A) who is—

(i) a member of the Armed Forces serving on active duty, or

(ii) a full-time civilian officer or employee of the Department of Defense and a citizen or national of the United States; and

(B) who is authorized to transport dependents to or from an overseas area at Government expense and is provided an allowance for living quarters in that area.

(3) The term ''overseas area'' means any area situated outside the United States.

(4) The term ''United States'', when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Island).

(5) The term ''involuntarily separated'' has the meaning given that term in section 1141 of title 10.

(6) The term ''Director'' means the Director of the Department of Defense Education Activity.

(Pub. L. 95–561, title XIV, § 1414, Nov. 1, 1978, 92 Stat. 2372; Pub. L. 101–189, div. A, title III, § 325(a), Nov. 29, 1989, 103 Stat. 1415; Pub. L. 101–510, div. A, title V, § 504(b), Nov. 5, 1990, 104 Stat. 1559; Pub. L. 106–65, div. A, title III, § 354(7), Oct. 5, 1999, 113 Stat. 574.)

AMENDMENTS

1999—Par. (6). Pub. L. 106–65 added par. (6).

1990—Par. (5). Pub. L. 101–510 added par. (5).

1989—Par. (2). Pub. L. 101–189 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The term 'sponsor' means—

''(A) a member of the Armed Forces serving on active duty, or

''(B) a civilian officer or employee of the Department of Defense paid from appropriated funds.''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–189 applicable with respect to periods of enrollment in schools of the defense dependents' education system beginning after Sept. 30, 1989, see section 325(c) of Pub. L. 101–189, set out as a note under section 923 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

CHAPTER 26—SUPPORT AND SCHOLARSHIP IN HUMANITIES AND ARTS; MUSEUM SERVICES

SUBCHAPTER I—NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

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SUBCHAPTER II—MUSEUM SERVICES

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SUBCHAPTER I—NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

§ 951. Declaration of findings and purposes

The Congress finds and declares the following:

(1) The arts and the humanities belong to all the people of the United States.

(2) The encouragement and support of national progress and scholarship in the humanities and the arts, while primarily a matter for private and local initiative, are also appropriate matters of concern to the Federal Government.

(3) An advanced civilization must not limit its efforts to science and technology alone, but must give full value and support to the other great branches of scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future.

(4) Democracy demands wisdom and vision in its citizens. It must therefore foster and support a form of education, and access to the arts and the humanities, designed to make people of all backgrounds and wherever located masters of their technology and not its unthinking servants.

(5) It is necessary and appropriate for the Federal Government to complement, assist, and add to programs for the advancement of

the humanities and the arts by local, State, regional, and private agencies and their organizations. In doing so, the Government must be sensitive to the nature of public sponsorship. Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public money. Such funding should contribute to public support and confidence in the use of taxpayer funds. Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines.

(6) The arts and the humanities reflect the high place accorded by the American people to the nation's rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups.

(7) The practice of art and the study of the humanities require constant dedication and devotion. While no government can call a great artist or scholar into existence, it is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent.

(8) The world leadership which has come to the United States cannot rest solely upon superior power, wealth, and technology, but must be solidly founded upon worldwide respect and admiration for the Nation's high qualities as a leader in the realm of ideas and of the spirit.

(9) Americans should receive in school, background and preparation in the arts and humanities to enable them to recognize and appreciate the aesthetic dimensions of our lives, the diversity of excellence that comprises our cultural heritage, and artistic and scholarly expression.

(10) It is vital to a democracy to honor and preserve its multicultural artistic heritage as well as support new ideas, and therefore it is essential to provide financial assistance to its artists and the organizations that support their work.

(11) To fulfill its educational mission, achieve an orderly continuation of free society, and provide models of excellence to the American people, the Federal Government must transmit the achievement and values of civilization from the past via the present to the future, and make widely available the greatest achievements of art.

(12) In order to implement these findings and purposes, it is desirable to establish a National Foundation on the Arts and the Humanities.

(Pub. L. 89–209, § 2, Sept. 29, 1965, 79 Stat. 845; Pub. L. 91–346, § 2, July 20, 1970, 84 Stat. 443; Pub. L. 93–133, § 2(a)(1), Oct. 19, 1973, 87 Stat. 462; renumbered title I, § 2, and amended Pub. L. 98–306, §§ 2, 3, May 31, 1984, 98 Stat. 223; renumbered § 2 and amended Pub. L. 99–194, title I, §§ 101(1), 102, Dec. 20, 1985, 99 Stat. 1332; Pub. L. 101–512, title III, § 318 [title I, § 101], Nov. 5, 1990, 104 Stat. 1960, 1961.)

AMENDMENTS

1990—Pub. L. 101–512 amended section generally, substituting provisions relating to declaration of findings and purposes consisting of pars. (1) to (12) for provisions relating to declaration of purpose consisting of cls. (1) to (9).

1985—Cl. (2). Pub. L. 99–194, § 102(1), struck out ''man's'' before ''scholarly and cultural activity''.

Cl. (3). Pub. L. 99–194, § 102(2), inserted '', and access to the arts and the humanities,'' after ''form of education'' and substituted ''people of all backgrounds and wherever located'' for ''men''.

Cls. (8), (9). Pub. L. 99–194, § 102(3)–(5), added cl. (8) and redesignated former cl. (8) as (9).

1984—Cls. (6) to (8). Pub. L. 98–306, § 3, added cl. (6) and redesignated former cls. (6) and (7) as (7) and (8), respectively.

1973—Cl. (7). Pub. L. 93–133 struck out provisions relating to strengthening the responsibilities of the Office of Education with respect to education in the arts and the humanities.

1970—Cl. (2). Pub. L. 91–346 inserted ''in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future''.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 318 [title IV, § 403] of Pub. L. 101–512 provided that:

''(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act [probably means section, see Short Title of 1990 Amendment note below] and the amendments made by this Act shall take effect on October 1, 1990.

''(b) SPECIAL EFFECTIVE DATE.—The amendments made by sections 110, 204, and 301 [amending sections 960, 967, and 974 of this title] shall take effect on the date of the enactment of this Act [Nov. 5, 1990] or October 1, 1990, whichever is earlier.''

EFFECTIVE DATE OF 1973 AMENDMENT

Section 2(b) of Pub. L. 93–133 provided that: ''The amendments made by subsection (a) [amending this section and sections 952 and 954 to 960 of this title and repealing sections 962 and 963 of this title] shall be effective on and after July 1, 1973.''

SHORT TITLE OF 1990 AMENDMENT

Section 318 of Pub. L. 101–512 provided that: ''This section [enacting sections 954a and 969 of this title, amending this section, sections 952, 954, 955, 956, 958, 959, 960, 963, 964, 965, 967, and 974 of this title, and section 5315 of Title 5, Government Organization and Employees, and enacting notes under this section and section 954 of this title] may be cited as the 'Arts, Humanities, and Museums Amendments of 1990'.''

SHORT TITLE OF 1985 AMENDMENT

Section 1 of Pub. L. 99–194 provided that: ''This Act [enacting section 177 of title 2, The Congress, amending this section and sections 952 to 955, 956, 957, 958 to 960, 963, 964, 967, 971, 972, and 974 of this title, enacting provisions set out as notes under sections 954 and 972 of this title, and amending provisions set out as a note under this section] may be cited as the 'Arts, Humanities, and Museums Amendments of 1985'.''

SHORT TITLE OF 1984 AMENDMENT

Section 1 of Pub. L. 98–306 provided that: ''This Act [enacting section 955b of this title and section 310 of Title 25, Indians, amending this section and sections 952 to 955, 956, 957, 958 to 960, 962, 963, 964, and 967 of this title, amending provisions set out as a note under this section and repealing provisions set out as notes under sections 960 and 967 of this title] may be cited as the 'National Foundation on the Arts and the Humanities Act Amendments of 1983'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–496, § 1, Dec. 4, 1980, 94 Stat. 2583, provided that: ''This Act [amending sections 952, 954, 955, 956, 957,

958 to 960, 962, 963, 964, 965, 967, 974, and 3473 of this title] may be cited as the 'Arts and Humanities Act of 1980'.''

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–462, § 1, Oct. 8, 1976, 90 Stat. 1971, provided: ''That this Act [enacting sections 961 to 968 of this title, amending sections 954, 955, 956, 957, 958, 960, and 1867 of this title, and enacting provisions set out as notes under sections 956, 960, and 961 of this title] may be cited as the 'Arts, Humanities, and Cultural Affairs Act of 1976'.''

SHORT TITLE OF 1973 AMENDMENT

Section 1 of Pub. L. 93–133 provided: ''That this Act [amending this section and sections 351a, 952, 954, 955, 956, 957, and 958 to 960 of this title, repealing sections 962 and 963 of this title, and enacting provisions set out as notes under this section and section 351a of this title] may be cited as the 'National Foundation on the Arts and the Humanities Amendments of 1973'.''

SHORT TITLE OF 1970 AMENDMENT

Section 1 of Pub. L. 91–346 provided: ''That this Act [amending this section and sections 952, 954, 955, 956, 957, and 958 to 960 of this title, repealing sections 781 to 788 and 790 of this title, and enacting provisions set out as notes under section 955 of this title and section 781 of this title] may be cited as 'The National Foundation on the Arts and the Humanities Amendments of 1970'.''

SHORT TITLE

Section 1 of Pub. L. 89–209, as renumbered title I, § 1, and amended by Pub. L. 98–306, § 2, May 31, 1984, 98 Stat. 223; renumbered § 1 and amended by Pub. L. 99–194, title I, § 101, Dec. 20, 1985, 99 Stat. 1332, provided that: ''This Act [enacting this subchapter, amending sections 784 to 786 of this title, repealing section 789 of this title, and enacting provisions formerly set out as a note under section 785 of this title] may be cited as the 'National Foundation on the Arts and the Humanities Act of 1965'.''

SENSE OF CONGRESS REGARDING PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

Section 318 [title IV, §§ 401, 402] of Pub. L. 101–512 provided that:

''SEC. 401. SENSE OF CONGRESS.

''It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) of any form of subsidy, aid, or other Federal assistance under the Acts amended by this Act [probably means this section, see Short Title of 1990 Amendment note above] should, in expending that assistance, purchase American-made equipment and products.

''SEC. 402. NOTICE.

''Any entity that provides a form of subsidy, aid, or other Federal assistance under the Acts amended by this Act shall provide to each recipient of such form of subsidy, aid, or other Federal assistance a notice describing the sense of the Congress stated under section 401.''

1979 WHITE HOUSE CONFERENCE ON THE ARTS

Pub. L. 95–272, title I, §§ 101–109, May 3, 1978, 92 Stat. 222–224, called for a White House Conference on the Arts to be held no later than Dec. 31, 1979, to help develop a climate in which the arts can flourish and to formulate recommendations relating to the appropriate growth of the arts in all parts of the Nation, established a National Conference Planning Council on the Arts to provide guidance and planning for the Conference, directed the Council to submit a report of the Conference to the President and to the Congress no later than 180 days following the date on which the Conference was called, and provided the Council cease to exist 180 days, unless extended by the President, but in no event to exceed one year, after submission of the report.

1979 WHITE HOUSE CONFERENCE ON THE HUMANITIES

Pub. L. 95–272, title II, §§ 201–209, May 3, 1978, 92 Stat. 224–226, called for a White House Conference on the Humanities to be held no later than Dec. 31, 1979, to help develop a climate in which the humanities can flourish and to formulate recommendations relating to the appropriate growth of the humanities in all parts of the Nation, established a National Planning Council on the Humanities to provide guidance and planning for the Conference, directed the Council to submit a report of the Conference to the President and to the Congress no later than 180 days following the date on which the Conference was called, and provided the Council cease to exist 180 days, unless extended by the President, but in no event to exceed one year, after submission of the report.

EXECUTIVE ORDER NO. 12275

Ex. Ord. No. 12275, Jan. 16, 1981, 46 F.R. 5857, which established the Design Liaison Council and provided for its membership, functions, etc., was revoked by Ex. Ord. No. 12379, § 10, Aug. 17, 1982, 47 F.R. 36099, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§ 952. Definitions

As used in this subchapter—

(a) The term ''humanities'' includes, but is not limited to, the study and interpretation of the following: language, both modern and classical; linguistics; literature; history; jurisprudence; philosophy; archeology; comparative religion; ethics; the history, criticism, and theory of the arts; those aspects of the social sciences which have humanistic content and employ humanistic methods; and the study and application of the humanities to the human environment with particular attention to reflecting our diverse heritage, traditions, and history and to the relevance of the humanities to the current conditions of national life.

(b) The term ''the arts'' includes, but is not limited to, music (instrumental and vocal), dance, drama, folk art, creative writing, architecture and allied fields, painting, sculpture, photography, graphic and craft arts, industrial design, costume and fashion design, motion pictures, television, radio, film, video, tape and sound recording, the arts related to the presentation, performance, execution, and exhibition of such major art forms, all those traditional arts practiced by the diverse peoples of this country.[1] and the study and application of the arts to the human environment.

(c) The term ''production'' means plays (with or without music), ballet, dance and choral performances, concerts, recitals, operas, exhibitions, readings, motion pictures, television, radio, film, video, and tape and sound recordings, and any other activities involving the execution or rendition of the arts and meeting such standards as may be approved by the National Endowment for the Arts established by section 954 of this title.

(d) The term ''project'' means programs organized to carry out the purposes of this subchapter, including programs to foster American artistic creativity, to commission works of art, to create opportunities for individuals to develop artistic talents when carried on as a part

[1] So in original. The period probably should be a comma.

of a program otherwise included in this definition, and to develop and enhance the widest public knowledge and understanding of the arts, and includes, where appropriate, rental or purchase of facilities, purchase or rental of land, and acquisition of equipment. Such term also includes—

(1) the renovation of facilities if (A) the amount of the expenditure of Federal funds for such purpose in the case of any project does not exceed $250,000, or (B) two-thirds of the members of the National Council on the Arts or the National Council on the Humanities, as the case may be (who are present and voting) approve of the grant or contract involving an expenditure for such purpose; and

(2) for purposes of sections 954(p), 956(c)(10), and 956(h) of this title only, the construction of facilities if (A) such construction is for demonstration purposes or under unusual circumstances where there is no other manner in which to accomplish an artistic or humanistic purpose, and (B) two-thirds of the members of the National Council on the Arts and the National Council on the Humanities, as the case may be, (who are present and voting) approve of the grant or contract involving an expenditure for such purpose.

(e) The term ''group'' includes any State or other public agency, and any nonprofit society, institution, organization, association, museum, or establishment in the United States, whether or not incorporated.

(f) The term ''workshop'' means an activity the primary purpose of which is to encourage the artistic development or enjoyment of amateur, student, or other nonprofessional participants, or to promote scholarship and teaching among the participants.

(g) The term ''State'' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands.

(h) The term ''local arts agency'' means a community organization, or an agency of local government, that primarily provides financial support, services, or other programs for a variety of artists and arts organizations, for the benefit of the community as a whole.

(i) The term ''developing arts organization'' means a local arts organization of high artistic promise which—

(1) serves as an important source of local arts programming in a community; and

(2) has the potential to develop artistically and institutionally to broaden public access to the arts in rural and innercity areas and other areas that are underserved artistically.

(j) The term ''determined to be obscene'' means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.

(k) The term ''final judgment'' means a judgment that is either—

(1) not reviewed by any other court that has authority to review such judgment; or

(2) is not reviewable by any other court.

(*l*) The term ''obscene'' means with respect to a project, production, workshop, or program that—

(1) the average person, applying contemporary community standards, would find that such project, production, workshop, or program, when taken as a whole, appeals to the prurient interest;

(2) such project, production, workshop, or program depicts or describes sexual conduct in a patently offensive way; and

(3) such project, production, workshop, or program, when taken as a whole, lacks serious literary, artistic, political, or scientific value.

(Pub. L. 89–209, § 3, Sept. 29, 1965, 79 Stat. 845; Pub. L. 90–348, §§ 1, 7, June 18, 1968, 82 Stat. 184, 187; Pub. L. 91–346, § 3, July 20, 1970, 84 Stat. 443; Pub. L. 93–133, § 2(a)(2), Oct. 19, 1973, 87 Stat. 462; Pub. L. 96–496, title I, § 101, Dec. 4, 1980, 94 Stat. 2583; renumbered title I, § 3, Pub. L. 98–306, § 2, May 31, 1984, 98 Stat. 223; renumbered § 3 and amended Pub. L. 99–194, title I, §§ 101(1), 103, Dec. 20, 1985, 99 Stat. 1332; Pub. L. 101–512, title III, § 318 [title I, § 102], Nov. 5, 1990, 104 Stat. 1960, 1962.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–512, § 318 [title I, § 102(a)(1), (b)(1)], inserted ''all those traditional arts practiced by the diverse peoples of this country.'' after ''forms,'' and ''film, video,'' after ''radio,''.

Subsec. (c). Pub. L. 101–512, § 318 [title I, § 102(b)(2)], inserted ''film, video,'' after ''radio,''.

Subsec. (d). Pub. L. 101–512, § 318 [title I, § 102(b)(3)(A)], inserted ''the widest'' after ''enhance''.

Subsec. (d)(2). Pub. L. 101–512, § 318 [title I, § 102(b)(3)(B)], which directed the substitution of ''sections 954(p), 956(c)(10),'' for ''sections 954(1)'', was executed by making the substitution for ''sections 954(*l*)'' to reflect the probable intent of Congress.

Subsecs. (h), (i). Pub. L. 101–512, § 318 [title I, § 102(a)(2)], added subsecs. (h) and (i).

Subsecs. (j) to (*l*). Pub. L. 101–512, § 318 [title I, § 102(c)], added subsecs. (j) to (*l*).

1985—Subsec. (a). Pub. L. 99–194, § 103(1), substituted ''study and interpretation of the following'' for ''study of the following'' and inserted ''to reflecting our diverse heritage, traditions, and history and'' after ''particular attention''.

Subsec. (d)(2). Pub. L. 99–194, § 103(2), inserted ''for purposes of sections 954(*l*) and 956(h) of this title only,'' before ''the construction of facilities if'', ''or humanistic'' after ''artistic'', and ''and the National Council on the Humanities, as the case may be,'' after ''the National Council on the Arts''.

1980—Subsec. (a). Pub. L. 96–496, § 101(a), substituted ''and theory of the arts'' for ''theory, and practice of the arts''.

Subsec. (d)(1)(B). Pub. L. 96–496, § 101(b), inserted ''or the National Council on the Humanities, as the case may be''.

Subsec. (g). Pub. L. 96–496, § 101(c), inserted ''the Northern Mariana Islands''.

1973—Subsec. (d). Pub. L. 93–133 substituted ''or purchase of facilities'' for '', purchase, renovation, or construction of facilities'' and added pars. (1) and (2).

1970—Subsec. (a). Pub. L. 91–346 extended term ''humanities'' to include the study of comparative religion and ethics, and emphasized that particular attention be paid to relevance of humanities to current conditions of national life when engaging in study and application of humanities to human environment.

1968—Subsec. (a). Pub. L. 90–348, § 7, extended term ''humanities'' to include the study and application of enumerated fields to human environment.

Subsec. (b). Pub. L. 90–348, § 7, extended term ''arts'' to include study and application of enumerated art forms to human environment.

Subsec. (f). Pub. L. 90–348, § 1, substituted ''activity'' for ''production'' in definition of ''workshop'' and ex-

tended enumerated purposes to include promotion of scholarship and teaching among participants.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, § 403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

§ 953. National Foundation on the Arts and the Humanities

(a) Establishment; composition

There is established a National Foundation on the Arts and the Humanities (hereinafter referred to as the ''Foundation''), which shall be composed of a National Endowment for the Arts, a National Endowment for the Humanities, a Federal Council on the Arts and the Humanities, and an Institute of Museum Services.

(b) Purpose

The purpose of the Foundation shall be to develop and promote a broadly conceived national policy of support for the humanities and the arts in the United States, and for institutions which preserve the cultural heritage of the United States pursuant to this subchapter.

(c) Prohibition against Federal supervision over policy determination, personnel, or curriculum, or administration or operation of any school or other non-Federal body

In the administration of this subchapter no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the policy determination, personnel, or curriculum, or the administration or operation of any school or other non-Federal agency, institution, organization, or association.

(Pub. L. 89–209, § 4, Sept. 29, 1965, 79 Stat. 846; renumbered title I, § 4, and amended Pub. L. 98–306, §§ 2, 4, May 31, 1984, 98 Stat. 223; renumbered § 4 and amended Pub. L. 99–194, title I, §§ 101(1), 104, Dec. 20, 1985, 99 Stat. 1332, 1333.)

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–194, § 104, struck out a second comma after ''a National Endowment for the Humanities'' and ''(hereinafter established)'' after ''Institute of Museum Services''.

1984—Subsec. (a). Pub. L. 98–306, § 4(a), substituted '', a Federal Council'' for ''and a Federal Council'' and inserted '', and an Institute of Museum Services''.

Subsec. (b). Pub. L. 98–306, § 4(b), inserted '', and for institutions which preserve the cultural heritage of the United States''.

§ 954. National Endowment for the Arts

(a) Establishment

There is established within the Foundation a National Endowment for the Arts.

(b) Chairperson of the Endowment; term of office; vacancies

(1) The Endowment shall be headed by a chairperson, to be known as the Chairperson of the National Endowment for the Arts, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairperson shall be four years and the Chairperson shall be eligible for reappointment. The provisions of this subsection shall apply to any person appointed to fill a vacancy in the office of Chairperson. Upon expiration of the chairperson's term of office the Chairperson shall serve until the Chairperson's successor shall have been appointed and shall have qualified.

(c) Program of contracts, grants-in-aid, or loans to groups and individuals for projects and productions; traditionally underrepresented recipients of financial assistance

The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of contracts with, or grants-in-aid or loans to, groups or, in appropriate cases, individuals of exceptional talent engaged in or concerned with the arts, for the purpose of enabling them to provide or support—

(1) projects and productions which have substantial national or international artistic and cultural significance, giving emphasis to American creativity and cultural diversity and to the maintenance and encouragement of professional excellence;

(2) projects and productions, meeting professional standards or standards of authenticity or tradition, irrespective of origin, which are of significant merit and which, without such assistance, would otherwise be unavailable to our citizens for geographic or economic reasons;

(3) projects and productions that will encourage and assist artists and enable them to achieve wider distribution of their works, to work in residence at an educational or cultural institution, or to achieve standards of professional excellence;

(4) projects and productions which have substantial artistic and cultural significance and that reach, or reflect the culture of, a minority, inner city, rural, or tribal community;

(5) projects and productions that will encourage public knowledge, education, understanding, and appreciation of the arts;

(6) workshops that will encourage and develop the appreciation and enjoyment of the arts by our citizens;

(7) programs for the arts at the local level;

(8) projects that enhance managerial and organizational skills and capabilities;

(9) projects, productions, and workshops of the kinds described in paragraphs (1) through (8) through film, radio, video, and similar media, for the purpose of broadening public access to the arts; and

(10) other relevant projects, including surveys, research, planning, and publications relating to the purposes of this subsection.

In the case of publications under paragraph (10) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources

of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501. Any loans made by the Chairperson under this subsection shall be made in accordance with terms and conditions approved by the Secretary of the Treasury. In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to artists and artistic groups that have traditionally been underrepresented.

(d) Application for payment; regulations and procedures

No payment shall be made under this section except upon application therefor which is submitted to the National Endowment for the Arts in accordance with regulations issued and procedures established by the Chairperson. In establishing such regulations and procedures, the Chairperson shall ensure that—

(1) artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public; and

(2) applications are consistent with the purposes of this section. Such regulations and procedures shall clearly indicate that obscenity is without artistic merit, is not protected speech, and shall not be funded. Projects, productions, workshops, and programs that are determined to be obscene are prohibited from receiving financial assistance under this subchapter from the National Endowment for the Arts.

The disapproval or approval of an application by the Chairperson shall not be construed to mean, and shall not be considered as evidence that, the project, production, workshop, or program for which the applicant requested financial assistance is or is not obscene.

(e) Limitation on amount of grant to group; grants and contracts of the National Endowment for the Arts

The total amount of any grant to any group pursuant to subsection (c) of this section shall not exceed 50 per centum of the total cost of such project or production, except that not more than 20 per centum of the funds allotted by the National Endowment for the Arts for the purposes of subsection (c) of this section for any fiscal year may be available for grants and contracts in that fiscal year without regard to such limitation.

(f) Eligibility for financial assistance

Any group shall be eligible for financial assistance pursuant to this section only if (1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals, and (2) donations to such group are allowable as a charitable contribution under the standards of subsection (c) of section 170 of title 26.

(g) Grants to States for projects and productions; applications; terms and conditions of State plans; minimum allotments; excess appropriations; cost limitations; grants to regional groups; non-Federal funding; definitions

(1) The Chairperson, with the advice of the National Council on the Arts, is authorized to establish and carry out a program of grants-in-aid to assist the several States in supporting existing projects and productions which meet the standards enumerated in subsection (c) of this section, and in developing projects and productions in the arts in such a manner as will furnish adequate programs, facilities, and services in the arts to all the people and communities in each of the several States.

(2) In order to receive assistance under this subsection in any fiscal year, a State shall submit an application for such grants at such time as shall be specified by the Chairperson and accompany such application with a plan which the Chairperson finds—

(A) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the ''State agency'') as the sole agency for the administration of the State plan;

(B) provides that funds paid to the State under this subsection will be expended solely on projects and productions approved by the State agency which carry out one or more of the objectives of subsection (c) of this section;

(C) provides that the State agency will make such reports, in such form and containing such information, as the Chairperson may from time to time require, including a description of the progress made toward achieving the goals of the State plan;

(D) provides—

(i) assurances that the State agency has held, after reasonable notice, public meetings in the State to allow all groups of artists, interested organizations, and the public to present views and make recommendations regarding the State plan; and

(ii) a summary of such recommendations and the State agency's response to such recommendations; and

(E) contains—

(i) a description of the level of participation during the most recent preceding year for which information is available by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

(ii) for the most recent preceding year for which information is available, a description of the extent projects and productions receiving financial assistance from the State arts agency are available to all people and communities in the State; and

(iii) a description of projects and productions receiving financial assistance under this subsection that exist or are being developed to secure wider participation of artists, artists' organizations, and arts organizations identified under clause (i) of this subparagraph or that address the availability of the arts to all people or communities identified under clause (ii) of this subparagraph.

No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

(3) Of the sums available to carry out this subsection for any fiscal year, each State which has a plan approved by the Chairperson shall be allotted at least $200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) the amount of such excess which is no greater than 25 per centum of the sums available to carry out this subsection for any fiscal year shall be available only to the Chairperson for making grants under this subsection to States and regional groups, and

(B) the amount of such excess, if any, which remains after reserving in full for the Chairperson the amount required under clause (A) shall be allotted among the States which have plans approved by the Chairperson in equal amounts

but in no event shall any State be allotted less than $200,000.

(4)(A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State, which has a plan approved by the Chairperson in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (3) for any fiscal year which exceeds $125,000 shall be available, at the discretion of the Chairperson, to pay up to 100 per centum of such cost of projects and productions if such projects and productions would otherwise be unavailable to the residents of that State: *Provided*, That the total amount of any such allotment for any fiscal year which is exempted from such 50 per centum limitation shall not exceed 20 per centum of the total of such allotment for such fiscal year.

(B) Any amount allotted to a State under the first sentence of paragraph (3) for any fiscal year which is not obligated by the State prior to 60 days prior to the end of the fiscal year for which such sums are appropriated shall be available for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

(D) For the purpose of paragraph (3) and paragraph (4) of this section the term ''regional group'' means any multistate group, whether or not representative of contiguous States.

(E) For purposes of paragraph (3)(B), the term ''State'' includes, in addition to the several States of the Union, only those special jurisdictions specified in section 952(g) of this title which have a population of 200,000 or more, according to the latest decennial census.

(5) All amounts allotted or made available under paragraph (3) for a fiscal year which are not granted to a State during such year shall be available at the end of such year to the National Endowment for the Arts for the purpose of carrying out subsection (c) of this section.

(h) Suspension of grants for defaults, noncompliance with provisions and plans, and diversion of funds; repayment of funds

Whenever the Chairperson, after reasonable notice and opportunity for hearing, finds that—

(1) a group is not complying substantially with the provisions of this section;

(2) a State agency is not complying substantially with the terms and conditions of its State plan approved under this section; or

(3) any funds granted to a group or State agency under this section have been diverted from the purposes for which they were allotted or paid,

the Chairperson shall immediately notify the Secretary of the Treasury and the group or State agency with respect to which such finding was made that no further grants will be made under this section to such group or agency until there is no longer any default or failure to comply or the diversion has been corrected, or, if compliance or correction is impossible, until such group or agency repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

(i) Application for financial assistance; requirements

It shall be a condition of the receipt of financial assistance provided under this section by the Chairperson or the State agency that the applicant for such assistance include in its application—

(1) a detailed description of the proposed project, production, workshop, or program for which the applicant requests such assistance;

(2) a timetable for the completion of such proposed project, production, workshop, or program;

(3) an assurance that the applicant will submit—

(A) interim reports describing the applicant's—

(i) progress in carrying out such project, production, workshop, or program; and

(ii) compliance with this subchapter and the conditions of receipt of such assistance;

(B) if such proposed project, production, workshop, or program will be carried out during a period exceeding 1 year, an annual report describing the applicant's—

(i) progress in carrying out such project, production, workshop, or program; and

(ii) compliance with this subchapter and the conditions of receipt of such assistance; and

(C) not later than 90 days after—

(i) the end of the period for which the applicant receives such assistance; or

(ii) the completion of such project, production, workshop, or program;

whichever occurs earlier, a final report to the Chairperson or the State agency (as the case may be) describing the applicant's compliance with this subchapter and the conditions of receipt of such assistance; and

(4) an assurance that the project, production, workshop, or program for which assistance is requested will meet the standards of artistic excellence and artistic merit required by this subchapter.

(j) Regulations for distribution of financial assistance in installments; implementation

The Chairperson shall issue regulations to provide for the distribution of financial assistance to recipients in installments except in those cases where the Chairperson determines that installments are not practicable. In implementing any such installments, the Chairperson shall ensure that—

(1) not more than two-thirds of such assistance may be provided at the time such application is approved; and

(2) the remainder of such assistance may not be provided until the Chairperson finds that the recipient of such assistance is complying substantially with this section and with the conditions under which such assistance is provided to such recipient.

(k) Reviews to ensure compliance with regulations

The Inspector General of the Endowment shall conduct appropriate reviews to ensure that recipients of financial assistance under this section comply with the regulations under this subchapter that apply with respect to such assistance, including regulations relating to accounting and financial matters.

(*l*) Use of financial assistance for obscene project, production, etc.; repayment of assistance; exceptions

(1) If, after reasonable notice and opportunity for a hearing on the record, the Chairperson determines that a recipient of financial assistance provided under this section by the Chairperson or any non-Federal entity, used such financial assistance for a project, production, workshop, or program that is determined to be obscene, then the Chairperson shall require that until such recipient repays such assistance (in such amount, and under such terms and conditions, as the Chairperson determines to be appropriate) to the Endowment; no subsequent financial assistance be provided under this section to such recipient.

(2) Financial assistance repaid under this section to the Endowment shall be deposited in the Treasury of the United States and credited as miscellaneous receipts.

(3)(A) This subsection shall not apply with respect to financial assistance provided before the effective date of this subsection.

(B) This subsection shall not apply with respect to a project, production, workshop, or program after the expiration of the 7-year period beginning on the latest date on which financial assistance is provided under this section for such project, production, workshop, or program.

(m) Labor standards of professional performers and personnel; healthy and safe working conditions

It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel (other than laborers and mechanics with respect to whom labor standards are prescribed in subsection (n) of this section) employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as the Secretary of Labor may deem necessary or appropriate to carry out the provisions of this subsection.

(n) Labor standards of laborers and mechanics

It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State or State agency receiving such grant furnish adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary of Labor shall have with respect to the labor standards specified in this subsection the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 3145 of title 40.

(*o*) Correlation and development of endowment programs with other Federal and non-Federal programs; expenditure of appropriations

The Chairperson shall correlate the programs of the National Endowment for the Arts insofar as practicable, with existing Federal programs and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this subchapter which can be made by other Federal agencies under existing programs. The Chairperson may enter into interagency agreements to promote or assist with the arts-related activities of other Federal agencies, on a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) of this section for the costs of such activities.

(p) Program of contracts or grants-in-aid to public agencies and private nonprofit organizations; limitation on payments; authority of Chairperson

(1) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations, on a national, State, or local level, for the purpose of strengthening quality by—

(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the programs of such organizations or institutions;

(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

(D) providing additional support for cooperative efforts undertaken by State arts agencies with local arts groups and local arts agencies to promote effective arts activity at the State and local level, including—

(i) support of professional artists in community based residencies;

(ii) support of rural arts development;

(iii) support of and models for regional, statewide, or local organizations to provide technical assistance to cultural organizations and institutions;

(iv) support of and models for visual and performing arts touring; and

(v) support of and models for professional staffing of arts organizations and for stabilizing and broadening the financial base for arts organizations;

(E) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located;

(F) fostering greater citizen involvement in planning the cultural development of a community; and

(G) stimulating artistic activity and awareness which are in keeping with the varied cultural traditions of this Nation.

(2)(A) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized in accordance with this subsection, to establish and carry out a program of contracts with, or grants to, States for the purposes of—

(i) raising the artistic capabilities of developing arts organizations by providing for—

(I) artistic and programmatic development to enhance artistic capabilities, including staff development; and

(II) technical assistance to improve managerial and organizational skills, financial systems management, and long-range fiscal planning; and

(ii) stimulating artistic activity and awareness and broadening public access to the arts in rural and innercity areas and other areas that are underserved artistically.

(B) For purposes of providing financial assistance under this paragraph, the Chairperson shall give priority to the activities described in subparagraph (A)(i).

(C) The Chairperson may not provide financial assistance under this paragraph to a particular applicant in more than 3 fiscal years for the purpose specified in subparagraph (A)(i).

(3) The total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

(4) In carrying out the program authorized by this subsection, the Chairperson of the National Endowment for the Arts shall have the same authority as is established in subsection (c) of this section and section 959 of this title.

(q) National information and data collection system on the arts, artists and art groups, and audiences; development and implementation plan; state of the arts reports

The Chairperson of the National Endowment for the Arts shall, in ongoing consultation with State and local agencies, relevant organizations, and relevant Federal agencies, continue to develop and implement a practical system of national information and data collection and public dissemination on the arts, artists and arts groups, and their audiences. Such system shall include artistic and financial trends in the various artistic fields, trends in audience participation, and trends in arts education on national, regional, and State levels. Such system shall also include information regarding the availability of the arts to various audience segments, including rural communities. Such system shall be used, along with a summary of the data submitted with State plans under subsection (g) of this section, to prepare a periodic report on the state of the arts in the Nation. The state of the arts report shall include a description of the availability of the Endowment's programs to emerging, rural, and culturally diverse artists, arts organizations, and communities and of the participation by such artists, organizations, and communities in such programs. The state of the arts report shall be submitted to the President and the Congress, and provided to the States, not later than October 1, 1992, and quadrennially thereafter.

(Pub. L. 89–209, § 5, Sept. 29, 1965, 79 Stat. 846; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 90–348, §§ 2, 3, June 18, 1968, 82 Stat. 185; Pub. L. 91–346, §§ 4, 5(a)(1), (2), 6, 7, July 20, 1970, 84 Stat. 443, 445; Pub. L. 93–133, § 2(a)(3), (4), Oct. 19, 1973, 87 Stat. 462; Pub. L. 94–462, title I, §§ 101, 102, title III, § 301(a), title IV, § 401(a), Oct. 8, 1976, 90 Stat. 1971, 1978, 1980; Pub. L. 96–496, title I, §§ 102, 109(a), (b), Dec. 4, 1980, 94 Stat. 2583, 2591; renumbered title I, § 5, Pub. L. 98–306, § 2, May 31, 1984, 98 Stat. 223; renumbered § 5 and amended Pub. L. 99–194, title I, §§ 101(1), 105, Dec. 20, 1985, 99 Stat. 1332, 1333; Pub. L. 101–512, title III, § 318 [title I, §§ 103(a)–(i)(1), 104], Nov. 5, 1990, 104 Stat. 1960, 1963–1966.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (*l*)(3)(A), is October 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as an Effective Date of 1990 Amendment note under section 951 of this title.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (n), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (n), ''sections 3141–3144, 3146, and 3147 of title 40'' substituted for ''the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5)'' and ''section 3145 of title 40'' substituted for ''section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101–512, §318 [title I, §103(a)(7)], substituted ''paragraph (10)'' for ''clause (8)'' in concluding provisions.

Subsec. (c)(1). Pub. L. 101–512, §318 [title I, §103(a)(1)], amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''projects and productions which have substantial artistic and cultural significance, giving emphasis to American creativity and cultural diversity and the maintenance and encouragement of professional excellence;''.

Subsec. (c)(2). Pub. L. 101–512, §318 [title I, §103(a)(2)], inserted ''or tradition'' after ''authenticity''.

Subsec. (c)(5). Pub. L. 101–512, §318 [title I, §103(a)(3)], inserted ''education,'' after ''knowledge,''.

Subsec. (c)(8) to (10). Pub. L. 101–512, §318 [title I, §103(a)(4)–(6)], added pars. (8) and (9) and redesignated former par. (8) as (10).

Subsec. (d). Pub. L. 101–512, §318 [title I, §103(b)], amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''No payment may be made to any group under this section except upon application therefor which is submitted to the National Endowment for the Arts in accordance with regulations and procedures established by the Chairperson.''

Subsec. (f). Pub. L. 101–512, §318 [title I, §103(c)], substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (g)(2)(E)(i), (ii). Pub. L. 101–512, §318 [title I, §103(d)], added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

''(i) a description of the level of participation during the previous 2 years by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

''(ii) a description of the extent to which projects and productions receiving financial assistance under this subsection are available to all people and communities in the State; and''.

Subsecs. (i) to (k). Pub. L. 101–512, §318 [title I, §103(g)(2)], added subsecs. (i) to (k), and redesignated former subsecs. (i) to (k) as (*l*) to (n), respectively.

Subsec. (*l*). Pub. L. 101–512, §318 [title I, §103(h)(2)], added subsec. (*l*). Former subsec. (*l*), redesignated (m).

Pub. L. 101–512, §318 [title I, §103(g)(1)], redesignated subsec. (i) as (*l*). Former subsec. (*l*) redesignated (*o*).

Subsec. (m). Pub. L. 101–512, §318 [title I, §103(i)(1)], substituted ''subsection (n)'' for ''subsection (j)''.

Pub. L. 101–512, §318 [title I, §103(h)(1)], redesignated subsec. (*l*) as (m). Former subsec. (m) redesignated (n).

Pub. L. 101–512, §318 [title I, §103(g)(1)], redesignated subsec. (j) as (m). Former subsec. (m) redesignated (p).

Subsecs. (n), (*o*). Pub. L. 101–512, §318 [title I, §103(h)(1)], redesignated subsecs. (m) and (n) as (n) and (*o*), respectively. Former subsecs. (n) and (*o*) redesignated (*o*) and (p), respectively.

Pub. L. 101–512, §318 [title I, §103(g)(1)], redesignated subsecs. (k) and (*l*) as (n) and (*o*), respectively.

Subsec. (p). Pub. L. 101–512, §318 [title I, §103(h)(1)], redesignated subsec. (*o*) as (p). Former subsec. (p) redesignated (q).

Pub. L. 101–512, §318 [title I, §103(g)(1)], redesignated subsec. (m) as (p).

Subsec. (p)(1)(G). Pub. L. 101–512, §318 [title I, §103(e)], added subpar. (G).

Subsec. (p)(2) to (4). Pub. L. 101–512, §318 [title I, §104], added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and in par. (4), substituted ''subsection (c)'' for ''section 5(c)'', which for purposes of codification was translated as ''subsection (c) of this section'' thus requiring no change in text.

Subsec. (q). Pub. L. 101–512, §318 [title I, §103(h)(1)], redesignated subsec. (p) as (q).

Pub. L. 101–512, §318 [title I, §103(f)], inserted ''ongoing'' after ''shall, in'', substituted ''continue to develop and implement'' for ''develop'', inserted ''and public dissemination'' after ''collection'', struck out ''Not later than one year after December 20, 1985, the Chairperson shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the development and implementation of such system, including a recommendation regarding the need for any additional funds to be appropriated to develop and implement such system.'' after ''including rural communities.'', and substituted ''1992, and quadrennially'' for ''1988, and biennially''.

1985—Subsec. (b)(1). Pub. L. 99–194, §105(1), (6), substituted ''chairperson'' for ''chairman'' and ''Chairperson'' for ''Chairman''.

Subsec. (b)(2). Pub. L. 99–194, §105(6), (7), substituted ''Chairperson'' for ''Chairman'' wherever appearing and ''the Chairperson's'' for ''his'' in two places.

Subsec. (c). Pub. L. 99–194, §105(2)(C), (D), (6), substituted ''Chairperson'' for ''Chairman'' in provisions preceding par. (1), and in provisions following cl. (8) substituted ''Chairperson'' for ''Chairman'' wherever appearing and ''clause (8)'' for ''clause (5)'', and inserted ''In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to artists and artistic groups that have traditionally been underrepresented''.

Subsec. (c)(4) to (8). Pub. L. 99–194, §105(2)(A), (B), added cls. (4) and (5) and redesignated former cls. (4) to (6) as (6) to (8), respectively.

Subsec. (d). Pub. L. 99–194, §105(6), substituted ''Chairperson'' for ''Chairman''.

Subsec. (g). Pub. L. 99–194, §105(3), (6), substituted ''Chairperson'' for ''Chairman'' wherever appearing, and in par. (2) struck out ''and'' at end of cl. (B), substituted '', including a description of the progress made toward achieving the goals of the State plan;'' for the period at end of cl. (C), and added cls. (D) and (E).

Subsec. (h). Pub. L. 99–194, §105(6), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsec. (i). Pub. L. 99–194, §105(4), substituted ''Secretary of Labor may deem'' for ''he may deem'' in last sentence.

Subsec. (k). Pub. L. 99–194, §105(6), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsec. (*l*)(1). Pub. L. 99–194, §105(6), substituted ''Chairperson'' for ''Chairman'' in provisions preceding subpar. (A).

Subsec. (*l*)(1)(D). Pub. L. 99–194, §105(5), inserted ''and local arts agencies'' after ''local arts groups'', designated existing provisions as cl. (i), and added cls. (ii) to (v).

Subsec. (*l*)(3). Pub. L. 99–194, §105(6), substituted ''Chairperson'' for ''Chairman''.

Subsec. (m). Pub. L. 99–194, §105(8), added subsec. (m).

1980—Subsec. (c). Pub. L. 96–496, §§102(a), 109(a), inserted ''or loans'' in provisions preceding cl. (1) and ''and cultural diversity'' in cl. (1), redesignated cl. (5) as (6), added cl. (5), substituted ''Committee on Labor and Human Resources'' for ''Committee on Labor and

Public Welfare'' in provisions following cl. (6), and provided that any loans made by the Chairman under subsec. (c) were to be made in accordance with terms and conditions approved by the Secretary of the Treasury.

Subsec. (g)(2)(A). Pub. L. 96–496, §102(b)(1), struck out provision that the Recreation Board, or any successor designated for purposes of this subchapter by the Commissioner of the District of Columbia, was to be considered the ''State agency'' within the District of Columbia.

Subsec. (g)(4)(A). Pub. L. 96–496, §109(b), substituted ''such projects'' for ''such project''.

Subsec. (g)(4)(E). Pub. L. 96–496, §102(b)(2), added subpar. (E).

Subsec. (k). Pub. L. 96–496, §102(c), authorized the Chairman to enter into interagency agreements to promote or assist the arts-related activities of other Federal agencies, on a reimbursable or nonreimbursable basis, and to use funds authorized to be appropriated for the purposes of subsec. (c) of this section for the costs of such activities.

Subsec. (*l*). Pub. L. 96–496, §102(d), inserted '', on a national, State, or local level,'' and ''strengthening quality by'' in provisions of par. (1) preceding subpar. (A), redesignated subpars. (D) and (E) as (E) and (F), respectively, and added subpar. (D).

Subsec. (m). Pub. L. 96–496, §102(e), struck out subsec. (m) which related to grants or contracts to State arts agencies for photography and film projects.

1976—Subsec. (c). Pub. L. 94–462, §101, struck out in provisions preceding par. (1) ''in the United States'' after ''provide or support''.

Subsec. (g)(4)(A). Pub. L. 94–462, §102, inserted provision that amount of each allotment to a State for any fiscal year shall be available to each State which has a plan approved by the Chairman to pay not more than 50 percent of total cost of any project or production described in subsec. (g)(1).

Subsec. (*l*). Pub. L. 94–462, §301(a), added subsec. (*l*).

Subsec. (m). Pub. L. 94–462, §401(a), added subsec. (m).

1973—Subsec. (c). Pub. L. 93–133, §3, in opening paragraph, struck out reference to Federal Council on the Arts and Humanities, in cl. (1), substituted ''projects and productions'' for ''production'', in cl. (2), substituted ''projects and productions'' and ''for geographic or economic reasons'' for ''production'' and ''in many areas of the country'' respectively, in cl. (3), substituted ''projects and productions'' for ''projects'', in cl. (5), substituted '', planning, and publications relating to the purposes of this subsection'' for ''and planning in the arts'', and added paragraph following cl. (5).

Subsec. (g)(1). Pub. L. 93–133, §2(a)(4)(A), struck out reference to Federal Council on the Arts and Humanities.

Subsec. (g)(2). Pub. L. 93–133, §2(a)(4)(B), (C), in provisions preceding cl. (A), substituted ''assistance under this subsection'' and ''at such time as shall be specified by the Chairman'' for ''such assistance'' and ''prior to the first day of such fiscal year'' respectively, and in cl. (B), struck out exception that in the first fiscal year in which the state was allotted funds after Sept. 29, 1965, the plan may provide that amount not exceeding $25,000 will be expended to conduct a study to plan the development and the establishment of a State agency.

Subsec. (g)(3). Pub. L. 93–133, §2(a)(4)(D), added par. (3) and struck out former par. (3) which read as follows: ''From the sums appropriated to carry out the purposes of this subsection for any fiscal year, not less than $65,000 shall be allotted to each State. That part of such sums as may remain after such allotment shall be allotted among the States in equal amounts, except that for the purposes of this sentence the term 'State' shall not include Guam and American Samoa. If the sums appropriated for any fiscal year to carry out the purposes of this subsection are insufficient to satisfy allotments under the first sentence of this paragraph, such sums shall be allotted among the States in equal amounts.''

Subsec. (g)(4). Pub. L. 93–133, §2(a)(4)(D), added par. (4) and struck out former par. (4) which read as follows: ''The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State, which has a plan approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1), and to pay up to 100 per centum of the cost of conducting a study and establishing a State agency under paragraph (2)(B) of this subsection.''

Subsec. (g)(5). Pub. L. 93–133, §2(a)(4)(E), substituted ''All amounts allotted or made available'' for ''All amounts allotted''.

1970—Subsec. (b). Pub. L. 91–346, §5(a)(1), designated existing provisions as cl. (1), and, in cl. (1) as so designated, provided for appointment of the Chairman of the National Endowment for the Arts by the President with the advice and consent of the Senate, and added cl. (2).

Subsec. (c)(3). Pub. L. 91–346, §4, expanded grants-in-aid program to enable talented groups or individuals to achieve wider distribution of their works and to work in residence at an educational or cultural institution.

Subsecs. (d) to (*l*). Pub. L. 91–346, §5(a)(2), struck out subsec. (d) which provided for the individual appointed as Chairman of the National Council on the Arts to also serve as the Chairman of the National Endowment for the Arts, and redesignated subsecs. (e) to (*l*), and all references thereto, as subsecs. (d) to (k), respectively.

Subsec. (g)(2)(A). Pub. L. 91–346, §6, permitted the Commissioner of the District of Columbia to designate a successor to the Recreation Board for the purpose of this chapter.

Subsec. (g)(3). Pub. L. 91–346, §7, provided minimum of $65,000 allotment to each State from sums appropriated for this subsec., authorized remaining funds to be equally allotted among the States, excluded Guam and American Samoa from term ''State'', and provided for equal allotments to States if the sums appropriated are insufficient to satisfy the minimum allotment.

1968—Subsec. (c). Pub. L. 90–348, §2(a), authorized contracts with groups, or in appropriate cases, individuals engaged in the arts, for the purpose of enabling them to provide or support programs and productions in the arts.

Subsec. (f). Pub. L. 90–348, §2(a), provided that contracts as well as grants made by the National Endowment for the Arts be subject to the amount limitation, and eliminated the provision requiring that groups seeking funds from the National Endowment for the Arts submit evidence to the Endowment that it had attempted unsuccessfully to secure an amount of funds equal to the grant applied for by such group, together with a statement of the proportion which any funds it had secured represent the funds applied for by such group.

Subsec. (h)(3). Pub. L. 90–348, §3, substituted ''Funds appropriated to carry out the purpose of this subsection'' for ''The funds appropriated pursuant to section 960(c) of this title''.

Subsec. (h)(5). Pub. L. 90–348, §3, struck out provision that amounts available to the National Endowment for the Arts at the end of the fiscal year shall be limited to the excess of the value of gifts, bequests, and devises received by the Endowment over the amounts appropriated to the Endowment, the appropriated amounts to be equal to the amounts received by the Endowment in the form of donations, bequests, and devises, but not to exceed $2,250,000.

Subsecs. (j), (k). Pub. L. 90–348, §2(b), inserted ''of exceptional talent'' after ''the group or individual''.

1967—Subsec. (d). Pub. L. 90–83 struck out provisions setting the compensation for the Chairman of the National Council on the Arts and the National Endowment for the Arts.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Eco-

nomic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, § 403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

APPLICABILITY OF 1985 AMENDMENT

Section 112 of Pub. L. 99–194 provided that: ''The amendments made by sections 105(3) and 107(3) [amending this section and section 956 of this title] shall not apply with respect to plans submitted for financial assistance to be provided with funds appropriated for fiscal year 1986.''

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 5(a)(1), (2) of Pub. L. 91–346 effective after June 30, 1970, see section 5(d)(3)(A) of Pub. L. 91–346, set out as a note under section 955 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (q) of this section relating to quadrennially submitting the state of the arts report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 183 of House Document No. 103–7.

GAO STUDY REGARDING FEDERAL, STATE, AND LOCAL FUNDING OF THE ARTS

Section 318 [title I, § 111] of Pub. L. 101–512 provided that:

''(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study—

''(1) to evaluate the roles and responsibilities of the National Endowment for the Arts, the States (including State agencies), and local arts agencies, in providing financial assistance under section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954),

''(2) the relative effectiveness of the Endowment, the States (including State agencies), and local arts agencies in maximizing the amount of financial assistance they make available under such section, and

''(3) the existing capacity of the States to receive increased allocations under section 5 of such Act and the ability of the States to manage such increased allocations effectively.

''(b) REPORT REQUIRED.—Not later than October 1, 1992, the Comptroller General shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report summarizing the results of the study conducted under subsection (a).''

TEMPORARY INDEPENDENT COMMISSION TO REVIEW GRANT MAKING PROCEDURES AND CONSIDER STANDARDS FOR PUBLICLY FUNDED ART

Pub. L. 101–121, title III, § 304(a)–(c), Oct. 23, 1989, 103 Stat. 741, 742, prohibited use of funds for National Endowment for the Arts or National Endowment for the Humanities to promote, disseminate, or produce materials which in judgment of National Endowment for the Arts or National Endowment for the Humanities may be considered obscene; stated the sense of Congress concerning present procedures employed for awarding National Endowment for the Arts grants; and established Independent Commission, to expire Sept. 30, 1990, for purpose of reviewing National Endowment for the Arts grant making procedures, and considering whether standard for publicly funded art should be different than standard for privately funded art.

§ 954a. Access to the arts through support of education

(a) Purposes

The purposes of this section are—

(1) to increase accessibility to the arts through providing education to all Americans, including diverse cultures, urban and rural populations by encouraging and developing quality education in the arts at all levels, in conjunction with programs of nonformal education for all age groups, with formal systems of elementary, secondary, and postsecondary education;

(2) to develop and stimulate research to teach quality education in the arts; and

(3) to encourage and facilitate the work of artists, arts institutions, and Federal, State, regional, and local agencies in the area of education in the arts.

(b) Program of contracts or grants

The Chairperson of the National Endowment for the Arts,[1] is authorized to establish and carry out a program of contracts with, or grants to, any State or other public agency, individual, artist, any nonprofit society, performing and nonperforming arts and educational institution or organization, association, or museum in the United States, in order to foster and encourage exceptional talent, public knowledge, understanding, and appreciation of the arts, and to support the education, training, and development of this Nation's artists, through such activities as projects that will—

(1) promote and improve the availability of arts instruction for American youth and lifelong learning in the arts;

(2) enhance the quality of arts instruction in programs of teacher education;

(3) develop arts faculty resources and talents;

(4) support and encourage the development of improved curriculum materials in the arts;

(5) improve evaluation and assessment of education in the arts programs and instruction;

(6) foster cooperative programs with the Department of Education and encourage partnerships between arts and education agencies at State and local levels, arts organizations, business colleges and universities;

(7) support apprenticeships, internships, and other career oriented work-study experiences for artists and arts teachers, and encourage residencies of artists at all educational levels;

(8) support the use of technology and improved facilities and resources in education in the arts programs at all levels; and

(9) foster the development of demonstration projects, demonstration productions, demonstration workshops, and demonstration pro-

[1] So in original. The comma probably should not appear.

grams in arts education and collect, and make available to the public, information on their implementation and effectiveness.

(c) Advisory council on arts education

In order to provide advice and counsel concerning arts education, the Chairperson shall appoint an advisory council on arts education.

(Pub. L. 89–209, § 5A, as added Pub. L. 101–512, title III, § 318 [title I, § 105], Nov. 5, 1990, 104 Stat. 1960, 1967.)

EFFECTIVE DATE

Section effective Oct. 1, 1990, see section 318 [title IV, § 403(a)] of Pub. L. 101–512, set out as an Effective Date of 1990 Amendment note under section 951 of this title.

§ 955. National Council on the Arts

(a) Inclusion within the National Endowment for the Arts

There shall be, within the National Endowment for the Arts, a National Council on the Arts (hereinafter in this section referred to as the ''Council'').

(b) Appointment and composition of Council

(1) The Council shall be composed of members as follows:

(A) The Chairperson of the National Endowment for the Arts, who shall be the chairperson of the Council.

(B) Members of Congress appointed for a 2-year term beginning on January 1 of each odd-numbered year as follows:

(i) Two Members of the House of Representatives appointed by the Speaker of the House of Representatives.

(ii) One Member of the House of Representatives appointed by the Minority Leader of the House of Representatives.

(iii) Two Senator[1] appointed by the Majority Leader of the Senate.

(iv) One Senator appointed by the Minority Leader of the Senate.

Members of the Council appointed under this subparagraph shall serve ex officio and shall be nonvoting members of the Council.

(C) 14 members appointed by the President, by and with the advice and consent of the Senate, who shall be selected—

(i) from among private citizens of the United States who—

(I) are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in the arts; and

(II) have established records of distinguished service, or achieved eminence, in the arts;

(ii) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and

(iii) so as collectively to provide an appropriate distribution of membership among major art fields and interested citizens groups.

In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts and shall make such appointments so as to represent equitably all geographical areas in the United States.

(2) TRANSITION TO THE NEW COUNCIL COMPOSITION.—

(A) Notwithstanding subsection (b)(1)(B) of this section, members first appointed pursuant to such subsection shall be appointed not later than December 31, 1997. Notwithstanding such subsection, such members shall be appointed to serve until December 31, 1998.

(B) Members of the Council serving on the effective date of this subsection may continue to serve on the Council until their current terms expire and new members shall not be appointed under subsection (b)(1)(C) of this section until the number of Presidentially appointed members is less than 14.

(c) Terms of office; vacancies

Each member appointed under subsection (b)(1)(C) of this section shall hold office for a term of six years, and the terms of office shall be staggered. The terms of office of all Council members appointed under subsection (b)(1)(C) of this section shall expire on the third day of September in the year of expiration. No member appointed under subsection (b)(1)(C) of this section shall be eligible for reappointment during the two-year period following the expiration of such member's term. Any member appointed under subsection (b)(1)(C) of this section appointed[2] to fill a vacancy shall serve for the remainder of the term for which such member's predecessor was appointed. Notwithstanding any other provision of this subsection, a member appointed under subsection (b)(1)(C) of this section shall serve after the expiration of such member's term until such member's successor takes office.

(d) Meetings of Council; quorum; written records

(1) The Council shall meet at the call of the Chairperson but not less often than twice during each calendar year. Eight members of the Council shall constitute a quorum. All policy meetings of the Council shall be open to the public.

(2) The Council shall—

(A) create written records summarizing—

(i) all meetings and discussions of the Council; and

(ii) the recommendations made by the Council to the Chairperson; and

(B) make such records available to the public in a manner that protects the privacy of individual applicants, panel members, and Council members.

(e) Compensation of members

Members shall receive compensation at a rate to be fixed by the Chairperson but not to exceed the per diem equivalent of the rate authorized for grade GS–18 by section 5332 of title 5 and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (section 5703 of title 5) for persons in the Government service employed intermittently.

[1] So in original. Probably should be ''Senators''.

[2] So in original.

(f) Advisory functions; policies, programs, and procedures; recommendations; authority of Chairperson; action by Chairperson pursuant to delegation of authority

The Council shall advise the Chairperson with respect to policies, programs, and procedures for carrying out the Chairperson's functions, duties, or responsibilities under this subchapter, and review applications for financial assistance under this subchapter and make recommendations to the Chairperson with respect to the approval of each application and the amount of financial assistance (if any) to provide to each applicant. The Council shall make recommendations to the Chairperson concerning—

(1) whether to approve particular applications for financial assistance under subsections (c) and (p) of section 954 of this title that are determined by panels under section 959(c) of this title to have artistic excellence and artistic merit; and

(2) the amount of financial assistance the Chairperson should provide with respect to each such application the Council recommends for approval.

The Chairperson shall not approve or disapprove any such application until the Chairperson has received the recommendation of the Council on such application. The Chairperson shall have final authority to approve each application, except that the Chairperson may only provide to an applicant the amount of financial assistance recommended by the Council and may not approve an application with respect to which the Council makes a negative recommendation. In the case of an application involving $30,000, or less, the Chairperson may approve or disapprove such request if such action is taken pursuant to the terms of an expressed and direct delegation of authority from the Council to the Chairperson, and provided that each such action by the Chairperson shall be reviewed by the Council, and that such action shall be used with discretion and shall not become a normal practice of providing assistance under such subsections, except that the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (A) of paragraph (1) of section 960(a) of this title.

(Pub. L. 89–209, § 6, Sept. 29, 1965, 79 Stat. 849; Pub. L. 90–348, § 4, June 18, 1968, 82 Stat. 185; Pub. L. 91–346, § 5(b), July 20, 1970, 84 Stat. 444; Pub. L. 93–133, § 2(a)(5), Oct. 19, 1973, 87 Stat. 463; Pub. L. 94–462, title I, § 103(a), Oct. 8, 1976, 90 Stat. 1971; Pub. L. 96–496, title I, § 103, Dec. 4, 1980, 94 Stat. 2584; renumbered title I, § 6, and amended Pub. L. 98–306, §§ 2, 5(a), May 31, 1984, 98 Stat. 223, 224; renumbered § 6 and amended Pub. L. 99–194, title I, §§ 101(1), 106, Dec. 20, 1985, 99 Stat. 1332, 1335; Pub. L. 101–512, title III, § 318 [title I, § 106], Nov. 5, 1990, 104 Stat. 1960, 1968; Pub. L. 105–83, title III, § 346(e), (f), Nov. 14, 1997, 111 Stat. 1605, 1606; Pub. L. 105–119, title VI, § 624, Nov. 26, 1997, 111 Stat. 2522; Pub. L. 105–277, div. A, § 101(e) [title III, § 330], Oct. 21, 1998, 112 Stat. 2681–231, 2681–293.)

REFERENCES IN TEXT

The effective date of this subsection, referred to in subsec. (b)(2)(B), probably means Nov. 14, 1997, the date of enactment of Pub. L. 105–83 which amended subsec. (b) of this section generally.

AMENDMENTS

1998—Subsec. (b)(1)(B)(iii). Pub. L. 105–277 substituted ''Two'' for ''One''.

1997—Subsec. (b). Pub. L. 105–83, § 346(e), inserted heading and amended text of subsec. (b) generally. Prior to amendment, text read as follows: ''The Council shall be composed of the Chairperson of the National Endowment for the Arts, who shall be Chairperson of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, who shall be selected—

''(1) from among private citizens of the United States who (A) are widely recognized for their broad knowledge of, or expertise in, or for their profound interest in, the arts and (B) have established records of distinguished service, or achieved eminence, in the arts;

''(2) so as to include practicing artists, civic cultural leaders, members of the museum profession, and others who are professionally engaged in the arts; and

''(3) so as collectively to provide an appropriate distribution of membership among the major art fields.

The President is requested, in the making of such appointments, to give consideration to such recommendations as may, from time to time, be submitted to the President by leading national organizations in these fields. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts. Members of the Council shall be appointed so as to represent equitably all geographical areas in the United States.''

Subsec. (c). Pub. L. 105–83, § 346(f), inserted ''appointed under subsection (b)(1)(C) of this section'' after ''member'' wherever appearing and after ''all Council members'' in second sentence.

Subsec. (d)(1). Pub. L. 105–119, which directed the substitution of ''eight'' for ''fourteen'', was executed by substituting ''Eight'' for ''Fourteen'' to reflect the probable intent of Congress.

1990—Subsec. (b). Pub. L. 101–512, § 318 [title I, § 106(a)], inserted at end ''Members of the Council shall be appointed so as to represent equitably all geographical areas in the United States.''

Subsec. (d). Pub. L. 101–512, § 318 [title I, § 106(b)], designated existing text as par. (1), inserted at end ''All policy meetings of the Council shall be open to the public.'', and added par. (2).

Subsec. (f). Pub. L. 101–512, § 318 [title I, § 106(c)], struck out ''(1)'' and ''(2)'' before ''advise the Chairperson'' and ''review applications for'', respectively, struck out ''thereon'' before ''to the Chairperson'', inserted before period at end of first sentence ''with respect to the approval of each application and the amount of financial assistance (if any) to provide to each applicant'', struck out '', unless the Council fails to make a recommendation thereon within a reasonable time'' after ''on such application'', substituted ''an expressed and direct delegation'' for ''a delegation'' and '', and that such action shall be used with discretion and shall not become a normal practice of providing assistance under such subsections, except that'' for ''; *Provided*, That'', inserted ''The Chairperson shall have final authority to approve each application, except that the Chairperson may only provide to an applicant the amount of financial assistance recommended by the Council and may not approve an application with respect to which the Council makes a negative recommendation.'', and inserted ''The Council shall make recommendations to the Chairperson concerning—'' and added pars. (1) and (2) immediately thereafter.

1985—Subsec. (b). Pub. L. 99–194, § 106(1), substituted ''Chairperson'' for ''Chairman'' in two places in provisions preceding par. (1), in par. (1) designated existing provisions following ''who'' as cl. (A) and added cl. (B), and in provisions following par. (3) substituted ''the President'' for ''him'' and inserted ''In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the arts.''

Subsec. (c). Pub. L. 99–194, § 106(2), substituted ''such member's'' for ''his'' wherever appearing.

Subsecs. (d), (e). Pub. L. 99–194, § 106(3), (4), substituted ''Chairperson'' for ''Chairman''.

Subsec. (f). Pub. L. 99–194, § 106(5), substituted ''Chairperson'' for ''Chairman'' wherever appearing, ''the Chairperson's'' for ''his'', ''until the Chairperson has received'' for ''until he has received'', and ''$30,000'' for ''$17,500''.

1984—Subsec. (c). Pub. L. 98–306, § 5(a), inserted ''Notwithstanding any other provision of this subsection, a member shall serve after the expiration of his term until his successor takes office.''

1980—Subsec. (c). Pub. L. 96–496 provided that the terms of office of all Council members were to expire on the third day of September in the year of expiration.

1976—Subsec. (b). Pub. L. 94–462 inserted '', by and with the advice and consent of the Senate,'' after ''by the President''.

1973—Subsec. (f). Pub. L. 93–133 substituted ''$17,500'' for ''$10,000'' and inserted proviso that the terms of delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year.

1970—Pub. L. 91–346 generally incorporated into this section the substantive provisions of the National Arts and Cultural Development Act of 1964 except for the independent study authority of the National Council on the Arts under the 1964 Act, provided for the appointment and composition of the Council, prescribed the terms of office for members of the Council, provided that the Council meet at the call of the Chairman at least twice a year, established 14 as the number of members constituting a quorum, set forth provisions governing compensation of persons employed for the Government service on an intermittent basis, and set forth functions and duties of the council essentially similar to the function and duties of the Council as set out in this section prior to this amendment.

1968—Subsec. (b). Pub. L. 90–348 inserted provision which authorized the Chairman, in the case of any application involving $10,000 or less, to approve or disapprove the application if such action is pursuant to the terms of a delegation of authority from the Endowment Council and such action is reviewed by the Endowment Council.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, § 403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 5(d)(3)(A) of Pub. L. 91–346 provided that: ''The amendments made by subsections (a) and (b) [amending this section and sections 954, 959, and 960 of this title] shall be effective after June 30, 1970.''

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

CONTINUATION OF COUNCIL AS ESTABLISHED UNDER THE NATIONAL ARTS AND CULTURAL DEVELOPMENT ACT OF 1964

Section 5(d)(1) of Pub. L. 91–346 provided that: ''The National Council on the Arts established under section 6 of the National Foundation on the Arts and the Humanities Act of 1965 [this section], as amended by subsection (b), shall, for any purpose determined to be necessary by the Chairman of the National Endowment for the Arts, be deemed to be a continuation of the National Council on the Arts established under the National Arts and Cultural Development Act of 1964, Public Law 88–579 [former section 781 et seq. of this title], without interruption.''

APPOINTEES TO COUNCIL UNDER NATIONAL ARTS AND CULTURAL DEVELOPMENT ACT OF 1964 DEEMED APPOINTED UNDER 1965 ACT

Section 5(d)(2) of Pub. L. 91–346 provided that: ''Members appointed to the National Council on the Arts pursuant to section 5 of the National Arts and Cultural Development Act of 1964 [section 784 of this title] shall be deemed to have been appointed as members of the National Council on the Arts established under section 6 of the National Foundation on the Arts and the Humanities Act of 1965 [this section], with such terms of office as may be remaining under the prior appointment on the effective date of the amendments made by subsection (b) [July 1, 1970].''

§ 955a. Omitted

CODIFICATION

Section, Pub. L. 98–146, title II, Nov. 4, 1983, 97 Stat. 949, which provided that persons serving on National Council on the Arts continue until their successors are qualified for office, was omitted as superseded. See section 955(c) of this title as amended by Pub. L. 98–306. Similar provisions were contained in Pub. L. 97–394, title II, Dec. 30, 1982, 96 Stat. 1994.

§ 955b. National Medal of Arts

(a) Establishment

There is hereby established a National Medal of Arts, which shall be a medal of such design as is deemed appropriate by the President, on the basis of recommendations submitted by the National Council on the Arts, and which shall be awarded as provided in subsection (b) of this section.

(b) Award of Medal; conditions; recipients; presentation ceremonies

(1) The President shall from time to time award the National Medal of Arts, on the basis of recommendations from the National Council on the Arts, to individuals or groups who in the President's judgment are deserving of special recognition by reason of their outstanding contributions to the excellence, growth, support, and availability of the arts in the United States.

(2) Not more than twelve of such medals may be awarded in any calendar year.

(3) An individual may be awarded the National Medal of Arts only if at the time such award is made such individual—

(A) is a citizen or other national of the United States; or

(B) is an alien lawfully admitted to the United States for permanent residence who (i) has filed an application or petition for natu-

ralization in the manner prescribed by section 1445 of title 8 and (ii) is not permanently ineligible to become a citizen of the United States.

(4) A group may be awarded the National Medal of Arts only if such group is organized or incorporated in the United States.

(5) The presentation of the National Medal of Arts shall be made by the President with such ceremonies as the President may deem proper, including attendance by appropriate Members of Congress.

(c) Availability of funds

Funds made available to the National Endowment for the Arts shall be used to carry out this section.

(Pub. L. 98–306, § 13, May 31, 1984, 98 Stat. 225.)

CODIFICATION

Section was enacted as part of the National Foundation on the Arts and the Humanities Act Amendments of 1983, and not as part of the National Foundation on the Arts and the Humanities Act of 1965 which comprises this subchapter.

§ 956. National Endowment for the Humanities

(a) Establishment

There is established within the Foundation the National Endowment for the Humanities.

(b) Chairperson of the Endowment; appointment, term, reappointment; vacancy; expiration of term

(1) The Endowment shall be headed by a chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the Chairperson shall be four years, and the Chairperson shall be eligible for reappointment. The provisions of this paragraph shall apply to any person appointed to fill a vacancy in the office of the Chairperson. Upon expiration of the Chairperson's term of office the Chairperson shall serve until the Chairperson's successor shall have been appointed and shall have qualified.

(c) Functions of the Endowment; publications; traditionally underrepresented recipients of financial assistance

The Chairperson, with the advice of the National Council on the Humanities (hereinafter established), is authorized to enter into arrangements, including contracts, grants, loans, and other forms of assistance, to—

(1) develop and encourage the pursuit of a national policy for the promotion of progress and scholarship in the humanities;

(2) initiate and support research and programs to strengthen the research and teaching potential of the United States in the humanities by making arrangements with individuals or groups to support such activities; any loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury;

(3) initiate and support training and workshops in the humanities by making arrangements with institutions or individuals (fellowships awarded to individuals under this authority may be for the purpose of study or research at appropriate nonprofit institutions selected by the recipient of such aid, for stated periods of time);

(4) initiate and support programs and research which have substantial scholarly and cultural significance and that reach, or reflect the diversity and richness of our American cultural heritage, including the culture of, a minority, inner city, rural, or tribal community;

(5) foster international programs and exchanges;

(6) foster the interchange of information in the humanities;

(7) foster, with groups, education in, and public understanding and appreciation of the humanities;

(8) support the publication of scholarly works in the humanities;

(9) insure that the benefit of its programs will also be available to our citizens where such programs would otherwise be unavailable due to geographic or economic reasons; and

(10) foster programs and projects that provide access to, and preserve materials important to research, education, and public understanding of, the humanities.

In the case of publications under clause (8) of this subsection such publications may be supported without regard for the provisions of section 501 of title 44 only if the Chairperson consults with the Joint Committee on Printing of the Congress and the Chairperson submits to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report justifying any exemption from such section 501. In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to scholars, and educational and cultural institutions, that have traditionally been underrepresented.

(d) Coordination and development of Endowment programs with other Federal and non-Federal programs

The Chairperson shall coordinate the programs of the National Endowment for the Humanities, insofar as practicable, with existing Federal programs, designated State humanities agencies and with those undertaken by other public agencies or private groups, and shall develop the programs of the Endowment with due regard to the contribution to the objectives of this subchapter which can be made by other Federal agencies under existing programs.

(e) Limitation on amount of grant for workshop activities for which an admission or other charge is made to the general public

The total amount of any grant under subsection (c)(3) of this section to any group engaging in workshop activities for which an admission or other charge is made to the general public shall not exceed 30 per centum of the total cost of such activities.

(f) Grants-in-aid programs; designation of State administrative agency; matching funds; applications and plans; allotments; cost limitations; grants to regional groups; non-Federal funding; definitions; suspension of grants; single entity limitation

(1) The Chairperson, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of grants-in-aid in each of the several States in order to support not more than 50 per centum of the cost of existing activities which meet the standards enumerated in subsection (c) of this section, and in order to develop a program in the humanities in such a manner as will furnish adequate programs in the humanities in each of the several States.

(2)(A) Whenever a State desires to designate or to provide for the establishment of a State agency as the sole agency for the administration of the State plan, such State shall designate the humanities council in existence on the date the State agency is established as the State agency, and shall match from State funds a sum equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved. In any State in which the State selects the option described in this subparagraph, the State shall submit, before the beginning of each fiscal year, an application for grants and accompany such application with a plan which the Chairperson finds—

(i) designates or provides for the establishment of a State agency (hereinafter in this section referred to as the ''State agency'') as the sole agency for the administration of the State plan;

(ii) provides that the chief executive officer of the State will appoint new members to the State humanities council designated under the provisions of this subparagraph, as vacancies occur as a result of the expiration of the terms of members of such council, until the chief executive officer has appointed all of the members of such council;

(iii) provides, from State funds, an amount equal to 50 per centum of that portion of Federal financial assistance received by such State under this subsection which is described in the first sentence of paragraph (4) relating to the minimum State grant, or 25 per centum of the total amount of Federal financial assistance received by such State under this subsection, whichever is greater, for the fiscal year involved;

(iv) provides that funds paid to the State under this subsection will be expended solely on programs approved by the State agency which carry out the objectives of subsection (c) of this section and which are designed to bring the humanities to the public;

(v) provides assurances that State funds will be newly appropriated for the purpose of meeting the requirements of this subparagraph;

(vi) provides that the State agency will make such reports, in such form and containing such information, as the Chairperson may require, including a description of the progress made toward achieving the goals of the State plan;

(vii) provides—

(I) assurances that the State agency has held, after reasonable notice, public meetings in the State to allow scholars, interested organizations, and the public to present views and make recommendations regarding the State plan; and

(II) a summary of such recommendations and of the response of the State agency to such recommendations; and

(viii) contains—

(I) a description of the level of participation during the most recent preceding year for which information is available by scholars and scholarly organizations in programs receiving financial assistance under this subsection;

(II) for the most recent preceding year for which information is available, a description of the extent to which the programs receiving financial assistance under this subsection are available to all people and communities in the State; and

(III) a description of programs receiving financial assistance under this subsection that exist or are being developed to secure wider participation of scholars and scholarly organizations identified under subclause (I) of this clause or that address the availability of the humanities to all people or communities identified under subclause (II) of this clause.

No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

(B) In any State in which the chief executive officer of the State fails to submit an application under subparagraph (A), the grant recipient in such State shall—

(i) establish a procedure which assures that six members of the governing body of such grant recipient shall be appointed by an appropriate officer or agency of such State, except that in no event may the number of such members exceed 25 per centum of the total membership of such governing body; and

(ii) provide, from any source, an amount equal to the amount of Federal financial assistance received by such grant recipient under this subsection for the fiscal year involved.

(3) Whenever a State selects to receive Federal financial assistance under this subsection for any fiscal year under paragraph (2)(B), any appropriate entity desiring to receive such assistance shall submit an application for such assistance at such time as shall be specified by the Chairperson. Each such application shall be accompanied by a plan which the Chairperson finds—

(A) provides assurances that the grant recipient will comply with the requirements of paragraph (2)(B);

(B) provides that funds paid to the grant recipient will be expended solely on programs

which carry out the objectives of subsection (c) of this section;

(C) establishes a membership policy which is designed to assure broad public representation with respect to programs administered by such grant recipient;

(D) provides a nomination process which assures opportunities for nomination to membership from various groups within the State involved and from a variety of segments of the population of such State, and including individuals who by reason of their achievement, scholarship, or creativity in the humanities, are especially qualified to serve;

(E) provides for a membership rotation process which assures the regular rotation of the membership and officers of such grant recipient;

(F) establishes reporting procedures which are designed to inform the chief executive officer of the State involved, and other appropriate officers and agencies, of the activities of such grant recipient;

(G) establishes procedures to assure public access to information relating to such activities;

(H) provides that such grant recipient will make reports to the Chairperson, in such form, at such times, and containing such information, as the Chairperson may require, including a description of the progress made toward achieving the goals of the plan;

(I) provides—

(i) assurances that the grant recipient has held, after reasonable notice, public meetings in the State to allow scholars, interested organizations, and the public to present views and make recommendations regarding the plan; and

(ii) a summary of such recommendations and of the response of the grant recipient to such recommendations; and

(J) contains—

(i) a description of the level of participation during the most recent preceding year for which information is available by scholars and scholarly organizations in programs receiving financial assistance under this subsection;

(ii) for the most recent preceding year for which information is available, a description of the extent to which the programs receiving financial assistance under this subsection are available to all people and communities in the State; and

(iii) a description of programs receiving financial assistance under this subsection that exist or are being developed to secure wider participation of scholars and scholarly organizations identified under clause (i) of this subparagraph or that address the availability of the humanities to all people or communities identified under clause (ii) of this subparagraph.

No application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

(4) Of the sums available to carry out this subsection for any fiscal year, each State and each grant recipient which has a plan approved by the Chairperson shall be allotted at least $200,000. If the sums appropriated are insufficient to make the allotments under the preceding sentence in full, such sums shall be allotted among such States and grant recipients in equal amounts. In any case where the sums available to carry out this subsection for any fiscal year are in excess of the amount required to make the allotments under the first sentence of this paragraph—

(A) 34 per centum of the amount of such excess for such fiscal year shall be available to the Chairperson for making grants under this subsection to States and regional groups and entities applying for such grants;

(B) 44 per centum of the amount of such excess for such fiscal year shall be allotted in equal amounts among the States and grant recipients which have plans approved by the Chairperson; and

(C) 22 per centum of the amount of such excess for such fiscal year shall be allotted among the States and grant recipients which have plans approved by the Chairperson in amounts which bear the same ratio to such excess as the population of the State for which the plan is approved (or, in the case of a grant recipient other than a State, the population of the State in which such grant recipient is located) bears to the population of all the States.

(5)(A) The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State or grant recipient, which has a plan or application approved by the Chairperson in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any allotment made under paragraph (4) for any fiscal year—

(i) which exceeds $125,000, but

(ii) which does not exceed 20 per centum of such allotment,

shall be available, at the discretion of the Chairperson, to pay up to 100 per centum of the cost of programs under this subsection if such programs would otherwise be unavailable to the residents of that State.

(B) Any amount allotted to a State under the first sentence of paragraph (4) for any fiscal year which is not obligated by the State agency or grant recipient prior to sixty days prior to the end of the fiscal year for which such sums are appropriated shall be available to the Chairperson for making grants to regional groups.

(C) Funds made available under this subsection shall not be used to supplant non-Federal funds.

(D) For the purposes of this paragraph, the term ''regional group'' means any multistate group, whether or not representative of contiguous States.

(E) For purposes of paragraph (4)(B), the term ''State'' and the term ''grant recipient'' include, in addition to the several States of the Union, only those special jurisdictions specified in section 952(g) of this title which have a population of 200,000 or more, according to the latest decennial census.

(6) All amounts allotted or made available under paragraph (4) for a fiscal year which are

not granted to any entity during such fiscal year shall be available to the National Endowment for the Humanities for the purpose of carrying out subsection (c) of this section.

(7) Whenever the Chairperson, after reasonable notice and opportunity for hearing, finds that—

(A) a group or grant recipient is not complying substantially with the provisions of this subsection;

(B) a State agency or grant recipient is not complying substantially with terms and conditions of its State plan or grant recipient application approved under this subsection; or

(C) any funds granted to any group or State agency or grant recipient under this subsection have been diverted from the purposes for which they are allotted or paid,

the Chairperson shall immediately notify the Secretary of the Treasury and the group, State agency, or grant recipient with respect to which such finding was made that no further grants will be made under this subsection to such group, State agency, or grant recipient until there is no longer a default or failure to comply or the diversion has been corrected, or, if the compliance or correction is impossible, until such group, State agency, or grant recipient repays or arranges the repayment of the Federal funds which have been improperly diverted or expended.

(8) Except as provided in the third sentence of paragraph (4), and paragraphs (5) and (6), the Chairperson may not make grants under this subsection to more than one entity in any State.

(g) Payment of performers and supporting personnel; standards, regulations, and procedures

It shall be a condition of the receipt of any grant under this section that the group, individual, or State agency or entity receiving such grant furnish adequate assurances to the Secretary of Labor that (1) all professional performers and related or supporting professional personnel employed on projects or productions which are financed in whole or in part under this section will be paid, without subsequent deduction or rebate on any account, not less than the minimum compensation as determined by the Secretary of Labor to be the prevailing minimum compensation for persons employed in similar activities; and (2) no part of any project or production which is financed in whole or in part under this section will be performed or engaged in under working conditions which are unsanitary or hazardous or dangerous to the health and safety of the employees engaged in such project or production. Compliance with the safety and sanitary laws of the State in which the performance or part thereof is to take place shall be prima facie evidence of compliance. The Secretary of Labor shall prescribe standards, regulations, and procedures necessary to carry out this subsection.

(h) Program of contracts or grants-in-aid to public agencies and private nonprofit organizations; limitation on payments

(1) The Chairperson of the National Endowment for the Humanities, with the advice of the National Council on the Humanities, is authorized, in accordance with the provisions of this subsection, to establish and carry out a program of contracts with, or grants-in-aid to, public agencies and private nonprofit organizations for the purpose of—

(A) enabling cultural organizations and institutions to increase the levels of continuing support and to increase the range of contributors to the program of such organizations or institutions;

(B) providing administrative and management improvements for cultural organizations and institutions, particularly in the field of long-range financial planning;

(C) enabling cultural organizations and institutions to increase audience participation in, and appreciation of, programs sponsored by such organizations and institutions;

(D) stimulating greater cooperation among cultural organizations and institutions especially designed to serve better the communities in which such organizations or institutions are located;

(E) fostering greater citizen involvement in planning the cultural development of a community; and

(F) for bicentennial programs, assessing where our society and Government stand in relation to the founding principles of the Republic, primarily focused on projects which will bring together the public and private citizen sectors in an effort to find new processes for solving problems facing our Nation in its third century.

(2)(A) Except as provided in subparagraph (B) of this paragraph, the total amount of any payment made under this subsection for a program or project may not exceed 50 per centum of the cost of such program or project.

(B) The Chairperson, with the advice of the Council, may waive all or part of the requirement of matching funds provided in subparagraph (A) of this paragraph, but only for the purposes described in clause (F) of paragraph (1), whenever he determines that highly meritorious proposals for grants and contracts under such clause, could not otherwise be supported from non-Federal sources or from Federal sources other than funds authorized by section 960(a)(3) of this title, unless such matching requirement is waived. Such waiver may not exceed 15 per centum of the amount appropriated in any fiscal year and available to the National Endowment for the Humanities for the purpose of this subsection.

(3) In carrying out the program authorized by this subsection, the Chairperson of the National Endowment for the Humanities shall have the same authority as is established in subsection (c) of this section and section 959 of this title.

(i) Interagency agreements

The Chairperson may enter into interagency agreements to promote or assist with the humanities-related activities of other Federal agencies, on either a reimbursable or nonreimbursable basis, and may use funds authorized to be appropriated for the purposes of subsection (c) of this section for the costs of such activities.

(j) Payment of wages at prevailing rates; authority of Secretary of Labor

It shall be a condition of the receipt of any grant under this section that the group or individual of exceptional talent or the State, State agency, or entity receiving such grant furnish adequate assurances to the Secretary of Labor that all laborers and mechanics employed by contractors or subcontractors on construction projects assisted under this section shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 3145 of title 40.

(k) National information and data collection system on humanities, scholars, educational and cultural groups, and audiences; development and implementation plan; state of the humanities reports

The Chairperson of the National Endowment for the Humanities shall, in ongoing consultation with State and local agencies, other relevant organizations, and relevant Federal agencies, continue to develop and implement a practical system of national information and data collection and public dissemination on the humanities, scholars, educational and cultural groups, and their audiences. Such system shall include cultural and financial trends in the various humanities fields, trends in audience participation, and trends in humanities education on national, regional, and State levels. Such system shall be used, along with a summary of the data submitted with plans under subsection (f) of this section, to prepare a report on the state of the humanities in the Nation. The state of the humanities report shall include a description of the availability of the Endowment's programs to emerging and culturally diverse scholars, cultural and educational organizations, and communities and of the participation of such scholars, organizations, and communities in such programs. The state of the humanities report shall be submitted to the President and the Congress, and provided the States, not later than October 1, 1992, and quadrennially thereafter.

***(l)* Eligibility of group for financial assistance**

Any group shall be eligible for financial assistance under this section only if—

(1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals; and

(2) donations to such group are allowable as a charitable contribution under the standards of section 170(c) of title 26.

(m) Annual awards

The Chairperson, with the advice of the National Council on the Humanities, is authorized to make the following annual awards:

(1) The Jefferson Lecture in the Humanities Award to one individual for distinguished intellectual achievement in the humanities. The annual award shall not exceed $10,000.

(2) The Charles Frankel Prize to honor individuals who have made outstanding contributions to the public understanding of the humanities. Not more than 5 individuals may receive such prize each year. Each prize shall not exceed $5,000.

(Pub. L. 89–209, § 7, Sept. 29, 1965, 79 Stat. 850; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223; Pub. L. 91–346, § 8, July 20, 1970, 84 Stat. 445; Pub. L. 93–133, §§ 2(a)(6), 3, Oct. 19, 1973, 87 Stat. 464, 465; Pub. L. 94–462, title I, §§ 104(a), 105, title III, § 301(b), Oct. 8, 1976, 90 Stat. 1971, 1974, 1979; Pub. L. 96–496, title I, §§ 104, 109(c), Dec. 4, 1980, 94 Stat. 2584, 2591; renumbered title I, § 7, Pub. L. 98–306, § 2, May 31, 1984, 98 Stat. 223; renumbered § 7 and amended Pub. L. 99–194, title I, §§ 101(1), 107, Dec. 20, 1985, 99 Stat. 1332, 1335; Pub. L. 101–512, title III, § 318 [title I, § 107], Nov. 5, 1990, 104 Stat. 1960, 1969.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (j), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (j), ''sections 3141–3144, 3146, and 3147 of title 40'' substituted for ''the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5)'' and ''section 3145 of title 40'' substituted for ''section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–512, § 318 [title I, § 107(a)], substituted ''the'' for ''a'' after ''Foundation''.

Subsec. (c). Pub. L. 101–512, § 318 [title I, § 107(b)(1)], inserted ''enter into arrangements, including contracts, grants, loans, and other forms of assistance, to'' after ''is authorized to''.

Subsec. (c)(2). Pub. L. 101–512, § 318 [title I, § 107(b)(2)], struck out ''(including contracts, grants, loans, and other forms of assistance)'' after ''arrangements''.

Subsec. (c)(3). Pub. L. 101–512, § 318 [title I, § 107(b)(3)], substituted ''initiate and support training and workshops in the humanities by making arrangements with institutions or individuals (fellowships'' for ''award fellowships and grants to institutions or individuals for training and workshops in the humanities. Fellowships'', and inserted closing parenthesis after ''periods of time''.

Subsec. (c)(7). Pub. L. 101–512, § 318 [title I, § 107(b)(4)], struck out ''through grants or other arrangements'' after ''foster,''.

Subsec. (c)(10). Pub. L. 101–512, § 318 [title I, § 107(b)(5)–(7)], added par. (10).

Subsec. (d). Pub. L. 101–512, § 318 [title I, § 107(c)], substituted ''coordinate'' for ''correlate''.

Subsec. (f)(2)(A). Pub. L. 101–512, § 318 [title I, § 107(d)(1)], substituted ''the date the State agency is established'' for ''December 20, 1985,''.

Subsec. (f)(2)(A)(viii)(I). Pub. L. 101–512, § 318 [title I, § 107(d)(2)(A)], substituted ''most recent preceding year for which information is available'' for ''previous two years''.

Subsec. (f)(2)(A)(viii)(II). Pub. L. 101–512, § 318 [title I, § 107(d)(2)(B)], inserted ''for the most recent preceding year for which information is available,''.

Subsec. (f)(3)(J)(i). Pub. L. 101–512, § 318 [title I, § 107(d)(3)(A)], substituted ''most recent preceding year for which information is available'' for ''previous two years''.

Subsec. (f)(3)(J)(ii). Pub. L. 101–512, § 318 [title I, § 107(d)(3)(B)], inserted ''for the most recent preceding year for which information is available,''.

Subsec. (g). Pub. L. 101–512, §318 [title I, §107(e)], struck out ''not later than 180 days after December 20, 1985'' before period at end.

Subsec. (h)(2)(B). Pub. L. 101–512, §318 [title I, §107(f)], substituted ''Endowment for'' for ''Endowment on''.

Subsec. (k). Pub. L. 101–512, §318 [title I, §107(g)], inserted ''ongoing'' after ''shall, in'', substituted ''continue to develop and implement'' for ''develop'', inserted ''and public dissemination'' after ''collection'', struck out ''Not later than one year after December 20, 1985, the Chairperson shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a plan for the development and implementation of such system, including a recommendation regarding the need for any additional funds to be appropriated to develop and implement such system.'' after ''and State levels.'', and substituted ''1992, and quadrennially'' for ''1988, and biennially''.

Subsecs. (*l*), (m). Pub. L. 101–512, §318 [title I, §107(h)], added subsecs. (*l*) and (m) and struck out former subsec. (*l*) which related to reports and plans required by regulation or directives and the transmittal of such reports and plans to the Equal Employment Opportunity Commission.

1985—Subsec. (b). Pub. L. 99–194, §107(1), (5), substituted ''chairperson'' for ''chairman'' in par. (1), and in par. (2), substituted ''Chairperson'' for ''Chairman'' and ''the Chairperson's'' for ''his'' wherever appearing.

Subsec. (c). Pub. L. 99–194, §107(2), (5), substituted ''Chairperson'' for ''Chairman'' wherever appearing, substituted ''workshops'' for ''workships'' in cl. (3), added cls. (4) and (5) and redesignated existing cls. (4) to (7) as (6) to (9), respectively, substituted ''clause (8)'' for ''clause (6)'' in second sentence, and inserted at end ''In selecting individuals and groups of exceptional talent as recipients of financial assistance to be provided under this subsection, the Chairperson shall give particular regard to scholars, and educational and cultural institutions, that have traditionally been underrepresented.''

Subsec. (d). Pub. L. 99–194, §107(5), substituted ''Chairperson'' for ''Chairman''.

Subsec. (f). Pub. L. 99–194, §107(3), (5), substituted ''Chairperson'' for ''Chairman'' wherever appearing; in par. (2)(A) substituted ''December 20, 1985'' for ''December 4, 1980'', inserted ''officer'' after ''chief executive'' wherever appearing in cl. (ii), struck out ''and'' at end of cl. (v), substituted '', including a description of the progress made toward achieving the goals of the State plan;'' for the period at end of cl. (vi), and added cls. (vii) and (viii) and sentence providing that no application may be approved unless the accompanying plan satisfies the requirements specified in this subsection; in par. (2)(B)(i) substituted ''six'' and ''25'' for ''four'' and ''20'', respectively; and in par. (3) struck out ''and'' at end of cl. (G), substituted '', including a description of the progress made toward achieving the goals of the plan;'' for the period at end of cl. (H), and added cls. (I) and (J) and sentence providing that no application may be approved unless the accompanying plan satisfies the requirements specified in this subsection.

Subsec. (g). Pub. L. 99–194, §107(4), substituted ''The Secretary of Labor shall prescribe standards, regulations, and procedures necessary to carry out this subsection not later than 180 days after December 20, 1985'' for ''The Secretary of Labor shall have the authority to prescribe standards, regulations, and procedures as he may deem necessary or appropriate to carry out the provisions of this subsection''.

Subsecs. (h)(1), (2)(B), (3), (i). Pub. L. 99–194, §107(5), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsecs. (j) to (*l*). Pub. L. 99–194, §107(6), added subsecs. (j) to (*l*).

1980—Subsec. (c). Pub. L. 96–496, §109(c), substituted ''Committee on Labor and Human Resources'' for ''Committee on Labor and Public Welfare'' in last sentence.

Subsec. (f)(2). Pub. L. 96–496, §104(a)(1), substituted provisions relating to the designation of State humanities councils as State administrative agencies, requiring matching State funding and submission by States wishing to designate administrative State agencies of grant applications and accompanying administrative plans, and prescribing a grant recipient application procedure for provisions requiring entities desiring to receive financial assistance under this subsection to submit grant applications and accompanying administrative plans.

Subsec. (f)(3). Pub. L. 96–496, §104(a)(2), substituted provisions requiring entities desiring to receive financial assistance under this subsection to submit grant applications and accompanying administrative plans for provisions relating to the appointment of grant recipient members.

Subsec. (f)(4). Pub. L. 96–496, §104(a)(3), in provisions preceding subpar. (A), substituted ''each State and each grant recipient'' for ''each grant recipient'' and ''such States and grant recipients'' for ''such grant recipients'', in subpar. (A), substituted ''34 per centum of the amount of such excess for such'' for ''the amount of such excess which is no greater than 25 per centum of the sums available to carry out this subsection for any'' and inserted ''States and regional groups and'', in subpar. (B), substituted ''44 per centum of the amount of such excess for such fiscal year'' for ''the amount of such excess, if any, which remains after reserving in full for the Chairman the amount required under subparagraph (A)'' and ''States and grant recipients'' for ''grant recipients'' and struck out ''but in no event shall any grant recipient be allotted less than $200,000'' after ''Chairman'' and added subpar. (C).

Subsec. (f)(5)(A). Pub. L. 96–496, §104(a)(4)(A), substituted ''The amount of each allotment to a State for any fiscal year under this subsection shall be available to each State or grant recipient, which has a plan or application approved by the Chairman in effect on the first day of such fiscal year, to pay not more than 50 per centum of the total cost of any project or production described in paragraph (1). The amount of any'' for ''Whenever the provisions of paragraph (3)(B) of this subsection apply in any State, that part of any''.

Subsec. (f)(5)(B). Pub. L. 96–496, §104(a)(4)(B), inserted ''State agency or''.

Subsec. (f)(5)(E). Pub. L. 96–496, §104(a)(4)(C), added subpar. (E).

Subsec. (f)(7). Pub. L. 96–496, §104(a)(5), inserted ''group or'' in subpar. (A), inserted ''State agency or'' and substituted ''State plan or grant recipient application'' for ''plan'' in subpar. (B), inserted ''group or State agency or'' in subpar. (C), and inserted ''group, State agency, or'' in three places in provisions following subpar. (C).

Subsec. (f)(8). Pub. L. 96–496, §104(a)(6), substituted ''the third sentence of paragraph (4), and paragraphs (5) and (6)'' for ''paragraphs (4), (5), and (6)''.

Subsec. (g). Pub. L. 96–496, §104(b), substituted ''State agency or'' for ''State''.

Subsec. (i). Pub. L. 96–496, §104(c), added subsec. (i).

1976—Subsecs. (f), (g). Pub. L. 94–462, §§104(a), 105, added subsecs. (f) and (g).

Subsec. (h). Pub. L. 94–462, §301(b), added subsec. (h).

1973—Subsec. (c). Pub. L. 93–133, §2(a)(6), in provisions preceding cl. (1) struck out reference to the Federal Council on the Arts and the Humanities, in cl. (2) inserted proviso that loans made by the Endowment shall be made in accordance with terms and conditions approved by the Secretary of the Treasury, in cl. (6) struck out reference to section 111 of title 44, and added cl. (7) and provisions following cl. (7).

Subsec. (d). Pub. L. 93–133, §3, required the Chairman to correlate the programs of the National Endowment for the Humanities with designated State humanities agencies.

1970—Subsec. (b)(2). Pub. L. 91–346, §8(a), provided that upon expiration of his term of office the Chairman shall serve until his successor shall have been appointed and shall have qualified.

Subsec. (c)(2). Pub. L. 91–346, §8(b), announced intention of the Endowment for the Humanities to strength-

en teaching potential as well as research potential and authorized the Endowment to make contracts as well as grants etc., in its efforts to accomplish its goals.

Subsec. (c)(5). Pub. L. 91–346, § 8(c), announced intention to foster education in as well as public understanding and appreciation of the humanities.

1967—Subsec. (b)(1). Pub. L. 90–83 struck out provision setting the compensation of the Chairman at the level prescribed by law for the Director of the National Science Foundation.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, § 403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

APPLICABILITY OF 1985 AMENDMENT

Amendment by section 107(3) of Pub. L. 99–194 not applicable with respect to plans submitted for financial assistance to be provided with funds appropriated for fiscal year 1986, see section 112 of Pub. L. 99–194, set out as a note under section 954 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 104(b) of Pub. L. 94–462 provided that: ''The amendment made by subsection (a) [amending this section] shall be effective with respect to fiscal year 1977 and succeeding fiscal years.''

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by section 2(a)(6) of Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (k) of this section relating to quadrennially submitting the state of the humanities report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 183 of House Document No. 103–7.

§ 956a. National Capital arts and cultural affairs; grant programs

There is hereby authorized a program to support artistic and cultural programs in the Nation's Capital to be established under the direction of the Commission of Fine Arts. Not to exceed $7,500,000 annually is authorized to provide grants for general operating support to eligible organizations located in the District of Columbia whose primary purpose is performing, exhibiting and/or presenting arts.

Eligibility for grants shall be limited to not-for-profit, non-academic institutions of demonstrated national repute and is further limited to organizations having annual income, exclusive of Federal funds, in excess of $1,000,000 for each of the three years prior to receipt of a grant. The following organizations are deemed eligible to receive grants under this section: Folger Theater, Corcoran Gallery of Art, Phillips Gallery, Arena Stage, the National Building Museum, the National Children's Museum, the National Symphony Orchestra, the National Opera, and Ford's Theater.

The Chairman of the Commission of Fine Arts shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the National Endowment for the Humanities determine the eligibility of applicant organizations in addition to those herein named.

Of the funds provided for grants, 70 per centum shall be equally distributed among all qualifying organizations and 30 per centum shall be distributed based on the size of an organization's total annual income, exclusive of Federal funds, compared to the combined total of the annual income, exclusive of Federal funds, of all eligible institutions. No organization shall receive a grant in excess of $500,000 in a single year.

An application process shall be established no later than March 1, 1986, and initial grants shall be awarded no later than June 1, 1986.

(Pub. L. 99–190, § 101(d) [title II, § 201], Dec. 19, 1985, 99 Stat. 1224, 1261; Pub. L. 99–500, § 101(h) [title II, § 201], Oct. 18, 1986, 100 Stat. 1783–242, 1783–281, and Pub. L. 99–591, § 101(h) [title II, § 201], Oct. 30, 1986, 100 Stat. 3341–242, 3341–281; Pub. L. 100–202, § 101(g) [title II, § 201], Dec. 22, 1987, 101 Stat. 1329–213, 1329–250; Pub. L. 101–121, title II, Oct. 23, 1989, 103 Stat. 739; Pub. L. 106–219, § 2, June 20, 2000, 114 Stat. 346; Pub. L. 108–81, title V, § 502(b), Sept. 25, 2003, 117 Stat. 1003.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

Section was not enacted as part of the National Foundation on the Arts and the Humanities Act of 1965 which comprises this subchapter.

AMENDMENTS

2003—Pub. L. 108–81 substituted ''National Children's Museum'' for ''National Capital Children's Museum'' in second par.

2000—Pub. L. 106–219 substituted ''National Opera'' for ''Washington Opera Society'' in second par.

1989—Pub. L. 101–121 substituted ''$7,500,000'' for ''$5,000,000'' in first par.

1987—Pub. L. 100–202 substituted ''direction of the Commission of Fine Arts'' for ''direction of the National Endowment for the Humanities'' in first par. and amended third par. generally. Prior to amendment, third par. read as follows: ''The Chairman of the National Endowment for the Humanities shall establish an application process and shall, along with the Chairman of the National Endowment for the Arts and the Chairman of the Commission on Fine Arts determine the eligibility of applicant organizations in addition to those herein named.''

1986—Pub. L. 99–500 and Pub. L. 99–591 substituted ''whose primary purpose is'' for ''which are engaged primarily in'' in first par. and ''annual income, exclusive of Federal Funds,'' for ''an annual operating budget'', ''operating budget'', and ''operating budgets'' in third and fourth pars.

REDESIGNATION OF CAPITAL CHILDREN'S MUSEUM AS NATIONAL CHILDREN'S MUSEUM

Pub. L. 108–81, title V, § 502, Sept. 25, 2003, 117 Stat. 1003, provided that:

''(a) DESIGNATION.—The Capital Children's Museum located at 800 Third Street, NE, Washington, D.C. (or

any successor location), organized under the laws of the District of Columbia, is designated as the 'National Children's Museum'.

''(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Capital Children's Museum referred to in subsection (a) shall be deemed to be a reference to the 'National Children's Museum'.''

REDESIGNATION OF WASHINGTON OPERA AS NATIONAL OPERA

Pub. L. 106–219, June 20, 2000, 114 Stat. 346, provided that:

''SECTION 1. DESIGNATION.

''The Washington Opera, organized under the laws of the District of Columbia, is designated as the 'National Opera'.

''SEC. 2. REFERENCES.

''Any reference in a law, map, regulation, document, paper or other record of the United States to the Washington Opera referred to in section 1 shall be deemed to be a reference to the 'National Opera'.''

§ 957. National Council on the Humanities

(a) Establishment

There is established in the National Endowment for the Humanities a National Council on the Humanities.

(b) Composition; basis for selection of members; representation of interests; recommendations of national organizations

The Council shall be composed of the Chairperson of the National Endowment for the Humanities, who shall be the Chairperson of the Council, and twenty-six other members appointed by the President, by and with the advice and consent of the Senate, from private life. Such members shall be individuals who (1) are selected from among private citizens of the United States who are recognized for their broad knowledge of, expertise in, or commitment to the humanities, and (2) have established records of distinguished service and scholarship or creativity and in a manner which will provide a comprehensive representation of the views of scholars and professional practitioners in the humanities and of the public throughout the United States. The President is requested in the making of such appointments to give consideration to such recommendations as may from time to time be submitted to him by leading national organizations concerned with the humanities. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the humanities.

(c) Term of office; vacancies; reappointment

Each member shall hold office for a term of six years, except that (1) the members first taking office shall serve, as designated by the President, nine for terms of two years, nine for terms of four years, and eight for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which such member's predecessor was appointed. No member shall be eligible for reappointment during the two-year period following the expiration of such member's term. Notwithstanding any other provisions of this subsection, a member shall serve after the expiration of such member's term until such member's successor takes office.

(d) Meetings; quorum

The Council shall meet at the call of the Chairperson but not less often than twice during each calendar year. Fourteen members of the Council shall constitute a quorum.

(e) Compensation and travel expenses

Members shall receive compensation at a rate to be fixed by the Chairperson but not to exceed the per diem equivalent of the rate authorized for grade GS–18 by section 5332 of title 5 and be allowed travel expenses including per diem in lieu of subsistence, as authorized by law (section 5703 of title 5) for persons in the Government service employed intermittently.

(f) Advisory functions: policies, programs, and procedures; review of applications for financial support; recommendations prerequisite to action of Chairperson; unilateral action by Chairperson pursuant to delegation of authority

The Council shall (1) advise the Chairperson with respect to policies, programs, and procedures for carrying out the Chairperson's functions, and (2) shall review applications for financial support and make recommendations thereon to the Chairperson. The Chairperson shall not approve or disapprove any such application until the Chairperson has received the recommendation of the Council on such application, unless the Council fails to make a recommendation thereon within a reasonable time. In the case of any application involving $30,000, or less, the Chairperson may approve or disapprove such request if such action is taken pursuant to the terms of a delegation of authority from the Council to the Chairperson, and provided that each such action by the Chairperson shall be reviewed by the Council: *Provided*, That the terms of any such delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceed an amount equal to 10 per centum of the sums appropriated for that fiscal year pursuant to subparagraph (B) of paragraph (1) of section 960(a) of this title.

(Pub. L. 89–209, § 8, Sept. 29, 1965, 79 Stat. 851; Pub. L. 90–348, § 4, June 18, 1968, 82 Stat. 186; Pub. L. 91–346, § 5(c), July 20, 1970, 84 Stat. 444; Pub. L. 93–133, § 2(a)(7), Oct. 19, 1973, 87 Stat. 464; Pub. L. 94–462, title I, § 103(b), Oct. 8, 1976, 90 Stat. 1971; Pub. L. 96–496, title I, § 105, Dec. 4, 1980, 94 Stat. 2587; renumbered title I, § 8, and amended Pub. L. 98–306, §§ 2, 5(b), May 31, 1984, 98 Stat. 223, 224; renumbered § 8 and amended Pub. L. 99–194, title I, §§ 101(1), 108, Dec. 20, 1985, 99 Stat. 1332, 1338.)

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–194, § 108(1), substituted ''Chairperson'' for ''Chairman'' in two places, substituted ''individuals who (1) are selected from among private citizens of the United States who are recognized for their broad knowledge of, expertise in, or commitment to the humanities, and (2) have established records of'' for ''selected on the basis of'', and inserted provision that in making such appointments, the President shall give due regard to equitable representation of women, minorities, and individuals with disabilities who are involved in the humanities.

Subsec. (c). Pub. L. 99–194, § 108(2), substituted ''such member's'' for ''his'' wherever appearing.

Subsecs. (d), (e). Pub. L. 99–194, § 108(3), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsec. (f). Pub. L. 99–194, § 108(3), (4), substituted ''Chairperson'' for ''Chairman'' wherever appearing, ''the Chairperson's'' for ''his'', and ''until the Chairperson has received'' for ''until he has received''.

1984—Subsec. (c). Pub. L. 98–306, § 5(b), inserted ''Notwithstanding any other provisions of this subsection, a member shall serve after the expiration of his term until his successor takes office.''

1980—Subsec. (f). Pub. L. 96–496 substituted ''$30,000'' for ''$17,500''.

1976—Subsec. (b). Pub. L. 94–462 inserted '', by and with the advice and consent of the Senate,'' after ''by the President''.

1973—Subsec. (f). Pub. L. 93–133 substituted ''$17,500'' for ''$10,000'' and inserted proviso that the terms of delegation of authority shall not permit obligations for expenditure of funds under such delegation for any fiscal year which exceeds an amount equal to 10 per centum of the sums appropriated for that fiscal year.

1970—Subsec. (e). Pub. L. 91–346 set forth provisions governing compensation of persons employed for the Government service on an intermittent basis.

1968—Subsec. (f). Pub. L. 90–348 inserted provisions which authorized the Chairman, in the case of any application involving $10,000 or less, to approve or disapprove the application if such action is pursuant to the terms of a delegation of authority from the Endowment Council and such action is reviewed by the Endowment Council.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 957a. Omitted

CODIFICATION

Section, Pub. L. 98–146, title II, Nov. 4, 1983, 97 Stat. 949, which directed that persons serving on National Council on the Humanities continue until their successors are qualified for office, was omitted as superseded. See section 957(c) of this title, as amended by Pub. L. 98–306. Similar provisions were contained in Pub. L. 97–394, title II, Dec. 30, 1982, 96 Stat. 1994.

§ 958. Federal Council on the Arts and the Humanities

(a) Establishment

There is established within the Foundation a Federal Council on the Arts and the Humanities.

(b) Composition; presiding officer; changes in membership to meet changes in programs or executive branch organization

The Council shall be composed of the Chairperson of the National Endowment for the Arts, the Chairperson of the National Endowment for the Humanities, the Director of the Institute of Museum Services, the Secretary of Education, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, the Librarian of Congress, the Director of the National Gallery of Art, the Chairman of the Commission of Fine Arts, the Archivist of the United States, the Commissioner, Public Buildings Service, General Services Administration, the Assistant Secretary for Aging, a member designated by the Secretary of State and a member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission on Art and Antiquities, and a member designated by the Speaker of the House. The President shall designate the presiding officer of the Council from among the members. The President is authorized to change the membership of the Council from time to time as the President deems necessary to meet changes in Federal programs or executive branch organization.

(c) Functions

The Council shall—

(1) advise and consult with the Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities on major problems arising in carrying out the purposes of the Foundation;

(2) advise and consult with the National Museum Services Board and with the Director of the Institute of Museum Services on major problems arising in carrying out the purposes of such Institute;

(3) coordinate, by advice and consultation, so far as is practicable, the policies and operations of the National Endowment for the Arts, the National Endowment for the Humanities, and the Institute of Museum Services, including joint support of activities, as appropriate;

(4) promote coordination between the programs and activities of the Foundation and related programs and activities of other Federal agencies;

(5) plan and coordinate appropriate participation (including productions and projects) in major and historic national events;

(6) undertake studies and make reports which address the state of the arts and humanities, particularly with respect to their economic needs and problems; and

(7) encourage an ongoing dialogue in support of the arts and the humanities among Federal agencies.

(Pub. L. 89–209, § 9, Sept. 29, 1965, 79 Stat. 851; Pub. L. 91–346, § 9, July 20, 1970, 84 Stat. 446; Pub. L. 93–133, § 2(a)(8), Oct. 19, 1973, 87 Stat. 464; Pub. L. 94–462, title II, § 208, Oct. 8, 1976, 90 Stat. 1977; Pub. L. 96–496, title I, §§ 106, 109(d), Dec. 4, 1980, 94 Stat. 2587, 2591; renumbered title I, § 9, and amended Pub. L. 98–306, §§ 2, 6, May 31, 1984, 98 Stat. 223, 224; renumbered § 9 and amended Pub. L. 99–194, title I, §§ 101(1), 109, Dec. 20, 1985, 99 Stat. 1332, 1339; Pub. L. 101–512, title III, § 318 [title I, § 108], Nov. 5, 1990, 104 Stat. 1960, 1970; Pub. L. 103–171, § 3(b)(2), Dec. 2, 1993, 107 Stat. 1991.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–171 substituted ''Assistant Secretary for Aging'' for ''Commissioner on Aging''.

1990—Subsec. (c)(7). Pub. L. 101–512, § 318 [title I, § 108(a)], added par. (7).

Subsec. (d). Pub. L. 101–512, §318 [title I, §108(b)], struck out subsec. (d) which related to studies on Federal support to museums and the impact of Institute of Museum Services and of conservation and preservation practices.

1985—Subsec. (b). Pub. L. 99–194, §109(1), substituted ''Chairperson'' for ''Chairman'' in two places in first sentence, ''presiding officer'' for ''Chairman'' in second sentence, and ''the President'' for ''he'' in last sentence.

Subsec. (c)(1). Pub. L. 99–194, §109(2), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsec. (d). Pub. L. 99–194, §109(3), added subsec. (d). Former subsec. (d), relating to a study and report to the President and the Congress on artistic employment opportunities, was struck out.

Subsec. (e). Pub. L. 99–194, §109(3), struck out subsec. (e) which provided for a study and report to the President and the Congress on arts and artifacts indemnification.

1984—Subsec. (b). Pub. L. 98–306, §6(a), inserted ''the Director of the Institute of Museum Services,''.

Subsec. (c)(4). Pub. L. 98–306, §6(b), struck out ''and the Institute of Museum Services'' after ''Foundation''.

1980—Subsec. (b). Pub. L. 96–496, §§106(a), 109(d), inserted ''the Commissioner on Aging,'' and substituted ''Secretary of Education'' for ''United States Commissioner of Education''.

Subsec. (c)(6). Pub. L. 96–496, §106(b), added par. (6).

Subsecs. (d), (e). Pub. L. 96–496, §106(c), added subsecs. (d) and (e).

1976—Subsec. (c)(2), (3). Pub. L. 94–462, §208(1), (2), added par. (2), redesignated former par. (2) as (3), and as so redesignated inserted ''and the Institute of Museum Services,'' after ''Humanities,''. Former par. (3) redesignated (4).

Subsec. (c)(4), (5). Pub. L. 94–462, §208(1), (3), redesignated former par. (3) as (4), inserted ''and the Institute of Museum Services'' after ''Foundation'', and redesignated former par. (4) as (5).

1973—Subsec. (b). Pub. L. 93–133 included the Commissioner, Public Buildings Service, General Service Administration, a member designated by the Secretary of the Interior, a member designated by the Chairman of the Senate Commission on Art and Antiquities, and a member designated by the Speaker of the House, as members of the Federal Council on the Arts and Humanities.

1970—Subsec. (b). Pub. L. 91–346 included the Archivist of the United States as a member of the Federal Council on the Arts and Humanities.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out a a note under section 951 of this title.

§ 959. Administrative provisions

(a) General authority of Chairpersons

In addition to any authorities vested in them by other provisions of this subchapter, the Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities, in carrying out their respective functions, shall each have authority—

(1) to prescribe such regulations as the Chairperson deems necessary governing the manner in which the Chairperson's functions shall be carried out;

(2) in the discretion of the Chairperson of an Endowment, after receiving the recommendation of the National Council of that Endowment, to receive money and other property donated, bequeathed, or devised to that Endowment with or without a condition or restriction, including a condition that the Chairperson use other funds of that Endowment for the purposes of the gift, except that a Chairperson may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 955(f) and 957(f) of this title, and may receive a gift of $15,000, or less, without Council recommendation in the event the Council fails to provide such recommendation within a reasonable period of time, and to use, sell, or otherwise dispose of such property for the purpose of carrying out sections 954(c) and 956(c) of this title;

(3) to appoint employees, subject to the civil service laws, as necessary to carry out the Chairperson's functions, define their duties, and supervise and direct their activities;

(4) to utilize experts and consultants, including panels of experts, who may be employed as authorized by section 3109 of title 5;

(5) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5 for persons in the Government service employed without compensation;

(6) to make advance, progress, and other payments without regard to section 3324 of title 31;

(7) to rent office space in the District of Columbia; and

(8) to make other necessary expenditures.

(b) Rules for distribution of donations, bequests, and devises; gifts with or without conditions; transfers for tax purposes

(1) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation without designation of the Endowment for the benefit of which such property is intended, and without condition or restriction other than that it be used for the purposes of the Foundation, such property shall be deemed to have been donated, bequeathed, or devised in equal shares to each Endowment and each Chairperson of an Endowment shall have authority to receive such property.

(2) In any case in which any money or other property is donated, bequeathed, or devised to the Foundation with a condition or restriction, such property shall be deemed to have been donated, bequeathed, or devised to that Endowment whose function it is to carry out the purpose or purposes described or referred to by the terms of such condition or restriction, and each Chairperson of an Endowment shall have authority to receive such property.

(3) For the purposes of the preceding sentence, if one or more of the purposes of such a condition or restriction is covered by the functions of both Endowments, or if some of the purposes of such a condition or restriction are covered by the functions of one Endowment and other of the purposes of such a condition or restriction

are covered by the functions of the other Endowment, the Federal Council on the Arts and the Humanities shall determine an equitable manner for distribution between each of the Endowments of the property so donated, bequeathed, or devised.

(4) For the purposes of the income tax, gift tax, and estate tax laws of the United States, any money or other property donated, bequeathed, or devised to the Foundation or one of its Endowments and received by the Chairperson of an Endowment pursuant to authority derived under this subsection shall be deemed to have been donated, bequeathed, or devised to or for the use of the United States.

(c) Advisory panels; membership; procedures

The Chairperson of the National Endowment for the Arts shall utilize advisory panels to review applications, and to make recommendations to the National Council on the Arts in all cases except cases in which the Chairperson exercises authority delegated under section 955(f) of this title. When reviewing applications, such panels shall recommend applications for projects, productions, and workshops solely on the basis of artistic excellence and artistic merit. The Chairperson shall issue regulations and establish procedures—

(1) to ensure that all panels are composed, to the extent practicable, of individuals reflecting a wide geographic, ethnic, and minority representation as well as individuals reflecting diverse artistic and cultural points of view;

(2) to ensure that all panels include representation of lay individuals who are knowledgeable about the arts but who are not engaged in the arts as a profession and are not members of either artists' organizations or arts organizations;

(3) to ensure that, when feasible, the procedures used by panels to carry out their responsibilities are standardized;

(4) to require panels—

(A) to create written records summarizing—

(i) all meetings and discussions of such panel; and

(ii) the recommendations made by such panel to the Council; and

(B) to make such records available to the public in a manner that protects the privacy of individual applicants and panel members;

(5) to require, when necessary and feasible, the use of site visitations to view the work of the applicant and deliver a written report on the work being reviewed, in order to assist panelists in making their recommendations; and

(6) to require that the membership of each panel change substantially from year to year and to provide that each individual is ineligible to serve on a panel for more than 3 consecutive years.

In making appointments to panels, the Chairperson shall ensure that an individual who has a pending application for financial assistance under this subchapter, or who is an employee or agent of an organization with a pending application, does not serve as a member of any panel before which such application is pending. The prohibition described in the preceding sentence shall commence with respect to such individual beginning on the date such application is submitted and shall continue for so long as such application is pending.

(d) Endowment activities reports

The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year. The report shall summarize the activities of the Endowment for the preceding year, and may include such recommendations as the Chairperson deems appropriate.

(e) Council activities reports

The National Council on the Arts and the National Council on the Humanities, respectively, may each submit an annual report to the President for transmittal to the Congress on or before the 15th day of April of each year setting forth a summary of its activities during the preceding year or its recommendations for any measures which it considers necessary or desirable.

(f) Post-award evaluation of assisted projects, productions, and programs; reports; extension of time for compliance; failure to satisfy purposes of assistance

(1) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities shall conduct a post-award evaluation of projects, productions, and programs for which financial assistance is provided by their respective Endowments under sections 954(c) and 956(c) of this title. Such evaluation may include an audit to determine the accuracy of the reports required to be submitted by recipients under clauses (i) and (ii) of paragraph (2)(A). As a condition of receiving such financial assistance, a recipient shall comply with the requirements specified in paragraph (2) that are applicable to the project, production, or program for which such financial assistance is received.

(2)(A) The recipient of financial assistance provided by either of the Endowments shall submit to the Chairperson of the Endowment involved—

(i) a financial report containing such information as the Chairperson deems necessary to ensure that such financial assistance is expended in accordance with the terms and conditions under which it is provided;

(ii) a report describing the project, production, or program carried out with such financial assistance; and

(iii) if practicable, as determined by the Chairperson, a copy of such project, production, or program.

(B) Such recipient shall comply with the requirements of this paragraph not later than 90 days after the end of the period for which such financial assistance is provided. The Chairperson may extend the 90-day period only if the recipient shows good cause why such an extension should be granted.

(3) If such recipient substantially fails to satisfy the purposes for which such financial assist-

ance is provided and the criteria specified in subsection (c)(3)(A)[1] of this section, as determined by the Chairperson of the Endowment that provided such financial assistance, then such Chairperson may—

(A) for purposes of determining whether to provide any subsequent financial assistance, take into consideration the results of the post-award evaluation conducted under this subsection;

(B) prohibit the recipient of such financial assistance to use the name of, or in any way associate such project, production, or program with the Endowment that provided such financial assistance; and

(C) if such project, production, or program is published, require that the publication contain the following statement: ''The opinions, findings, conclusions, and recommendations expressed herein do not reflect the views of the National Endowment for the Arts or the National Endowment for the Humanities.''

(Pub. L. 89–209, §10, Sept. 29, 1965, 79 Stat. 852; Pub. L. 90–348, §5, June 18, 1968, 82 Stat. 186; Pub. L. 91–346, §§5(a)(3), 10, 11, July 20, 1970, 84 Stat. 443, 446; Pub. L. 93–133, §2(a)(9), (10), Oct. 19, 1973, 87 Stat. 465; Pub. L. 96–496, title I, §107, Dec. 4, 1980, 94 Stat. 2588; renumbered title I, §10, Pub. L. 98–306, §2, May 31, 1984, 98 Stat. 223; renumbered §10 and amended Pub. L. 99–194, title I, §§101(1), 110, Dec. 20, 1985, 99 Stat. 1332, 1339; Pub. L. 101–512, title III, §318 [title I, §109], Nov. 5, 1990, 104 Stat. 1960, 1970.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a)(3), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

The income tax, gift tax, and estate tax laws of the United States, referred to in subsec. (b)(4), are classified generally to Title 26, Internal Revenue Code.

CODIFICATION

In subsec. (a)(5), reference to ''section 5703 of title 5'' substituted for ''law (5 U.S.C. 73b–2)'' on authority of Pub. L. 89–554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (a). Pub. L. 101–512, §318 [title I, §109(5)(A)], redesignated concluding provisions of subsec. (a) as subsec. (b).

Subsec. (a)(4). Pub. L. 101–512, §318 [title I, §109(1)(A)], struck out ''from time to time, as appropriate,'' after ''to utilize''.

Subsec. (a)(6). Pub. L. 101–512, §318 [title I, §109(1)(B)], substituted ''section 3324 of title 31'' for ''the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529)''.

Subsec. (b). Pub. L. 101–512, §318 [title I, §109(9)], which directed amendment of this section by striking the sixth sentence and all that follows through ''pending.'' was executed by striking all that follows through ''pending.'' the second place it appeared to reflect the probable intent of Congress. The provisions struck out read as follows: ''In selecting panels of experts under clause (4) to review and make recommendations with respect to the approval of applications for financial assistance under this subchapter, each Chairperson shall appoint individuals who have exhibited expertise and leadership in the field under review, who broadly represent diverse characteristics in terms of aesthetic or humanistic perspective, and geographical factors, and who broadly represent cultural diversity. Each Chairperson shall assure that the membership of panels changes substantially from year to year, and that no more than 20 per centum of the annual appointments shall be for service beyond the limit of three consecutive years on a subpanel. In making appointments, each Chairperson shall give due regard to the need for experienced as well as new members on each panel. Panels of experts appointed to review or make recommendations with respect to the approval of applications or projects for funding by the National Endowment for the Arts shall, when reviewing such applications and projects, recommend for funding only applications and projects that in the context in which they are presented, in the experts' view, foster excellence, are reflective of exceptional talent, and have significant literary, scholarly, cultural, or artistic merit. Whenever there is pending an application submitted by an individual for financial assistance under section 954(c) of this title, such individual may not serve as a member of any subpanel (or panel where a subpanel does not exist) before which such application is pending. The prohibition described in the previous sentence shall commence on the date the application is submitted and continue for so long as the application is pending.''

Pub. L. 101–512, §318 [title I, §109(8)], which directed amendment of the fifth sentence of this section by making the substitution for ''For the purpose'', was executed by substituting ''(4) For the purposes'' for ''For the purposes'' to reflect the probable intent of Congress.

Pub. L. 101–512, §318 [title I, §109(4)–(7)], redesignated concluding provisions of subsec. (a) as subsec. (b), inserted pars. (1), (2), and (3) designations, and struck out ''(A)'' before ''without designation'' and ''(B)'' before ''without condition''. Former subsec. (b) redesignated (d).

Subsecs. (c) to (e). Pub. L. 101–512, §318 [title I, §109(3), (4), (9)], added subsec. (c), redesignated former subsecs. (b) and (c) as (d) and (e), respectively, and struck out former subsec. (e) which related to studies and reports on the state and quality of arts and humanities education in public elementary and secondary schools. Former subsec. (d) redesignated (f).

Subsec. (f). Pub. L. 101–512, §318 [title I, §109(2)–(4)], redesignated subsec. (d) as (f) and, in par. (3), substituted ''subsection (c)(3)(A) of this section'' for ''the last sentence of subsection (a) of this section'', and struck out former subsec. (f) which related to report to Congress on selection of experts for appointment to panels, and procedures for recommendations on financial assistance applications.

1985—Subsec. (a). Pub. L. 99–194, §110(1), substituted ''Chairperson'' for ''Chairman'' in two places in provisions preceding cl. (1); in cl. (1) substituted ''the chairperson'' and ''the chairperson's'' for ''he'' and ''his'', respectively; in cl. (2) substituted ''Chairperson'' for ''Chairman'' wherever appearing; in cl. (3) substituted ''the Chairperson's'' for ''his''; in cl. (4) substituted ''section 3109 of title 5'' for ''section 15 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 55a)'' and struck out proviso that any advisory panel appointed to review or make recommendations with respect to the approval of applications or projects for funding was to have broad geographic and culturally diverse representation; and in provisions following par. (8) substituted ''Chairperson'' for ''Chairman'' wherever appearing and inserted provisions relating to the selection of a panel of experts to review financial assistance applications and the considerations to be made in the review of such applications.

Subsec. (b). Pub. L. 99–194, §110(2), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsecs. (d) to (f). Pub. L. 99–194, §110(3), added subsecs. (d) to (f). Former subsec. (d), relating to studies and reports to the President and the Congress on endowment uses of donations, bequests, and devises, was struck out.

[1] So in original. Subsec. (c)(3) of this section does not contain a subpar. (A).

1980—Subsec. (a)(4). Pub. L. 96–496, § 107(a), inserted ''and culturally diverse''.

Subsecs. (b), (c). Pub. L. 96–496, § 107(b), (c), substituted ''April'' for ''January''.

Subsec. (d). Pub. L. 96–496, § 107(d), added subsec. (d).

1973—Subsec. (a)(2). Pub. L. 93–133, § 2(a)(9), added exception that a Chairman may receive a gift without a recommendation from the Council to provide support for any application or project which can be approved without Council recommendation under the provisions of sections 955(f) and 957(f) of this title, and may receive a gift of $15,000 or less without Council recommendation when the Council fails to recommend within a reasonable period of time.

Subsec. (a)(4). Pub. L. 93–133, § 2(a)(10), inserted proviso that any advisory panel appointed to review or make recommendations with respect to the approval of applications or projects for funding shall have broad geographic representation.

1970—Subsec. (a)(2). Pub. L. 91–346, § 5(a)(3), struck out reference to the functions transferred by section 955(a) of this title.

Subsec. (a)(3) to (5). Pub. L. 91–346, § 11(1)–(3), inserted ''to'' at beginning of cls. (3) to (5).

Subsec. (a)(6) to (8). Pub. L. 91–346, §§ 10, 11(4), (5), redesignated cls. (6) and (7), and all references thereto, as cls. (7) and (8), added new cl. (6), and inserted ''to'' at beginning of cls. (7) and (8).

1968—Subsec. (a). Pub. L. 90–348 combined provisions of cls. (2) and (3) into cl. (2), and, in cl. (2) as thus combined, extended the area for the exercise of discretion of the Chairman of an Endowment, after receiving the recommendation of the National Council of that Endowment, in the disposition of gifts to include both gifts made with condition and gifts made without condition, redesignated cls. (4) to (8) as (3) to (7), and in provisions following cl. (7), struck out references to cls. (2) and (3) wherever appearing.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, § 403(a)] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 5(a)(3) of Pub. L. 91–346 effective after June 30, 1970, see section 5(d)(3)(A) of Pub. L. 91–346, set out as a note under section 955 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which certain reporting requirements under subsec. (d) of this section are listed in item 7 on page 183), see section 3003 of Pub. L. 104–66, as amended, and section 1(a)(4) [div. A, § 1402(1)] of Pub. L. 106–554, set out as notes under section 1113 of Title 31, Money and Finance.

DELEGATION OF CERTAIN REPORTING AUTHORITY

Memorandum of President of the United States, Dec. 8, 2004, 69 F.R. 74937, provided:

Memorandum for the Chairperson of the National Endowment for the Arts

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions conferred upon the President in the National Foundation on the Arts and Humanities Act of 1965, as amended (20 U.S.C. 959(d)) to provide the specified report relating to the National Endowment for the Arts to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

Memorandum of President of the United States, Dec. 8, 2004, 69 F.R. 74939, provided:

Memorandum for the Chairperson of the National Endowment for the Humanities

By the authority vested in me as President by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, I hereby delegate to you the functions conferred upon the President in the National Foundation on the Arts and Humanities Act of 1965, as amended (20 U.S.C. 959(d)) to provide the specified report relating to the National Endowment for the Humanities to the Congress.

You are authorized and directed to publish this memorandum in the Federal Register.

GEORGE W. BUSH.

§ 959a. Gifts, bequests, and devises

The National Endowment for the Arts and the National Endowment for the Humanities are on and after August 2, 2005, authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such in furtherance of the functions of the National Endowment for the Arts and the National Endowment for the Humanities. Any proceeds from such gifts, bequests, or devises, after acceptance by the National Endowment for the Arts or the National Endowment for the Humanities, shall be paid by the donor or the representative of the donor to the Chairman. The Chairman shall enter the proceeds in a special interest-bearing account to the credit of the appropriate endowment for the purposes specified in each case.

(Pub. L. 109–54, title IV, § 410, Aug. 2, 2005, 119 Stat. 551.)

CODIFICATION

Section was enacted as part of the appropriation act cited as the credit to this section, and not as part of the National Foundation on the Arts and the Humanities Act of 1965 which comprises this subchapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 108–447, div. E, title III, § 310, Dec. 8, 2004, 118 Stat. 3094.

Pub. L. 108–108, title III, § 310, Nov. 10, 2003, 117 Stat. 1303.

Pub. L. 108–7, div. F, title III, § 310, Feb. 20, 2003, 117 Stat. 271.

Pub. L. 107–63, title III, § 315, Nov. 5, 2001, 115 Stat. 467.

Pub. L. 106–291, title III, § 318, Oct. 11, 2000, 114 Stat. 989.

Pub. L. 106–113, div. B, § 1000(a)(3) [title III, § 319], Nov. 29, 1999, 113 Stat. 1535, 1501A–193.

Pub. L. 105–277, div. A, § 101(e) [title III, § 320], Oct. 21, 1998, 112 Stat. 2681–231, 2681–289.

Pub. L. 105–83, title III, § 330, Nov. 14, 1997, 111 Stat. 1600.

§ 960. Authorization of appropriations

(a) Contracts, grants-in-aid, and loans to groups, individuals, public agencies, and private nonprofit organizations; availability of appropriations; guidelines

(1)(A)(i) For the purpose of carrying out section 954(c) of this title, there are authorized to be appropriated to the National Endowment for the Arts $125,800,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(ii) For fiscal years—

(I) 1991 and 1992 not less than 25 percent of the amount appropriated for the respective fiscal year; and

(II) 1993 not less than 27.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out section 954(g) of this title.

(iii) For fiscal years—

(I) 1991 and 1992 not less than 5 percent of the amount appropriated for the respective fiscal year; and

(II) 1993 not less than 7.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out programs under section 954(p)(2) of this title (relating to programs to expand public access to the arts in rural and innercity areas). Not less than 50 percent of the funds required by this clause to be used for carrying out such programs shall be used for carrying out such programs in rural areas.

(B) For the purpose of carrying out section 956(c) of this title, there are authorized to be appropriated to the National Endowment for the Humanities $119,900,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993. Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 956(f) of this title.

(2)(A) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 959(a)(2) of this title, including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out projects and other activities under paragraph (1) through paragraph (10) of section 954(c) of this title;

except that the amounts so appropriated to the National Endowment for the Arts shall not exceed $13,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment under section 959(a)(2) of this title, including the value of property donated, bequeathed, or devised to such Endowment; and

(ii) the total amounts received by the grantees and subgrantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees and subgrantees, for use in carrying out activities under paragraph (1) through paragraph (10) of section 956(c) of this title;

except that the amounts so appropriated to the National Endowment for the Humanities shall not exceed $12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(3)(A) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Arts an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 954(p)(1) of this title pursuant to the authority of section 959(a)(2) of this title; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 954(p)(1) of this title;

except that the amounts so appropriated to such Endowment shall not exceed $15,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(B) There are authorized to be appropriated for each fiscal year ending before October 1, 1993, to the National Endowment for the Humanities an amount equal to the sum of—

(i) the total amounts received by such Endowment, including the value of property donated, bequeathed, or devised to such Endowment, for the purposes set forth in section 956(h)(1) of this title pursuant to the authority of section 959(a)(2) of this title; and

(ii) the total amounts received by the grantees of such Endowment from non-Federal sources, including the value of property donated, bequeathed, or devised to such grantees, for use in carrying out activities under subparagraph (A) through subparagraph (F) of section 956(h)(1) of this title;

except that the amounts so appropriated to such Endowment shall not exceed $15,150,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993.

(C) Sums appropriated pursuant to subparagraph (A) and subparagraph (B) for any fiscal year shall remain available for obligation and expenditure until expended.

(4) The Chairperson of the National Endowment for the Arts and the Chairperson of the National Endowment for the Humanities, as the case may be, shall issue guidelines to implement the provisions of paragraph (2) and paragraph (3). Such guidelines shall be consistent with the requirements of section 954(e), section 954(*l*)(2),[1] section 956(f), and section 956(h)(2) of this title, as the case may be, regarding total Federal support of activities, programs, projects, or productions carried out under authority of this subchapter.

(b) Availability of appropriated unexpended funds; notice of availability of funds by advance appropriation

(1) Sums appropriated pursuant to subsection (a) of this section for any fiscal year shall remain available for obligation and expenditure until expended.

(2) In order to afford adequate notice to interested persons of available assistance under this

[1] See References in Text note below.

subchapter, appropriations authorized under subsection (a) of this section are authorized to be included in the measure making appropriations for the fiscal year preceding the fiscal year for which such appropriations become available for obligation.

(c) Administrative appropriations

(1) There are authorized to be appropriated to the National Endowment for the Arts $21,200,000''[2] for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993, to administer the provisions of this subchapter, or any other program for which the Chairperson of the National Endowment for the Arts is responsible, including not to exceed $50,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for fiscal year 1995 through the use of appropriated funds or any other source of funds shall not exceed $100,000.

(2) There are authorized to be appropriated to the National Endowment for the Humanities $17,950,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993, to administer the provisions of this subchapter, or any other program for which the Chairperson of the National Endowment for the Humanities is responsible, including not to exceed $50,000 for each such fiscal year for official reception and representation expenses. The total amount which may be obligated or expended for such expenses for fiscal year 1995 through the use of appropriated funds or any other source of funds shall not exceed $100,000.

(d) Total amount of appropriations

(1) The total amount of appropriations to carry out the activities of the National Endowment for the Arts shall not exceed—

(A) $167,060,000 for fiscal year 1986,

(B) $170,206,400 for fiscal year 1987, and

(C) $177,014,656 for fiscal year 1988.

(2) The total amount of appropriations to carry out the activities for the National Endowment for the Humanities shall not exceed—

(A) $139,878,000 for fiscal year 1986,

(B) $145,057,120 for fiscal year 1987, and

(C) $150,859,405 for fiscal year 1988.

(e) Prohibition of grants to production workshops using admission proceeds for unauthorized purposes

No grant shall be made to a workshop (other than a workshop conducted by a school, college, or university) for a production for which a direct or indirect admission charge is asked if the proceeds, after deducting reasonable costs, are used for purposes other than assisting the grantee to develop high standards of artistic excellence or encourage greater appreciation of the arts and humanities by our citizens.

(f) Availability of appropriations for arts education

(1) Subject to subparagraph (2), in any fiscal year in which the aggregate amount appropriated to the National Endowment for the Arts exceeds $175,000,000, 50 percent of such excess shall be available to carry out section 954a of this title.

(2) In each fiscal year, the amount made available to carry out section 954a of this title shall not exceed $40,000,000, in the aggregate.

(3) Funds made available to carry out section 954a of this title shall remain available until expended.

(Pub. L. 89–209, § 11, Sept. 29, 1965, 79 Stat. 853; Pub. L. 90–348, § 6, June 18, 1968, 82 Stat. 187; Pub. L. 91–346, §§ 5(a)(4), 12, July 20, 1970, 84 Stat. 444, 446; Pub. L. 93–133, § 2(a)(11), Oct. 19, 1973, 87 Stat. 465; Pub. L. 94–462, title I, § 106(a), title III, § 302, title IV, § 401(b), Oct. 8, 1976, 90 Stat. 1974, 1980, 1981; Pub. L. 94–555, title II, § 219(b), Oct. 19, 1976, 90 Stat. 2629; Pub. L. 96–496, title I, § 108, Dec. 4, 1980, 94 Stat. 2589; renumbered title I, § 11, and amended Pub. L. 98–306, §§ 2, 7, May 31, 1984, 98 Stat. 223, 224; renumbered § 11 and amended Pub. L. 99–194, title I, §§ 101(1), 111, Dec. 20, 1985, 99 Stat. 1332, 1342; Pub. L. 99–362, § 1, July 9, 1986, 100 Stat. 769; Pub. L. 101–512, title III, § 318 [title I, §§ 103(i)(2), 110], Nov. 5, 1990, 104 Stat. 1960, 1966, 1972; Pub. L. 103–382, title III, § 371, Oct. 20, 1994, 108 Stat. 3977.)

REFERENCES IN TEXT

Section 954(*l*)(2) of this title, referred to in subsec. (a)(4), was redesignated section 954(p)(3) by Pub. L. 101–512, title III, § 318 [title I, §§ 103(g)(1), (h)(1), 104(2)], Nov. 5, 1990, 104 Stat. 1960, 1964, 1965, 1966.

PRIOR PROVISIONS

This subchapter, Pub. L. 89–209, Sept. 29, 1965, 79 Stat. 845, consisted originally of additional sections 12, 13, and 14, which were classified to sections 961, 962, and 963 of this title prior to repeal. For further details, see Prior Provisions notes set out under sections 961 to 963 of this title.

AMENDMENTS

1994—Subsec. (c)(1), (2). Pub. L. 103–382 substituted ''fiscal year 1995'' for ''any fiscal year'' and ''shall not exceed $100,000'' for ''shall not exceed $50,000''.

1990—Subsec. (a)(1)(A). Pub. L. 101–512, § 318 [title I, § 110(a)], designated existing provisions as cl. (i), substituted ''$125,800,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$121,678,000 for fiscal year 1986, $123,425,120 for fiscal year 1987, $128,362,125 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'', struck out at end ''Of the sums so appropriated for any fiscal year, not less than 20 per centum shall be for carrying out section 954(g) of this title.'', and added cls. (ii) and (iii).

Subsec. (a)(1)(B). Pub. L. 101–512, § 318 [title I, § 110(b)], substituted ''$119,900,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$95,207,000 for fiscal year 1986, $99,015,280 for fiscal year 1987, $102,975,891 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990;''.

Subsec. (a)(1)(C). Pub. L. 101–512, § 318 [title I, § 110(c)], struck out subpar. (C) which related to appropriations for the National Endowment for the Arts for the fiscal year ending September 30, 1977.

Subsec. (a)(2)(A). Pub. L. 101–512, § 318 [title I, § 110(d)(1)], substituted ''1993'' for ''1990'' in introductory provisions and ''paragraph (10)'' for ''paragraph (8)'' in cl. (ii), and in closing provisions substituted ''$13,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$8,820,000 for fiscal year 1986, $9,172,800 for fiscal year 1987, $9,539,712 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990''.

[2] So in original. The closing quotation marks probably should not appear.

Subsec. (a)(2)(B). Pub. L. 101–512, §318 [title I, §110(d)(2)], substituted ''1993'' for ''1990'' in introductory provisions and ''paragraph (10)'' for ''paragraph (9)'' in cl. (ii), and in closing provisions substituted ''$12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$10,780,000 for fiscal year 1986, $11,211,200 for fiscal year 1987, $11,659,648 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990''.

Subsec. (a)(3)(A). Pub. L. 101–512, §318 [title I, §110(d)(3)], in introductory provisions, substituted ''1993'' for ''1990'' and in closing provisions, substituted ''$15,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$20,580,000 for fiscal year 1986, $21,403,200 for fiscal year 1987, $22,259,328 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990''.

Subsec. (a)(3)(A)(i), (ii). Pub. L. 101–512, §318 [title I, §103(i)(2)(A)(i)], substituted ''954(p)(1)'' for ''954(*l*)(1)''.

Subsec. (a)(3)(B). Pub. L. 101–512, §318 [title I, §110(d)(4)], in introductory provisions, substituted ''1993'' for ''1990'' and in closing provisions, substituted ''$15,150,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$19,600,000 for fiscal year 1986, $20,384,000 for fiscal year 1987, $21,199,360 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990''.

Subsec. (a)(3)(C). Pub. L. 101–512, §318 [title I, §110(e)], redesignated subpar. (D) as (C) and struck out former subpar. (C) which read as follows: ''If either Chairperson determines at the end of the ninth month of any fiscal year that funds which would otherwise be available under this paragraph to an Endowment cannot be used, the Chairperson shall transfer such funds to the other Endowment for the purposes described in section 954(p)(1) or section 956(h)(1) of this title, as may be necessary.''

Pub. L. 101–512, §318 [title I, §103(i)(2)(A)(ii)], substituted ''954(p)(1)'' for ''954(*l*)(1)''.

Subsec. (a)(3)(D). Pub. L. 101–512, §318 [title I, §110(e)(2)], redesignated subpar. (D) as (C).

Subsec. (a)(4). Pub. L. 101–512, §318 [title I, §103(i)(2)(B)], which directed the substitution of ''954(p)(1)'' for ''954(*l*)(1)'', could not be executed because ''954(*l*)(1)'' does not appear in text.

Subsec. (c)(1). Pub. L. 101–512, §110(f)[(1)], substituted ''$21,200,000'' for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$15,982,000 for fiscal year 1986, $16,205,280 for fiscal year 1987, $16,853,491 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' and ''$50,000'' for ''$35,000'' wherever appearing.

Subsec. (c)(2). Pub. L. 101–512, §110(f)(2), substituted ''$17,950,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993'' for ''$14,291,000 for fiscal year 1986, $14,446,640 for fiscal year 1987, $15,024,506 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' and ''$50,000'' for ''$35,000'' wherever appearing.

Subsec. (f). Pub. L. 101–512, §110(g), added subsec. (f).

1986—Subsec. (a)(2)(A)(ii). Pub. L. 99–362, §1(1), substituted ''paragraph (8)'' for ''paragraph (5)''.

Subsec. (a)(2)(B)(ii). Pub. L. 99–362, §1(2), substituted ''paragraph (9)'' for ''paragraph (7)''.

1985—Subsec. (a)(1)(A). Pub. L. 99–194, §111(a)(1), substituted ''$121,678,000 for fiscal year 1986, $123,425,120 for fiscal year 1987, $128,362,125 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$115,500,000 for fiscal year 1981, $127,000,000 for fiscal year 1982, $140,000,000 for fiscal year 1983, $128,500,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985''.

Subsec. (a)(1)(B). Pub. L. 99–194, §111(a)(2), substituted ''$95,207,000 for fiscal year 1986, $99,015,280 for fiscal year 1987, $102,975,891 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990;'' for ''$114,500,000 for fiscal year 1981, $126,000,000 for fiscal year 1982, $138,500,000 for fiscal year 1983, $127,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985''.

Subsec. (a)(2)(A). Pub. L. 99–194, §111(b)(1)(A), substituted ''October 1, 1990'' for ''October 1, 1985'' and ''$8,820,000 for fiscal year 1986, $9,172,800 for fiscal year 1987, $9,539,712 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$18,500,000 for fiscal year 1981, $18,500,000 for fiscal year 1982, $18,500,000 for fiscal year 1983, $10,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985''.

Subsec. (a)(2)(B). Pub. L. 99–194, §111(b)(1)(B), substituted ''October 1, 1990'' for ''October 1, 1985'' in provisions preceding cl. (i), substituted ''grantees and subgrantees'' for ''grantees'' in two places in cl. (ii), and in provisions following cl. (ii) substituted ''$10,780,000 for fiscal year 1986, $11,211,200 for fiscal year 1987, $11,659,648 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$12,500,000 for fiscal year 1981, $14,000,000 for fiscal year 1982, $15,000,000 for fiscal year 1983, $11,500,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985''.

Subsec. (a)(3)(A). Pub. L. 99–194, §111(b)(2)(A), substituted ''October 1, 1990'' for ''October 1, 1985'' and ''$20,580,000 for fiscal year 1986, $21,403,200 for fiscal year 1987, $22,259,328 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$27,000,000 for fiscal year 1981, $30,000,000 for fiscal year 1982, $32,500,000 for fiscal year 1983, $28,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985''.

Subsec. (a)(3)(B). Pub. L. 99–194, §111(b)(2)(B), substituted ''October 1, 1990'' for ''October 1, 1985'' and ''$19,600,000 for fiscal year 1986, $20,384,000 for fiscal year 1987, $21,199,360 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$30,000,000 for fiscal year 1981, $33,000,000 for fiscal year 1982, $36,000,000 for fiscal year 1983, $20,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985''.

Subsec. (a)(3)(C). Pub. L. 99–194, §111(b)(2)(C), substituted ''either Chairperson'' for ''either Chairman'' and ''the Chairperson'' for ''he''.

Subsec. (a)(4). Pub. L. 99–194, §111(b)(3), substituted ''Chairperson'' for ''Chairman'' wherever appearing.

Subsec. (c)(1). Pub. L. 99–194, §111(c)(1), (3), substituted ''$15,982,000 for fiscal year 1986, $16,205,280 for fiscal year 1987, $16,853,491 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$14,000,000 for fiscal year 1981, $15,000,000 for fiscal year 1982, $16,000,000 for fiscal year 1983, $17,000,000 for fiscal year 1984, and $18,000,000 for fiscal year 1985'' and ''Chairperson'' for ''Chairman''.

Subsec. (c)(2). Pub. L. 99–194, §111(c)(2), (3), substituted ''$14,291,000 for fiscal year 1986, $14,446,640 for fiscal year 1987, $15,024,506 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990'' for ''$13,000,000 for fiscal year 1981, $14,500,000 for fiscal year 1982, $15,500,000 for fiscal year 1983, $16,500,000 for fiscal year 1984, and $17,500,000 for fiscal year 1985'' and ''Chairperson'' for ''Chairman''.

Subsecs. (d), (e). Pub. L. 99–194, §111(d), added subsec. (d), redesignated former subsec. (d) as (e), and struck out ''under this subchapter'' after ''No grant shall be made''.

1984—Subsec. (a)(1)(A). Pub. L. 98–306, §7(a)(1)(A), substituted ''$128,500,000 for fiscal year 1984, and such sums as may be necessary'' for ''$154,000,000 for fiscal year 1984, and $170,000,000''.

Subsec. (a)(1)(B). Pub. L. 98–306, §7(a)(1)(B), substituted ''$127,000,000 for fiscal year 1984, and such sums as may be necessary'' for ''$152,000,000 for fiscal year 1984, and $167,500,000''.

Subsec. (a)(2)(A). Pub. L. 98–306, §7(a)(2)(A), substituted ''$10,000,000 for fiscal year 1984, and such sums as may be necessary'' for ''$20,000,000 for fiscal year 1984, and $22,500,000''.

Subsec. (a)(2)(B). Pub. L. 98–306, §7(a)(2)(B), substituted ''$11,500,000 for fiscal year 1984, and such sums as may be necessary'' for ''$16,500,000 for fiscal year 1984, and $18,500,000''.

Subsec. (a)(3)(A). Pub. L. 98–306, §7(a)(3)(A), substituted ''$28,000,000 for fiscal year 1984, and such sums as may be necessary'' for ''$36,000,000 for fiscal year 1984, and $40,000,000''.

Subsec. (a)(3)(B). Pub. L. 98–306, §7(a)(3)(B), substituted ''$20,000,000 for fiscal year 1984, and such sums as may be necessary'' for ''$40,000,000 for fiscal year 1984, and $44,000,000''.

Subsec. (d). Pub. L. 98–306, §7(b), inserted ''under this subchapter''.

1980—Subsec. (a)(1)(A). Pub. L. 96–496, §108(a), substituted ''to the National Endowment for the Arts $115,500,000 for fiscal year 1981, $127,000,000 for fiscal year 1982, $140,000,000 for fiscal year 1983, $154,000,000 for fiscal year 1984, and $170,000,000 for fiscal year 1985'' for ''$93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980''.

Subsec. (a)(1)(B). Pub. L. 96–496, §108(b), substituted ''$114,500,000 for fiscal year 1981, $126,000,000 for fiscal year 1982, $138,500,000 for fiscal year 1983, $152,000,000 for fiscal year 1984, and $167,500,000 for fiscal year 1985'' for ''$93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980''.

Subsec. (a)(2). Pub. L. 96–496, §108(c), substituted provisions authorizing appropriations for each fiscal year ending before Oct. 1, 1985, for the National Endowments for the Arts and for the Humanities for provisions authorizing appropriations for such endowments for each fiscal year ending prior to Oct. 1, 1980.

Subsec. (a)(3)(A). Pub. L. 96–496, §108(d), substituted provisions authorizing appropriations for each fiscal year ending before Oct. 1, 1985, for the National Endowment for the Arts for provisions authorizing appropriations for such endowment for fiscal years ending before Oct. 1, 1980.

Subsec. (a)(3)(B). Pub. L. 96–496, §108(e), substituted provisions authorizing appropriations for each fiscal year ending before Oct. 1, 1985, for the National Endowment for the Humanities for provisions authorizing appropriations for such endowment for fiscal years ending before Oct. 1, 1980.

Subsec. (a)(4). Pub. L. 96–496, §108(f), substituted provisions authorizing the Chairmen of the National Endowments for the Arts and for the Humanities to issue guidelines for the implementation of the provisions of pars. (2) and (3) of this subsection for provisions authorizing and allocating appropriations for the National Endowment for the Arts for the purpose of carrying out subsec. (m) of section 954 of this title.

Subsec. (c). Pub. L. 96–496, §108(g), substituted provisions authorizing specific appropriations for administrative expenses of the National Endowments for the Arts and for the Humanities for fiscal years 1981 to 1985 for provisions authorizing appropriations for administrative expenses of such endowments of such sums as were necessary.

1976—Subsec. (a)(1)(A). Pub. L. 94–462, §106(a)(1)(A), substituted provisions authorizing appropriations of $93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as are necessary for fiscal years 1979 and 1980 to carry out section 954(c) of this title and such sums so appropriated for any fiscal year, not less than 20 per centum to carry out section 954(g) of this title for provisions authorizing appropriations of $54,000,000, $90,000,000, and $113,500,000 for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, respectively, to the National Endowment for the Arts to carry out section 954(c) of this title and to carry out section 954(g) of this title $11,000,000 for the fiscal year ending June 30, 1974 and requiring that not less than 20 per centum of funds appropriated for section 954(c) of this title may be used only for purpose of section 954(g) of this title for fiscal years ending June 30, 1975 and June 30, 1976.

Subsec. (a)(1)(B). Pub. L. 94–462, §106(a)(1)(B), substituted provisions authorizing appropriations of $93,500,000 for fiscal year 1977, $105,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980, not less than 20 per centum of such appropriated funds shall be to carry out section 956(f) of this title for provisions authorizing appropriations of $65,000,000 for the fiscal year ending June 30, 1974, $90,000,000 for the fiscal year ending June 30, 1975, and $113,500,000 for the fiscal year ending June 30, 1976.

Subsec. (a)(1)(C). Pub. L. 94–555 added subpar. (C).

Subsec. (a)(2). Pub. L. 94–462, §106(a)(2), substituted ''October 1, 1980'' for ''July 1, 1976'' and provisions authorizing appropriations not to exceed $20,000,000 for fiscal year 1977, $25,000,000 for fiscal year 1978, and such sums as may be necessary for fiscal years 1979 and 1980 for provisions authorizing appropriations not to exceed $15,000,000 for fiscal year ending June 30, 1974, $20,000,000 for fiscal year ending June 30, 1975, and $25,000,000 for fiscal year ending June 30, 1976.

Subsec. (a)(3), (4). Pub. L. 94–462, §§302, 401(b), added pars. (3) and (4).

Subsec. (c). Pub. L. 94–462, §106(a)(3), inserted reference to any program for which the Chairman of the National Endowment for the Arts or the Chairman of the National Endowment for the Humanities is responsible.

1973—Subsec. (a)(1). Pub. L. 93–133 incorporated into subpar. (A) provisions relating to the authorization of appropriation for carrying out section 954(c) of this title, substituted authorization of appropriation for fiscal years ending June 30, 1974, 1975, 1976 for such authorization for fiscal years 1969 through 1973, and inserted provisions for authorization of appropriation for carrying out section 954(g) of this title, and, in subpar. (B), incorporated provisions of former subsec. (a) relating to authorization of appropriation for carrying out section 956(c) of this title, and substituted authorization of appropriation for fiscal years ending June 30, 1974, 1975, and 1976, for such authorization for 1969 through 1973.

Subsec. (a)(2). Pub. L. 93–133 incorporated provisions of former subsec. (b) relating to matching grants and substituted new limitations for fiscal years ending June 30, 1974, 1975, and 1976 for such limitations for 1969 through 1973.

Subsec. (b)(1). Pub. L. 93–133 incorporated provisions formerly contained in subsecs. (a) and (b) relating to the availability of unexpended appropriated funds.

Subsec. (b)(2). Pub. L. 93–133 added par. (2).

1970—Subsec. (a). Pub. L. 91–346, §§5(a)(4), 12(a), struck out reference to the functions transferred by section 955(a) of this title, added appropriations to the National Endowment for the Arts of $12,875,000, $21,000,000, and $28,625,000 for the fiscal years ending June 30, 1971, 1972, and 1973, respectively, for the purpose of carrying out section 954(c) of this title, and $4,125,000, $5,500,000, and $6,875,000 for the fiscal years ending June 30, 1971, 1972, and 1973, respectively, for the purposes of section 954(h) of this title, and further appropriated to the National Endowment for the Humanities $17,000,000, $26,500,000, $35,500,000 for the fiscal years ending June 30, 1971, 1972, and 1973, respectively, for the purpose of carrying out section 956(c) of this title.

Subsec. (b). Pub. L. 91–346, §12(b), placed limitation on appropriation to each Endowment based on an amount equal to the total of amounts received by each Endowment under section 959(a)(2) of this title by placing ceilings of $6,000,000, $7,000,000, and $9,000,000 on the amounts appropriated for the fiscal years ending June 30, 1971, 1972, and 1973, respectively.

1968—Subsec. (a). Pub. L. 90–348, §6(a), substituted provisions which authorized for the enumerated purposes appropriations totaling $8,000,000 for the fiscal year ending June 30, 1969, and $9,000,000 for the fiscal year ending June 30, 1970 to both the National Endowment for the Arts and the National Endowment for the Humanities, and which authorized the Congress to appropriate funds for subsequent fiscal years for provisions which authorized for grants to groups and individuals for projects and productions, for grants for activities authorized by the Chairman of the National Endowment for the Humanities, and for the functions of

the National Council on the Arts in the National Endowment for the Arts appropriations of $10,000,000 for the fiscal year ending June 30, 1966, and each of the two succeeding fiscal years, and that the funds appropriated be equally divided between the Endowments of the Foundation.

Subsec. (b). Pub. L. 90–348, §6(b), substituted provisions authorizing appropriations not to exceed $13,500,000 for the fiscal years ending June 30, 1969, and June 30, 1970, and authorizing the Congress to appropriate funds for subsequent fiscal years for provisions authorizing appropriations for the National Endowment for the Arts not to exceed $2,250,000 for any fiscal year, and authorizing appropriations for the National Endowment for the Humanities not to exceed $5,000,000 for any fiscal year.

Subsecs. (c) to (e). Pub. L. 90–348, §6(c), (d), struck out subsec. (c) which authorized appropriations for the National Endowment for the Arts for each fiscal year, beginning with the fiscal year beginning on July 1, 1966, of $2,750,000, and redesignated subsecs. (d) and (e) as (c) and (d), respectively.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, §403] of Pub. L. 101–512, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94–555 effective Oct. 1, 1976, see section 303 of Pub. L. 94–555, set out as a note under section 702 of Title 45, Railroads.

Section 106(b) of Pub. L. 94–462 provided that: ''The amendments made by subsection (a) [amending this section] shall be effective with respect to fiscal year 1977 and succeeding fiscal years.''

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–133 effective on and after July 1, 1973, see section 2(b) of Pub. L. 93–133, set out as a note under section 951 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 5(a)(4) of Pub. L. 91–346 effective after June 30, 1970, see section 5(d)(3)(A) of Pub. L. 91–346, set out as a note under section 955 of this title.

SUBCHAPTER II—MUSEUM SERVICES

§§ 961 to 969. Omitted

CODIFICATION

The Museum Services Act (Pub. L. 94–462, title II, Oct. 8, 1976, 90 Stat. 1975, as amended), which was classified to this subchapter (§§961 to 963 and 964 to 969), was amended generally by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293, and transferred to chapter 72 (§9101 et seq.) of this title.

Section 961, Pub. L. 94–462, title II, §202, Oct. 8, 1976, 90 Stat. 1975, related to declaration of purpose of this subchapter.

A prior section 961, Pub. L. 89–209, §12, Sept. 29, 1965, 79 Stat. 854; Pub. L. 90–575, title V, §501, Oct. 16, 1968, 82 Stat. 1061, related to State educational agencies' acquisition of equipment, remodeling of laboratories, and making loans to strengthen instruction in the humanities and the arts, providing in: subsec. (a) appropriations authorization; subsec. (b) reservation, allotment and reallotment of funds as provided in section 442(a) and (c) of this title; subsec. (c) State plan, submission, requirements, terms and conditions; subsec. (d) approval of State plan by Commissioner, application of section 584(b) and (c) of this title; subsec. (e) payments to States as provided in section 444 of this title; and subsec. (f) administration of loans to schools as provided in section 445 of this title, prior to repeal by Pub. L. 91–230, title VIII, §807(b), Apr. 13, 1970, 84 Stat. 192.

Section 962, Pub. L. 94–462, title II, §203, Oct. 8, 1976, 90 Stat. 1975; Pub. L. 96–496, title II, §201(a), Dec. 4, 1980, 94 Stat. 2591; Pub. L. 98–306, §8, May 31, 1984, 98 Stat. 225, related to establishment of Institute of Museum Services, within National Foundation on Arts and Humanities, consisting of National Museum Services Board and Director of Institute. See sections 9102 and 9103 of this title.

A prior section 962, Pub. L. 89–209, §13, Sept. 29, 1965, 79 Stat. 855, provided for appropriation to Commissioner of Education of funds for grants and contracts for operation of institutes to strengthen teaching of humanities and the arts, prior to repeal by Pub. L. 93–133, §2(a)(12), Oct. 19, 1973, 87 Stat. 465.

Section 963, Pub. L. 94–462, title II, §204, Oct. 8, 1976, 90 Stat. 1975; Pub. L. 96–496, title II, §201(b), Dec. 4, 1980, 94 Stat. 2592; Pub. L. 98–306, §9, May 31, 1984, 98 Stat. 225; Pub. L. 99–194, title II, §201, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101–512, title III, §318 [title II, §201], Nov. 5, 1990, 104 Stat. 1960, 1974, related to membership, meetings, and functions of National Museum Service Board, and appointment and compensation of Board members.

A prior section 963, Pub. L. 89–209, §14, Sept. 29, 1965, 79 Stat. 855, requested President to make appointments within ninety days after Sept. 29, 1965, prior to repeal by Pub. L. 93–133, §2(a)(12), Oct. 19, 1973, 87 Stat. 465.

Section 963a, Pub. L. 98–146, title II, Nov. 4, 1983, 97 Stat. 949, which directed that persons serving on Museum Services Board continue until their successors are qualified for office, was omitted as superseded by former section 963(b) of this title as amended by Pub. L. 98–306. Similar provisions were contained in Pub. L. 97–394, title II, Dec. 30, 1982, 96 Stat. 1994.

Section 964, Pub. L. 94–462, title II, §205, Oct. 8, 1976, 90 Stat. 1976; Pub. L. 96–496, title II, §201(c), Dec. 4, 1980, 94 Stat. 2592; Pub. L. 98–306, §10, May 31, 1984, 98 Stat. 225; Pub. L. 99–194, title II, §202, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101–512, title III, §318 [title II, §202(a)(1), (b)], Nov. 5, 1990, 104 Stat. 1960, 1974, 1975, related to appointment, compensation, and functions of Director of Institute. See section 9103 of this title.

Section 965, Pub. L. 94–462, title II, §206, Oct. 8, 1976, 90 Stat. 1977; Pub. L. 96–496, title II, §201(d), Dec. 4, 1980, 94 Stat. 2592; Pub. L. 101–512, title III, §318 [title II, §203], Nov. 5, 1990, 104 Stat. 1960, 1975, authorized Director, subject to policy direction of Board, to make grants to museums to increase and improve services through specified activities. See section 9173 of this title.

Section 966, Pub. L. 94–462, title II, §207, Oct. 8, 1976, 90 Stat. 1977, related to authority of Institute to accept contributions. See section 9106 of this title.

Section 967, Pub. L. 94–462, title II, §209, Oct. 8, 1976, 90 Stat. 1978; Pub. L. 96–496, title I, §201(e), Dec. 4, 1980, 94 Stat. 2593; Pub. L. 98–306, §11, May 31, 1984, 98 Stat. 225; Pub. L. 99–194, title II, §203, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101–512, title III, §318 [title II, §§204, 205(b)], Nov. 5, 1990, 104 Stat. 1960, 1975, 1976, authorized appropriations for purpose of making grants under section 965(a) of this title and for administering provisions of this subchapter. See section 9176 of this title.

Section 968, Pub. L. 94–462, title II, §210, Oct. 8, 1976, 90 Stat. 1978, defined ''Board'', ''Director'', ''Institute'', and ''museum'' for purposes of this subchapter. See sections 9101 and 9172 of this title.

Section 969, Pub. L. 94–462, title II, §211, as added Pub. L. 101–512, title III, §318 [title II, §205 [(a)]], Nov. 5, 1990, 104 Stat. 1960, 1975, related to assessment of needs of small, emerging, minority, and rural museums.

SHORT TITLE

Section 201 of title II of Pub. L. 94–462, which provided that title II of Pub. L. 94–462, which enacted this subchapter and amended section 958 of this title, could be cited as the ''Museum Services Act'', was omitted in the general amendment of title II by Pub. L. 104–208. See chapter 72 (§9101 et seq.) of this title.

CHAPTER 26A—INDEMNITY FOR EXHIBITIONS OF ARTS AND ARTIFACTS

Sec.

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§ 971. Agreements to indemnify against loss or damage

(a) Authorization of Federal Council on the Arts and Humanities

The Federal Council on the Arts and Humanities (hereinafter in this chapter referred to as the ''Council''), established under section 958 of this title, is authorized to make agreements to indemnify against loss or damage such items as may be eligible for such indemnity agreements under section 972 of this title—

(1) in accordance with the provisions of this chapter; and

(2) on such terms and conditions as the Council shall prescribe, by regulation, in order to achieve the purposes of this chapter and, consistent with such purposes, to protect the financial interest of the United States.

(b) Council as "agency"

(1) For purposes of this chapter, the Council shall be an ''agency'' within the meaning of the appropriate definitions of such term in title 5.

(2) For purposes of this chapter, the Secretary of the Smithsonian Institution, the Director of the National Gallery of Art, the member designated by the Chairman of the Senate Commission of Art and Antiquities and the member designated by the Speaker of the House of Representatives shall not serve as members of the Council.

(Pub. L. 94–158, § 2, Dec. 20, 1975, 89 Stat. 844; Pub. L. 99–194, title III, § 301, Dec. 20, 1985, 99 Stat. 1345.)

AMENDMENTS

1985—Subsec. (b). Pub. L. 99–194 designated existing provisions as par. (1) and added par. (2).

EFFECTIVE DATE

Section 9 of Pub. L. 94–158 provided that: ''This Act [see Short Title note below] shall become effective 30 days after the date of the enactment of this Act [Dec. 20, 1975].''

SHORT TITLE

Section 1 of Pub. L. 94–158 provided that: ''This Act [enacting this chapter and provisions set out as a note under this section] may be cited as the 'Arts and Artifacts Indemnity Act'.''

§ 972. Items eligible for indemnity agreements

(a) Works of art; printed or published materials; other artifacts or objects; photographs, motion pictures, or tapes

The Council may make an indemnity agreement under this chapter with respect to—

(1) works of art, including tapestries, paintings, sculpture, folk art, graphics, and craft arts;

(2) manuscripts, rare documents, books, and other printed or published materials;

(3) other artifacts or objects; and

(4) photographs, motion pictures, or audio and video tape;

which are (A) of educational, cultural, historical, or scientific value, and (B) the exhibition of which is certified by the Secretary of State or his designee as being in the national interest.

(b) Extension of coverage; "on exhibition" defined

(1) An indemnity agreement made under this chapter shall cover eligible items while on exhibition in the United States or elsewhere preferably when part of an exchange of exhibitions.

(2) For purposes of this subsection, the term ''on exhibition'' includes that period of time beginning on the date the eligible items leave the premises of the lender or place designated by the lender and ending on the date such items are returned to the premises of the lender or place designated by the lender.

(Pub. L. 94–158, § 3, Dec. 20, 1975, 89 Stat. 844; Pub. L. 99–194, title III, § 302(a), Dec. 20, 1985, 99 Stat. 1345.)

AMENDMENTS

1985—Subsec. (b)(1). Pub. L. 99–194, which directed the substitution of ''or elsewhere preferably when part of an exchange of exhibitions'' for '', or elsewhere when part of an exchange of exhibitions, but in no case shall both parts of such an exhibition be so covered'' was executed by making the substitution for '', or elsewhere when part of an exchange of exhibitions, but in no case shall both parts of such an exchange be so covered'', to reflect the probable intent of Congress.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 302(b) of Pub. L. 99–194 provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to any exhibition which is certified under section 3(a) of the Arts and Artifacts Indemnity Act [subsec. (a) of this section] after the date of enactment of this Act [Dec. 20, 1985].''

§ 973. Application for indemnity agreements

(a) Parties

Any person, nonprofit agency, institution, or government desiring to make an indemnity agreement for eligible items under this chapter shall make application therefor in accordance with such procedures, in such form, and in such manner as the Council shall, by regulation, prescribe.

(b) Contents

An application under subsection (a) of this section shall—

(1) describe each item to be covered by the agreement (including an estimated value of such item);

(2) show evidence that the items are eligible under section 972(a) of this title; and

(3) set forth policies, procedures, techniques, and methods with respect to preparation for, and conduct of, exhibition of the items, and any transportation related to such items.

(c) Approval

Upon receipt of an application under this section, the Council shall, if such application conforms with the requirements of this chapter, approve the application and make an indemnity agreement with the applicant. Upon such approval, the agreement shall constitute a contract between the Council and the applicant pledging the full faith and credit of the United States to pay any amount for which the Council becomes liable under such agreement. The Council, for such purpose, is hereby authorized to pledge the full faith and credit of the United States.

(Pub. L. 94–158, § 4, Dec. 20, 1975, 89 Stat. 845.)

§ 974. Indemnity limits

(a) Approval of estimated values

Upon receipt of an application meeting the requirements of subsections (a) and (b) of section 973 of this title, the Council shall review the estimated value of the items for which coverage by an indemnity agreement is sought. If the Council agrees with such estimated value, for the purposes of this chapter, the Council shall, after approval of the application as provided in subsection (c) of section 973 of this title, make an indemnity agreement.

(b) Maximum limits of coverage

The aggregate of loss or damage covered by indemnity agreements made under this chapter shall not exceed $10,000,000,000 at any one time.

(c) Limit for single exhibition

No indemnity agreement for a single exhibition shall cover loss or damage in excess of $1,200,000,000.

(d) Deductible limit

If the estimated value of the items covered by an indemnity agreement for a single exhibition is—

(1) $2,000,000 or less, then coverage under this chapter shall extend only to loss or damage in excess of the first $15,000 of loss or damage to items covered;

(2) more than $2,000,000 but less than $10,000,000 then coverage under this chapter shall extend only to loss or damage in excess of the first $25,000 of loss or damage to items covered;

(3) not less than $10,000,000 but less than $125,000,000, then coverage under this chapter shall extend to loss or damage in excess of the first $50,000 of loss or damage to items covered;

(4) not less than $125,000,000 but less than $200,000,[1] then coverage under this chapter shall extend to loss or damage in excess of the first $100,000 of loss or damage to items covered;

(5) not less than $200,000,000 but less than $300,000,000, then coverage under the[2] chapter shall extend only to loss or damage in excess of the first $200,000, of loss or damage to items covered;

(6) not less than $300,000,000 but less than $400,000,000, then coverage under this chapter shall extend only to loss or damage in excess of the first $300,000 of loss or damage to items covered;

(7) not less than $400,000,000 but less than $500,000,000, then coverage under this chapter shall extend only to loss or damage in excess of the first $400,000 of loss or damage to items covered; or

(8) $500,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first $500,000 of loss or damage to items covered.

(Pub. L. 94–158, § 5, Dec. 20, 1975, 89 Stat. 845; Pub. L. 96–496, title III, §§ 301, 302, Dec. 4, 1980, 94 Stat. 2593; Pub. L. 99–194, title III, § 303, Dec. 20, 1985, 99 Stat. 1345; Pub. L. 100–202, § 101(g) [title II, § 201], Dec. 22, 1987, 101 Stat. 1329–213, 1329–249; Pub. L. 101–512, title III, § 318 [title III, § 301], Nov. 5, 1990, 104 Stat. 1960, 1976; Pub. L. 105–277, div. A, § 101(e) [title III, § 333], Oct. 21, 1998, 112 Stat. 2681–231, 2681–294; Pub. L. 108–81, title V, § 501, Sept. 25, 2003, 117 Stat. 1003; Pub. L. 109–54, title IV, § 427, Aug. 2, 2005, 119 Stat. 555.)

AMENDMENTS

2005—Subsec. (b). Pub. L. 109–54, § 427(1), substituted ''$10,000,000,000'' for ''8,000,000,000''.

Subsec. (c). Pub. L. 109–54, § 427(2), substituted ''$1,200,000,000'' for ''$600,000,000''.

2003—Subsec. (b). Pub. L. 108–81, § 501(1), substituted ''$8,000,000,000'' for ''$5,000,000,000''.

Subsec. (c). Pub. L. 108–81, § 501(2), substituted ''$600,000,000'' for ''$500,000,000''.

Subsec. (d)(7), (8). Pub. L. 108–81, § 501(3), added pars. (7) and (8) and struck out former par. (7) which read as follows: ''$400,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first $400,000 of loss or damage to items covered.''

1998—Subsec. (b). Pub. L. 105–277, § 101(e) [title III, § 333(1)], substituted ''$5,000,000,000'' for ''$3,000,000,000''.

Subsec. (c). Pub. L. 105–277, § 101(e) [title III, § 333(2)], substituted ''$500,000,000'' for ''$300,000,000''.

Subsec. (d)(4). Pub. L. 105–277, § 101(e) [title III, § 333(3)], struck out ''or'' at end.

Subsec. (d)(5). Pub. L. 105–277, § 101(e) [title III, § 333(4)], substituted ''not less than $200,000,000 but less than $300,000,000'' for ''$200,000,000 or more'' and substituted semicolon for period at end.

Subsec. (d)(6), (7). Pub. L. 105–277, § 101(e) [title III, § 333(5)], added pars. (6) and (7).

1990—Subsec. (b). Pub. L. 101–512, § 318 [title III, § 301(a)], substituted ''$3,000,000,000'' for ''$1,200,000,000''.

Subsec. (c). Pub. L. 101–512, § 318 [title III, § 301(b)(1)], substituted ''$300,000,000'' for ''$125,000,000''.

Subsec. (d)(3). Pub. L. 101–512, § 318 [title III, § 301(b)(2)(B)], amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''$10,000,000 or more, then coverage under this chapter shall extend only to loss or damage in excess of the first $50,000 of loss or damage to items covered.''

Subsec. (d)(4), (5). Pub. L. 101–512, § 318 [title III, § 301(b)(2)(A), (C)], added pars. (4) and (5).

1987—Subsec. (b). Pub. L. 100–202 substituted ''$1,200,000,000'' for ''$650,000,000''.

[1] So in original. Probably should be ''$200,000,000,''.

[2] So in original. Probably should be ''this''.

Subsec. (c). Pub. L. 100–202 substituted ''$125,000,000'' for ''$75,000,000''.

1985—Subsec. (b). Pub. L. 99–194, § 303(a), substituted ''$650,000,000'' for ''$400,000,000''.

Subsec. (c). Pub. L. 99–194, § 303(b), substituted ''$75,000,000'' for ''$50,000,000''.

1980—Subsec. (b). Pub. L. 96–496, § 301, substituted ''$400,000,000'' for ''$250,000,000''.

Subsec. (d). Pub. L. 96–496, § 302, substituted provisions relating to deductible amounts under indemnity agreements for provisions limiting coverage under this chapter to loss or damage in excess of the first $15,000 resulting from a single exhibition.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–512 effective Oct. 1, 1990, see section 318 [title IV, § 403(b)] of Pub. L. 101–512, set out as a note under section 951 of this title.

§ 975. Claims for losses

(a) Regulations for prompt adjustment

The Council shall prescribe regulations providing for prompt adjustment of valid claims for losses which are covered by an agreement made pursuant to section 974 of this title, including provision for arbitration of issues relating to the dollar value of damages involving less than total loss or destruction of such covered objects.

(b) Certification

In the case of a claim of loss with respect to an item which is covered by an agreement made pursuant to section 974 of this title, the Council shall certify the validity of the claim and the amount of the loss to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(Pub. L. 94–158, § 6, Dec. 20, 1975, 89 Stat. 845.)

§ 976. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary (1) to enable the Council to carry out its functions under this chapter, and (2) to pay claims certified pursuant to section 975(b) of this title.

(Pub. L. 94–158, § 7, Dec. 20, 1975, 89 Stat. 846.)

§ 977. Omitted

CODIFICATION

Section, Pub. L. 94–158, § 8, Dec. 20, 1975, 89 Stat. 846, which required the Federal Council on the Arts and Humanities to report annually to Congress on claims actually paid and pending claims against the Council under this chapter and the aggregate face value of contracts made by the Council which are outstanding, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 167 of House Document No. 103–7.

CHAPTER 27—NATIONAL VOCATIONAL STUDENT LOAN INSURANCE

§§ 981 to 996. Repealed. Pub. L. 90–575, title I, § 116(c)(1), Oct. 16, 1968, 82 Stat. 1024

Section 981, Pub. L. 89–287, § 2, Oct. 22, 1965, 79 Stat. 1037; Pub. L. 90–460, § 2(d)(3), Aug. 3, 1968, 82 Stat. 634, set forth Congressional declaration of purpose for the chapter and authorized appropriations to carry out such purpose.

Section 981 note, Pub. L. 89–287, § 1, Oct. 22, 1965, 79 Stat. 1037, provided that Pub. L. 89–287, which enacted this chapter, be cited as the National Vocational Loan Insurance Act of 1965.

Section 982, Pub. L. 89–287, § 3, Oct. 22, 1965, 79 Stat. 1037, authorized Commissioner to make advances to State and nonprofit private loan insurance programs.

Section 983, Pub. L. 89–287, § 4, Oct. 22, 1965, 79 Stat. 1038, prohibited Commissioner from issuing certificates of insurance to lenders in States having adequate non-Federal loan insurance programs.

Section 984, Pub. L. 89–287, § 5, Oct. 22, 1965, 79 Stat. 1038; Pub. L. 90–460, § 1(b)(1), Aug. 3, 1968, 82 Stat. 634, set forth scope and duration of loan insurance program of this chapter.

Section 985, Pub. L. 89–287, § 6, Oct. 22, 1965, 79 Stat. 1039, limited annual and aggregate amounts available to individuals as loans and covered by insurance under this chapter.

Section 986, Pub. L. 89–287, § 7, Oct. 22, 1965, 79 Stat. 1039, provided for insurance coverage for loans made by eligible lenders, regardless of source of such loaned funds.

Section 987, Pub. L. 89–287, § 8, Oct. 22, 1965, 79 Stat. 1039; Pub. L. 90–460, § 2(c)(1), Aug. 3, 1968, 82 Stat. 634, set forth prerequisites of student eligibility and terms and conditions of note executed by student.

Section 988, Pub. L. 89–287, § 9, Oct. 22, 1965, 79 Stat. 1041; Pub. L. 90–460, §§ 1(b)(2), 2(c)(2), (d), Aug. 3, 1968, 82 Stat. 634, provided for reduction of student interest costs by Federal payments.

Section 989, Pub. L. 89–287, § 10, Oct. 22, 1965, 79 Stat. 1043, Pub. L. 90–460, § 1(b)(3), Aug. 3, 1968, 82 Stat. 634, authorized Commissioner to make direct loans to students residing in areas where loans insurable under this chapter are unavailable.

Section 990, Pub. L. 89–287, § 11, Oct. 22, 1965, 79 Stat. 1043, provided for certificates of insurance to be issued to eligible lenders.

Section 991, Pub. L. 89–287, § 12, Oct. 22, 1965, 79 Stat. 1045, set forth procedure for collection in case of default, death, or disability of student borrower.

Section 992, Pub. L. 89–287, § 13, Oct. 22, 1965, 79 Stat. 1046, established Vocational Student Loan Insurance Fund.

Section 993, Pub. L. 89–287, § 14, Oct. 22, 1965, 79 Stat. 1047, enumerated powers and duties of Commissioner with respect to carrying out purposes of this chapter.

Section 994, Pub. L. 89–287, § 15, Oct. 22, 1965, 79 Stat. 1048, established Advisory Council on Insured Loans to Vocational Students in the Office of Education.

Section 995, Pub. L. 89–287, § 16, Oct. 22, 1965, 79 Stat. 1048, authorized Federal credit unions to make insured loans to student members.

Section 996, Pub. L. 89–287, § 17, Oct. 22, 1965, 79 Stat. 1048, defined ''eligible institution'', ''eligible lender'', ''line of credit'', ''State'', ''Secretary'', and ''Commissioner''.

EFFECTIVE DATE OF REPEAL

Repeal applicable to loans made on or after the 60th day after Oct. 16, 1968, see section 116(e) of Pub. L. 90–575.

TRANSFER OF ASSETS AND LIABILITIES OF THE VOCATIONAL STUDENT LOAN INSURANCE FUND

Section 116(c)(2) of Pub. L. 90–575 provided that: ''All assets and liabilities of the vocational student loan insurance fund established by section 13 of the National Vocational Student Loan Insurance Act of 1965 [section 992 of this title], matured or contingent, shall be transferred to, and become assets and liabilities of, the student loan insurance fund established by section 431 of the Higher Education Act of 1965 [section 1081 of this title]. Payments in connection with defaults of loans made on or after the sixtieth day after the date of enactment of this Act [Oct. 16, 1968] and insured by the Commissioner (under the authority of subsection (e)(3) or (e)(4) of this section [set out as a note under section 1083 of this title]) under the National Vocational Student Loan Insurance Act of 1965 [sections 981 to 996 of

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SUBCHAPTER I—GENERAL PROVISIONS

CODIFICATION

Title I of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title I, Nov. 8, 1965, 79 Stat. 1219, and amended by Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–29, May 3, 1973, 87 Stat. 30; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 93–644, Jan. 4, 1975, 88 Stat. 2291; Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 713; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–96, Oct. 31, 1979, 93 Stat. 729; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322; Pub. L. 98–524, Oct. 19, 1984, 98 Stat. 2435; Pub. L. 99–386, Aug. 22, 1986, 100 Stat. 821; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–418, Aug. 23, 1988, 102 Stat. 1107; Pub. L. 101–305, May 30, 1990, 104 Stat. 253; Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127; Pub. L. 102–54, June 13, 1991, 105 Stat. 267; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457. Such title is shown herein, however, as having been added by Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1585, without reference to such intervening amendments because of the extensive revision of the title's provisions by Pub. L. 105–244.

PART A—DEFINITIONS

§ 1001. General definition of institution of higher education

(a) Institution of higher education

For purposes of this chapter, other than subchapter IV, the term ''institution of higher education'' means an educational institution in any State that—

(1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;

(2) is legally authorized within such State to provide a program of education beyond secondary education;

(3) provides an educational program for which the institution awards a bachelor's degree or provides not less than a 2-year program that is acceptable for full credit toward such a degree;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

(b) Additional institutions included

For purposes of this chapter, other than subchapter IV, the term ''institution of higher education'' also includes—

(1) any school that provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provision of paragraphs (1), (2), (4), and (5) of subsection (a) of this section; and

(2) a public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1) of this section, admits as regular students persons who are be-

yond the age of compulsory school attendance in the State in which the institution is located.

(c) List of accrediting agencies

For purposes of this section and section 1002 of this title, the Secretary shall publish a list of nationally recognized accrediting agencies or associations that the Secretary determines, pursuant to subpart 2 of part G of subchapter IV of this chapter, to be reliable authority as to the quality of the education or training offered.

(Pub. L. 89–329, title I, §101, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1585.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note below and Tables.

Subchapter IV, referred to in subsecs. (a) and (b), was in the original ''title IV'', meaning title IV of Pub. L. 89–329, as amended, which is classified generally to subchapter IV of this chapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note below and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1141(a) of this title prior to repeal by Pub. L. 105–244.

A prior section 1001, Pub. L. 89–329, title I, §101, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 459, related to purposes of school, college, and university partnership grant program, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1001, Pub. L. 89–329, title I, §101, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1278, related to Congressional findings, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1001, Pub. L. 89–329, title I, §101, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1373, stated Congressional findings with respect to continuing postsecondary education program and planning, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1001, Pub. L. 89–329, title I, §101, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 90–575, title II, §201, Oct. 16, 1968, 82 Stat. 1035; Pub. L. 92–318, title I, §101(a), June 23, 1972, 86 Stat. 236; Pub. L. 94–482, title I, §101(a), Oct. 12, 1976, 90 Stat. 2083; Pub. L. 96–49, §2, Aug. 13, 1979, 93 Stat. 351, authorized appropriations for the community service, continuing education, and lifelong learning program grant programs through fiscal year 1980, prior to the general amendment of this subchapter by Pub. L. 96–374.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, §3, Oct. 7, 1998, 112 Stat. 1585, provided that: ''Except as otherwise provided in this Act [see Tables for classification] or the amendments made by this Act, the amendments made by this Act shall take effect on October 1, 1998.''

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–325, §2, July 23, 1992, 106 Stat. 458, provided that: ''Except as otherwise provided in this Act (20 U.S.C. 1001 et seq.) [see Tables for classification], the amendments made by this Act shall take effect on October 1, 1992.''

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–50, §27, June 3, 1987, 101 Stat. 363, provided that: ''The amendments made by this Act [see Short Title of 1987 Amendment note below] shall take effect as if enacted as part of the Higher Education Amendments of 1986 [Pub. L. 99–498, see Short Title of 1986 Amendments note below].''

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–498, §2, Oct. 17, 1986, 100 Stat. 1277, provided that: ''Except as otherwise provided in this Act, the amendments made by this Act [see Tables for classification] shall take effect on the date of enactment of this Act [Oct. 17, 1986].''

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96–374, title XIII, §1393, Oct. 3, 1980, 94 Stat. 1504, provided that:

''(a) Except as provided in subsection (b), this Act and the amendments made by this Act [see Tables for classification] shall take effect on October 1, 1980.

''(b)(1) The amendment made by section 301 of this Act to title III of the Act [enacting subchapter III of this chapter] shall take effect October 1, 1981.

''(2) The amendment made by section 404(c)(4) of this Act to section 415C(b)(4) of the Act [amending section 1070c–2 of this title] shall be effective October 1, 1979.

''(3) The amendment made by section 405 to subpart 4 of part A of title IV of the Act [amending subpart 4 of part A of subchapter IV of this chapter generally] shall take effect October 1, 1981.

''(4) The amendments made by part B of title IV of this Act [enacting sections 1077a, 1078–2, 1083a, and 1087–1a of this title and amending sections 1074, 1075, 1077, 1078, 1078–1, 1080, 1082, 1085, 1087–1, and 1087–2 of this title] shall take effect, except as otherwise provided therein, on January 1, 1981, and to the extent such amendments make changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendments take effect, except that the amendments made by section 415(b) [amending sections 1077(a)(2)(B) and 1078(b)(1)(E) of this title] shall apply with respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, to any student borrower who has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 [part B of subchapter IV of this chapter] on the date on which the borrower enters into the note or other written evidence of the loan.

''(5) The amendments made by part D of title IV of this Act [enacting sections 1087cc–1, 1087hh, and 1087ii of this title and amending sections 1087aa to 1087gg of this title] shall apply to loans made under part E of the Act [part D of subchapter IV of this chapter] on or after October 1, 1980.

''(6) The amendment made by section 701 of this Act adding section 731 of the Act [former section 1132d of this title] shall apply to loans made under section 731 on or after October 1, 1980.''

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94–482, title V, §532, Oct. 12, 1976, 90 Stat. 2241, provided that: ''The provisions of this Act [see Tables for classification] and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act [Oct. 12, 1976] except—

''(1) as specifically otherwise provided; and

''(2) that each amendment made by this Act (not subject to clause (1) of this section) providing for authorization of appropriations shall take effect July 1, 1976.''

SHORT TITLE OF 2005 AMENDMENTS

Pub. L. 109–150, §1, Dec. 30, 2005, 119 Stat. 2884, provided that: ''This Act [amending section 1087–1 of this title, enacting provisions set out as a note under section 1087–1 of this title, and amending provisions set out as notes under this section and section 1078–10 of this title] may be cited as the 'Second Higher Education Extension Act of 2005'.''

Pub. L. 109–67, §1, Sept. 21, 2005, 119 Stat. 2001, provided that: ''This Act [amending section 1091b of this title] may be cited as the 'Student Grant Hurricane and Disaster Relief Act'.''

Pub. L. 109–66, §1, Sept. 21, 2005, 119 Stat. 1999, provided that: ''This Act [amending section 1091b of this title] may be cited as the 'Pell Grant Hurricane and Disaster Relief Act'.''

SHORT TITLE OF 2004 AMENDMENTS

Pub. L. 108–409, §1, Oct. 30, 2004, 118 Stat. 2299, provided that: ''This Act [amending sections 1078–10, 1087–1, and 1087j of this title and enacting provisions set out as notes under section 1078–10 of this title] may be cited as the 'Taxpayer-Teacher Protection Act of 2004'.''

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–420, §1, Nov. 1, 2000, 114 Stat. 1867, provided that: ''This Act [enacting section 1092d of this title, amending section 522 of Title 11, Bankruptcy, and enacting provisions set out as notes under section 1092d of this title and section 994 of Title 28, Judiciary and Judicial Procedure] may be cited as the 'College Scholarship Fraud Prevention Act of 2000'.''

Pub. L. 106–386, div. B, title VI, §1601(a), Oct. 28, 2000, 114 Stat. 1537, provided that: ''This section [amending sections 1092 and 1232g of this title and section 14071 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under section 1092 of this title and section 14071 of Title 42] may be cited as the 'Campus Sex Crimes Prevention Act'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–244, §1(a), Oct. 7, 1998, 112 Stat. 1581, provided that: ''This Act [see Tables for classification] may be cited as the 'Higher Education Amendments of 1998'.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–78, title VI, §609(a), Nov. 13, 1997, 111 Stat. 1522, provided in part that: ''This section [amending sections 1078–3, 1087h, 1087*oo* to 1087qq, and 1087vv of this title and enacting provisions set out as notes under sections 1078–3 and 1087h of this title] may be cited as the 'Emergency Student Loan Consolidation Act of 1997'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title I, §101(e) [title VI, §601], Sept. 30, 1996, 110 Stat. 3009–233, 3009–275, provided that: ''This title [enacting sections 1087–3, 1087–4, and 1132f–10 of this title, amending sections 1078–3, 1085, and 1087–2 of this title, repealing sections 1087–2, 1087–3, and 1132f to 1132f–9 of this title, and enacting provisions set out as notes under sections 1078–3 and 1087–2 of this title] may be cited as the 'Student Loan Marketing Association Reorganization Act of 1996'.''

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–382, title III, §360B(a), Oct. 20, 1994, 108 Stat. 3969, provided that: ''This section [amending section 1092 of this title and enacting provisions set out as a note under section 1092 of this title] may be cited as the 'Equity in Athletics Disclosure Act'.''

SHORT TITLE OF 1993 AMENDMENTS

Pub. L. 103–208, §1(a), Dec. 20, 1993, 107 Stat. 2457, provided that: ''This Act [see Tables for classification] may be cited as the 'Higher Education Technical Amendments of 1993'.''

Pub. L. 103–66, title IV, §4011(a), Aug. 10, 1993, 107 Stat. 341, provided that: ''This subtitle [subtitle A (§§4011–4047) of title IV of Pub. L. 103–66, amending sections 1072, 1078, 1078–3, 1078–8, 1085, 1087–2, and 1087a to 1087h of this title, repealing section 1078–1 of this title, omitting sections 1087i and 1087j of this title, and enacting provisions set out as notes under sections 1078, 1078–3, and 1078–8 of this title] may be cited as the 'Student Loan Reform Act of 1993'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–325, §1(a), July 23, 1992, 106 Stat. 448, provided that: ''This Act [see Tables for classification] may be cited as the 'Higher Education Amendments of 1992'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–26, §1(a), Apr. 9, 1991, 105 Stat. 123, provided that: ''This Act [enacting section 1211b of this title, amending sections 1078, 1078–1, 1085, 1087ss, 1088, 1091, 1091a, 1092, 1094, and 1141 of this title, enacting provisions set out as notes under sections 1070, 1078–1, 1088, and 1091a of this title, amending provisions set out as a note under section 1092 of this title, and repealing provisions set out as a note under section 1088 of this title] may be cited as the 'Higher Education Technical Amendments of 1991'.''

SHORT TITLE OF 1990 AMENDMENTS

Pub. L. 101–542, §1, Nov. 8, 1990, 104 Stat. 2381, provided that: ''This Act [amending sections 1085, 1092, 1094, and 1232g of this title and enacting provisions set out as notes under this section and section 1092 of this title] may be cited as the 'Student Right-To-Know and Campus Security Act'.''

Pub. L. 101–542, title I, §101, Nov. 8, 1990, 104 Stat. 2381, provided that: ''This title [amending section 1092 of this title and enacting provisions set out as notes under section 1092 of this title] may be cited as the 'Student Right-To-Know Act'.''

Pub. L. 101–542, title II, §201, Nov. 8, 1990, 104 Stat. 2384, provided that: ''This title [amending sections 1092, 1094, and 1232g of this title and enacting provisions set out as notes under section 1092 of this title] may be cited as the 'Crime Awareness and Campus Security Act of 1990'.''

Pub. L. 101–508, title III, §3001, Nov. 5, 1990, 104 Stat. 1388–25, provided that: ''This subtitle [subtitle A (§§3001–3008) of title III of Pub. L. 101–508, amending sections 1078, 1078–1, 1078–7, 1085, 1088, and 1091 of this title and sections 362, 541, and 1328 of Title 11, Bankruptcy, enacting provisions set out as notes under sections 1078–7, 1085, and 1088 of this title and sections 362 and 1328 of Title 11, and amending provisions set out as a note under section 1078–1 of this title] may be cited as the 'Student Loan Default Prevention Initiative Act of 1990'.''

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–239, title II, §2001, Dec. 19, 1989, 103 Stat. 2111, provided that: ''This subtitle [subtitle A (§§2001–2009) of title II of Pub. L. 101–239, enacting section 1078–7 of this title, amending sections 1077, 1078, 1078–1, 1078–6, 1082, 1085, 1087dd, 1087tt, 1088, 1092b, and 1094 of this title, and enacting provisions set out as notes under sections 1077, 1078, 1078–1, and 1078–6 of this title] may be cited as the 'Student Loan Reconciliation Amendments of 1989'.''

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100–50, §1(a), June 3, 1987, 101 Stat. 335, provided that: ''This Act [enacting sections 1059a, 1087tt, 1087uu, 1087uu–1, and 1145d–1 of this title, amending sections 1057, 1058, 1062, 1063a to 1063c, 1065, 1066, 1067, 1069a, 1070a to 1070a–4, 1070a–6, 1070b–3, 1070c–4, 1070d–1b, 1070d–2, 1070e–1, 1070f, 1075, 1077, 1077a, 1078 to 1078–3, 1078–5, 1078–6, 1080a, 1081 to 1083, 1085, 1087–1, 1087–2, 1087d, 1087bb, 1087cc, 1087cc–1, 1087dd, 1087ee, 1087*oo* to 1087ss, 1087vv, 1088, 1089 to 1091, 1092 to 1092b, 1095, 1096, 1098, 1109 to 1109d, 1111, 1111b, 1111f, 1111g, 1122, 1132a, 1132a–1, 1132d, 1132d–2, 1132g–3, 1132i–1, 1134h to 1134j, 1141, 1145e, 1221e, and 1221e–1 of this title, section 4604 of Title 22, Foreign Relations and Intercourse, and sections 2752, 2753, and 2756 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under section 2752 of Title 42, and amending provisions set out

as notes under sections 1011, 1071, 1087dd, 1087kk, 1091, 1121, 1145d, 1221–1, and 1221e–1 of this title and section 2753 of Title 42] may be cited as the 'Higher Education Technical Amendments Act of 1987'.''

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99–498, §1, Oct. 17, 1986, 100 Stat. 1268, provided that: ''This Act [see Tables for classification] may be cited as the 'Higher Education Amendments of 1986'.''

Pub. L. 99–320, §1, May 23, 1986, 100 Stat. 491, provided: ''That this Act [amending sections 1078 and 1080a of this title and a provision set out as a note under section 1072 of this title] may be cited as the 'Student Financial Assistance Technical Corrections Act of 1986'.''

Pub. L. 99–272, title XVI, §16001(a), Apr. 7, 1986, 100 Stat. 339, provided that: ''This title [enacting sections 1078–3, 1080a, and 1091a of this title, amending sections 1072, 1074, 1075, 1077, 1078, 1080, 1082, 1083a, 1085, 1087–1, 1087–2, 1087cc, 1087cc–1, 1087dd, 1087gg, 1089, 1091, and 1094 of this title, enacting provisions set out as notes under sections 1072, 1078, and 1078–3 of this title, and amending provisions set out as a note under section 1078 of this title] may be cited as the 'Student Financial Assistance Amendments of 1985'.''

SHORT TITLE OF 1983 AMENDMENTS

Pub. L. 98–95, §1, Sept. 26, 1983, 97 Stat. 708, provided: ''That this Act [enacting section 1065a of this title, amending section 1069c of this title, enacting provisions set out as a note under section 1132a–1 of this title, and amending provisions set out as notes under sections 123 and 1069c of this title] may be cited as the 'Challenge Grant Amendments of 1983'.''

Pub. L. 98–79, §1, Aug. 15, 1983, 97 Stat. 476, provided: ''That this Act [amending sections 1071, 1077, 1077a, 1078, 1078–2, 1083a, 1087–1, 1087–2, 1087cc–1, and 1098 of this title, repealing section 1087–1a of this title, enacting provisions set out as notes under sections 1077, 1077a, 1078, and 1087–1 of this title, and amending provisions set out as notes under sections 1070a, 1078, and 1089 of this title] may be cited as the 'Student Loan Consolidation and Technical Amendments Act of 1983'.''

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–301, §1, Oct. 13, 1982, 96 Stat. 1400, which provided: ''That this Act [amending sections 1070a, 1083a, 1087–2, and 1087cc–1 of this title and enacting provisions set out as notes under sections 1070a, 1070b–3, 1078, 1087bb, 1089, and 1221e–1 of this title and section 2752 of Title 42, The Public Health and Welfare] may be cited as the 'Student Financial Assistance Technical Amendments Act of 1982'.'', was repealed by Pub. L. 99–498, title IV, §408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–35, title V, subtitle B, §531, Aug. 13, 1981, 95 Stat. 450, provided that: ''This subtitle [amending sections 1075, 1077, 1077a, 1078, 1078–1, 1078–2, 1087–1, 1087–2, 1087dd, 1089, 1096, and 1232 of this title, repealing section 1087–3a of this title, and enacting provisions set out as notes under section 1078 of this title] may be cited as the 'Postsecondary Student Assistance Amendments of 1981'.''

SHORT TITLE OF 1980 AMENDMENT

Pub. L. 96–374, §1, Oct. 3, 1980, 94 Stat. 1367, provided: ''That this Act [enacting sections 239a, 1001 to 1005, 1011 to 1015, 1016 to 1019, 1021, 1022, 1029, 1031 to 1034, 1041, 1042, 1047 to 1047j, 1051, 1057 to 1069c, 1070d–1a to 1070d–2, 1077a, 1078–2, 1083a, 1087–1a, 1087cc–1, 1087hh, 1087ii, 1088 to 1098, 1119b to 1119b–5, 1119c to 1119c–2, 1121 to 1127, 1130 to 1132, 1132a to 1132a–1, 1132b to 1132c, 1132d to 1132d–4, 1132e, 1132e–1, 1134d to 1134p, 1135 to 1135a–3, 1136 to 1136d, 1143, 1144a, 1145, 1146, 1221e–1b, 1221e–4, and 3063 to 3065 of this title, section 640c–2 of Title 25, Indians, and sections 2753 and 2756b of Title 42, The Public Health and Welfare, amending sections 1070 to 1070c–3, 1070d, 1070d–1, 1070e to 1077, 1078, 1078–1, 1079, 1080 to 1083, 1085 to 1087–1, 1087–2, 1087aa to 1087cc, 1087dd to 1087gg, 1101 to 1104, 1119 to 1119a–1, 1133 to 1134c, 1135c–1, 1141, 1142, 1221e, 1226a, 1226c, and 1232 of this title, section 326a of Title 7, Agriculture, section 640c–1 of Title 25, sections 714 and 792 of Title 29, Labor, and sections 2751, 2752, and 2756 of Title 42, repealing sections 511 to 513, 1070c–4, 1070d–3, 1087–4, 1134q to 1134s, 1142a, 1142b, 1145, 1145a, 1145c, 1172 to 1174, 1176, 1177, and 1221d of this title and section 2754 of Title 42, enacting provisions set out as notes under sections 236, 1001, 1119b, and 1221–1 of this title and section 301 of Title 7, and amending provisions set out as notes under section 236 of this title and section 301 of Title 7] may be cited as the 'Education Amendments of 1980'.''

SHORT TITLE OF 1979 AMENDMENT

Pub. L. 96–49, §1, Aug. 13, 1979, 93 Stat. 351, provided: ''That this Act [enacting section 1087gg of this title, amending this section and sections 513, 1021, 1042, 1051, 1070a, 1070b, 1070c, 1070d, 1070d–2, 1070e–1, 1078, 1087–1, 1087aa, 1088, 1101, 1119, 1121, 1132a, 1132b, 1132c, 1132c–4, 1134, 1134e, 1134i, 1134n, 1134r–1, 1135, 1135a, 1136b, 1142b, 1221d, and 1221e of this title, enacting provisions set out as notes under sections 1070a, 1087–1, 1087gg, and 1088 of this title, and amending provisions set out as a note under section 1070a of this title] may be cited as the 'Higher Education Technical Amendments of 1979'.''

SHORT TITLE OF 1978 AMENDMENTS

Pub. L. 95–566, §1, Nov. 1, 1978, 92 Stat. 2402, provided: ''That this Act [enacting section 1087–3a of this title, amending sections 1070a, 1070c–2, 1070d–1, 1075, 1077, 1078, 1088 and 1088f of this title, and enacting provisions set out as a note under this section] may be cited as the 'Middle Income Student Assistance Act'.''

Pub. L. 95–336, §1, Aug. 4, 1978, 92 Stat. 451, provided: ''That this Act [amending section 1070e–1 of this title, sections 1001, 1002, and 1007 of Title 21, Food and Drugs, and former section 246 of Title 38, Veterans' Benefits, and enacting provisions set out as a note under section 1070e–1 of this title] may be cited as the 'Alcohol and Drug Abuse Education Amendments of 1978'.''

SHORT TITLE OF 1976 AMENDMENTS

Pub. L. 94–482, §1, Oct. 12, 1976, 90 Stat. 2081, provided: ''That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1976'.''

Pub. L. 94–328, §1, June 30, 1976, 90 Stat. 727, provided: ''That this joint resolution [amending sections 1070a, 1074, 1078 and 1078a of this title and enacting provisions set out as notes under section 1226a of this title and section 2756 of Title 42, The Public Health and Welfare] may be cited as the 'Emergency Technical Provisions Act of 1976'.''

SHORT TITLE OF 1972 AMENDMENT

Pub. L. 92–318, §1, June 23, 1972, 86 Stat. 235, provided: ''That this Act [enacting chapter 36 (§1601 et seq.), chapter 37 (§1651 et seq.), chapter 38 (§1681 et seq.), and sections 241aa to 241ff, 887c, 887d, 900 to 900a–5, 1005a, 1021, 1031, 1042, 1070 to 1070e, 1070e–1, 1087–1, 1087–2, 1087aa to 1087ff, 1088d to 1088g, 1119a, 1132a to 1132e–1, 1134 to 1134s, 1135, 1135a, 1135b to 1135c, 1135c–1, 1142a, 1142b, 1144a, 1145a, 1211a, 1221a to 1221h, 1227 of this title, and section 326a of Title 7, Agriculture, and 2756a of Title 42, The Public Health and Welfare, amending this section and sections 240, 241c, 241e, 331a, 332, 421, 441, 511, 513, 822, 823, 842, 843, 863, 880b–3a, 1003, 1011, 1021, 1022 to 1024, 1027, 1031, 1033, 1041, 1051 to 1056, 1061, 1068, 1070, 1074, 1075, 1077, 1078, 1078a, 1080, 1083, 1084, 1087, 1087a, 1087c, 1088, 1088c, 1091, 1091a to 1091c, 1101, 1102, 1108 to 1111, 1115, 1116, 1118, 1119, 1119a, 1119b–2, 1121, 1129, 1133, 1133a, 1134j, 1136, 1136a, 1136b, 1141, 1176, 1231, 1231a, 1232a, 1232c, 1242, 1244, 1248, 1302, 1321 to 1323, 1341, 1352, 1371, 1391, and 1412 of this title, and sections 329, 331, 343, 349, 361, and 1626 of Title 7, sections 24, 84, 1464, and 1757 of Title 12, Banks and Banking, sections 203 and 213 of Title 29, Labor, and sections 2751, 2752, and 2754 of

Title 42, repealing sections 1, 2, 426, 711 to 721, 731, 732, 746, 1021, 1031, 1032, 1060, 1118, 1119a, 1119b–2, and 1119c–4 of this title, and enacting provisions set out as notes under this section and sections 241a, 241e, 241aa, 331a, 425, 821, 887d, 1005a, 1009, 1070, 1070e, 1074, 1075, 1087–2, 1087aa, 1091a, 1132a, 1132c–3, 1135c, 1231, and 1232 of this title, sections 301 and 326a of Title 7, and section 3501 of Title 42] may be cited as the 'Education Amendments of 1972'.''

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–575, § 1, Oct. 16, 1968, 82 Stat. 1014, provided: ''That this Act [enacting sections 451 to 455, 746, 1056, 1060, 1087, 1087a to 1087c, 1088 to 1088c, 1089, 1119a–1, 1129a, 1133 to 1133b, 1134 to 1134*l*, 1135, 1135a, 1135b, 1135c, 1136 to 1136b, 1145, 1146 to 1150 of this title, amending this section and sections 403, 421 to 425, 425 note, 426, 441 to 445, 462 to 464, 481 to 484, 511, 513, 562, 581, 584, 588, 591, 711, 713 to 718, 731, 732, 743, 751, 758, 961, 1005, 1006, 1021 to 1024, 1031, 1033, 1041, 1051, 1061, 1062, 1065 to 1068, 1071 to 1075, 1077, 1078, 1080, 1083 to 1086, 1091c, 1101, 1104, 1108 to 1111, 1113, 1114, 1115, 1118, 1119a, 1119b–2, 1121, 1124, 1125, 1141, 1142, 1143, 1144 and 1176 of this title, section 1464 of Title 12, Banks and Banking, and sections 2741, 2751 to 2756, and 2809 of Title 42, The Public Health and Welfare, repealing sections 733, 981 to 996 of this title, and section 2757 of Title 42, and enacting provisions set out as notes under this section and sections 423 to 425, 445, 462 to 464, 588, 713, 716 to 718, 743, 751, 981, 1006, 1022, 1024, 1051, 1056, 1060, 1067, 1071, 1077, 1078, 1083, 1088b, and 1109 of this title, and sections 2751, 2753, 2754, and 2809 of Title 42] may be cited as the 'Higher Education Amendments of 1968'.''

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–752, § 1, Nov. 3, 1966, 80 Stat. 1240, provided: ''That this Act [enacting section 1086 of this title, amending sections 403, 421, 425, 441, 443, 711–715, 731, 743, 744, 751, 1022, 1051, 1072, 1121, and 1124 of this title, and enacting provisions set out as notes under sections 403, 443, 1022, 1071, and 1124 of this title] may be cited as the 'Higher Education Amendments of 1966'.''

SHORT TITLE

Pub. L. 89–329, § 1, Nov. 8, 1965, 79 Stat. 1219, provided: ''That this Act [enacting this chapter and section 2757 of Title 42, The Public Health and Welfare, and amending sections 403, 424, 425, 441, 443, 591, 711, 713 to 717, 731, and 751 of this title, and sections 2751 to 2756, and 2761 of Title 42] may be cited as the 'Higher Education Act of 1965'.''

Pub. L. 89–329, title V, § 509, as added by Pub. L. 90–35, § 8, provided that title V of Pub. L. 89–329 could be cited as the ''Education Professions Development Act'', prior to the general amendment of title V of Pub. L. 89–329 by Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1495.

For short title of section 1092(f) of this title as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, see section 1092(f)(15) of this title.

HIGHER EDUCATION EXTENSION

Pub. L. 109–81, Sept. 30, 2005, 119 Stat. 2048, as amended by Pub. L. 109–150, § 2(a), Dec. 30, 2005, 119 Stat. 2884, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Higher Education Extension Act of 2005'.

''SEC. 2. EXTENSION OF PROGRAMS.

''(a) EXTENSION OF DURATION.—The authorization of appropriations for, and the duration of, each program authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) shall be extended through March 31, 2006.

''(b) PERFORMANCE OF REQUIRED AND AUTHORIZED FUNCTIONS.—If the Secretary of Education, a State, an institution of higher education, a guaranty agency, a lender, or another person or entity—

''(1) is required, in or for fiscal year 2004, to carry out certain acts or make certain determinations or payments under a program under the Higher Education Act of 1965, such acts, determinations, or payments shall be required to be carried out, made, or continued during the period of the extension under this section; or

''(2) is permitted or authorized, in or for fiscal year 2004, to carry out certain acts or make certain determinations or payments under a program under the Higher Education Act of 1965, such acts, determinations, or payments are permitted or authorized to be carried out, made, or continued during the period of the extension under this section.

''(c) EXTENSION AT CURRENT LEVELS.—The amount authorized to be appropriated for a program described in subsection (a) during the period of extension under this section shall be the amount authorized to be appropriated for such program for fiscal year 2004, or the amount appropriated for such program for such fiscal year, whichever is greater. Except as provided in any amendment to the Higher Education Act of 1965 enacted during fiscal year 2005 or 2006, the amount of any payment required or authorized under subsection (b) in or for the period of the extension under this section shall be determined in the same manner as the amount of the corresponding payment required or authorized in or for fiscal year 2004.

''(d) ADVISORY COMMITTEES AND OTHER ENTITIES CONTINUED.—Any advisory committee, interagency organization, or other entity that was, during fiscal year 2004, authorized or required to perform any function under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), or in relation to programs under that Act, shall continue to exist and is authorized or required, respectively, to perform such function for the period of the extension under this section.

''(e) ADDITIONAL EXTENSION NOT PERMITTED.—Section 422 of the General Education Provisions Act (20 U.S.C. 1226a) shall not apply to further extend the authorization of appropriations for any program described in subsection (a) on the basis of the extension of such program under this section.

''(f) EXCEPTION.—The programs described in subsection (a) for which the authorization of appropriations, or the duration of which, is extended by this section include provisions applicable to institutions in, and students in or from, the Freely Associated States, except that those provisions shall be applicable with respect to institutions in, and students in or from, the Federated States of Micronesia and the Republic of the Marshall Islands only to the extent specified in Public Law 108–188 [48 U.S.C. 1921 et seq.].''

Similar provisions were contained in Pub. L. 108–366, Oct. 25, 2004, 118 Stat. 1741.

STUDY OF OPPORTUNITIES FOR PARTICIPATION IN ATHLETICS PROGRAMS

Pub. L. 105–244, title VIII, § 805, Oct. 7, 1998, 112 Stat. 1807, required the Comptroller General to conduct a study of the opportunities for participation in intercollegiate athletics and to submit a report on the study to committees of Congress.

STYLISTIC CONSISTENCY

Pub. L. 103–208, § 2(m), Dec. 20, 1993, 107 Stat. 2486, provided that: ''The Act [Pub. L. 89–329, see Short Title note above] is amended so that the section designation and section heading of each section of the Act shall be in the form and typeface of the section designation and heading of this section [107 Stat. 2457].''

TERMS DEFINED FOR PURPOSES OF TITLES XIII, XIV, AND XV OF PUB. L. 102–325

Pub. L. 102–325, § 1(c), July 23, 1992, 106 Stat. 448, as amended by Pub. L. 105–244, title I, § 102(a)(6)(A), Oct. 7, 1998, 112 Stat. 1618, provided that: ''Unless otherwise provided therein, terms used in titles XIII, XIV, and XV [enacting sections 1145h and 4426 of this title, sections

3301 to 3371 of Title 25, Indians, and sections 2401 to 2405 of Title 29, Labor, amending sections 1221e–1, 1232g, 3412, 4412, 4414, 4416, 4417, 4418, 4421, 4422, 4423, 4424, 4425, 5381, and 5411 of this title, section 5315 of Title 5, Government Organization and Employees, sections 4604 and 4609 of Title 22, Foreign Relations and Intercourse, sections 640c–1, 1810, 1836, and 1852 of Title 25, and sections 295g–8 and 12576 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under sections 1070, 1070a–11, 1070a–21, 1071, 1080, 1088, 1101, 1132a, 1134, 1221–1, 1221e, 1232g, 1452, and 9003 of this title, amending provisions set out as a note under section 1091a of this title, and repealing provisions set out as a note under section 362 of Title 11, Bankruptcy] shall have the same meaning given to such terms in section 101 of the Higher Education Act of 1965 [this section].''

GENERAL PROVISIONS OF 1972 AMENDMENT

Pub. L. 92–318, § 2, June 23, 1972, 86 Stat. 236, provided that:

''(a) As used in this Act [See Short Title of 1972 Amendment note above]—

''(1) the term 'Secretary' means the Secretary of Health, Education, and Welfare [now Secretary of Education]; and

''(2) the term 'Commissioner' means the Commissioner of Education [now Secretary of Education];

unless the context requires another meaning.

''(b) Unless otherwise specified, the redesignation of a section, subsection, or other designation by any amendment in this Act shall include the redesignation of any reference to such section, subsection, or other designation in any Act or regulation, however styled.

''(c)(1) Unless otherwise specified, each provision of this Act and each amendment made by this Act shall be effective after June 30, 1972, and with respect to appropriations for the fiscal year ending June 30, 1973, and succeeding fiscal years.

''(2) Unless otherwise specified, in any case where an amendment made by this Act is to become effective after a date set herein, it shall be effective with the beginning of the day which immediately follows the date after which such amendment is effective.

''(3) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1971, such amendment shall be deemed to have been enacted on July 1, 1971.''

RULEMAKING REQUIREMENTS; PUBLICATION IN FEDERAL REGISTER

Pub. L. 90–575, title V, § 505, Oct. 16, 1968, 82 Stat. 1063, provided for publication of rules and regulations in Federal Register, prior to repeal by Pub. L. 91–230, title IV, § 401(e)(2), Apr. 13, 1970, 84 Stat. 173.

PRESIDENTIAL RECOMMENDATIONS BY DECEMBER 31, 1969, WITH RESPECT TO POST-SECONDARY EDUCATION FOR ALL

Pub. L. 90–575, title V, § 508, Oct. 16, 1968, 82 Stat. 1063, authorized the President, on or before Dec. 31, 1969, to submit to the Congress proposals relative to the feasibility of making available a post-secondary education to all young Americans who qualify and seek it.

§ 1002. Definition of institution of higher education for purposes of student assistance programs

(a) Definition of institution of higher education for purposes of student assistance programs

(1) Inclusion of additional institutions

Subject to paragraphs (2) through (4) of this subsection, the term ''institution of higher education'' for purposes of subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 includes, in addition to the institutions covered by the definition in section 1001 of this title—

(A) a proprietary institution of higher education (as defined in subsection (b) of this section);

(B) a postsecondary vocational institution (as defined in subsection (c) of this section); and

(C) only for the purposes of part B of subchapter IV of this chapter, an institution outside the United States that is comparable to an institution of higher education as defined in section 1001 of this title and that has been approved by the Secretary for the purpose of part B of subchapter IV of this chapter.

(2) Institutions outside the United States

(A) In general

For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1001 of this title (except that a graduate medical school, or a veterinary school, located outside the United States shall not be required to meet the requirements of section 1001(a)(4) of this title). Such criteria shall include a requirement that a student attending such school outside the United States is ineligible for loans made, insured, or guaranteed under part B of subchapter IV of this chapter unless—

(i) in the case of a graduate medical school located outside the United States—

(I)(aa) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 1091(a)(5) of this title in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; and

(bb) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of subchapter IV of this chapter; or

(II) the institution has a clinical training program that was approved by a State as of January 1, 1992; or

(ii) in the case of a veterinary school located outside the United States that does not meet the requirements of section 1001(a)(4) of this title, the institution's students complete their clinical training at an approved veterinary school located in the United States.

(B) Advisory panel

(i) In general

For the purpose of qualifying as an institution under paragraph (1)(C) of this sub-

section, the Secretary shall establish an advisory panel of medical experts that shall—

(I) evaluate the standards of accreditation applied to applicant foreign medical schools; and

(II) determine the comparability of those standards to standards for accreditation applied to United States medical schools.

(ii) Special rule

If the accreditation standards described in clause (i) are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1001 of this title.

(C) Failure to release information

The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) shall render such institution ineligible for the purpose of part B of subchapter IV of this chapter.

(D) Special rule

If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B[1] while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

(3) Limitations based on course of study or enrollment

An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

(A) offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 2471(4)(C) of this title;[1]

(B) enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section, except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2- or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively;

(C) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

(D) has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.

(4) Limitations based on management

An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

(A) the institution, or an affiliate of the institution that has the power, by contract or ownership interest, to direct or cause the direction of the management or policies of the institution, has filed for bankruptcy, except that this paragraph shall not apply to a nonprofit institution, the primary function of which is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, 1998, and December 1, 1998; or

(B) the institution, the institution's owner, or the institution's chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(5) Certification

The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part G of subchapter IV of this chapter.

(6) Loss of eligibility

An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for funds under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 as a result of an action pursuant to part G of subchapter IV of this chapter.

(b) Proprietary institution of higher education

(1) Principal criteria

For the purpose of this section, the term ''proprietary institution of higher education'' means a school that—

[1] See References in Text note below.

(A) provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) meets the requirements of paragraphs (1) and (2) of section 1001(a) of this title;

(C) does not meet the requirement of paragraph (4) of section 1001(a) of this title;

(D) is accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part G of subchapter IV of this chapter;

(E) has been in existence for at least 2 years; and

(F) has at least 10 percent of the school's revenues from sources that are not derived from funds provided under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as determined in accordance with regulations prescribed by the Secretary.

(2) Additional institutions

The term ''proprietary institution of higher education'' also includes a proprietary educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(c) Postsecondary vocational institution

(1) Principal criteria

For the purpose of this section, the term ''postsecondary vocational institution'' means a school that—

(A) provides an eligible program of training to prepare students for gainful employment in a recognized occupation;

(B) meets the requirements of paragraphs (1), (2), (4), and (5) of section 1001(a) of this title; and

(C) has been in existence for at least 2 years.

(2) Additional institutions

The term ''postsecondary vocational institution'' also includes an educational institution in any State that, in lieu of the requirement in paragraph (1) of section 1001(a) of this title, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located.

(Pub. L. 89–329, title I, §102, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1586; amended Pub. L. 108–98, §1(a), Oct. 10, 2003, 117 Stat. 1174.)

REFERENCES IN TEXT

Section 2471(4)(C) of this title, referred to in subsec. (a)(3)(A), was omitted in the general amendment of chapter 44 (§2301 et seq.) of this title by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1088(a) to (c) of this title prior to repeal by Pub. L. 105–244.

A prior section 1002, Pub. L. 89–329, title I, §102, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 459, related to partnership agreements required for grant eligibility, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1002, Pub. L. 89–329, title I, §102, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1278, defined terms ''continuing education'', ''adult learner'', ''eligible institution'', and ''qualified entity'', prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1002, Pub. L. 89–329, title I, §102, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1374, provided for establishment of Commission on National Development in Postsecondary Education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1002, Pub. L. 89–329, title I, §102, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 94–482, title I, §101(b)(1), (g)(2), Oct. 12, 1976, 90 Stat. 2083, 2086, defined the terms ''community service program'', ''continuing education program'', and ''resource materials sharing programs'', prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2003—Subsec. (a)(2)(A). Pub. L. 108–98 amended subpar. (A) generally. Prior to amendment, subpar. (A) required the Secretary to establish criteria for approval of institutions outside the United States for purposes of par. (1)(C), including certain requirements for graduate medical or veterinary schools.

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–98, §1(b), Oct. 10, 2003, 117 Stat. 1175, provided that: ''This Act [amending this section] and the amendments made by this Act shall be effective as if enacted on October 1, 1998.''

§ 1003. Additional definitions

In this chapter:

(1) Combination of institutions of higher education

The term ''combination of institutions of higher education'' means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on the group's behalf.

(2) Department

The term ''Department'' means the Department of Education.

(3) Disability

The term ''disability'' has the same meaning given that term under section 12102(2) of title 42.

(4) Elementary school

The term ''elementary school'' has the same meaning given that term under section 7801 of this title.

(5) Gifted and talented

The term ''gifted and talented'' has the same meaning given that term under section 7801 of this title.

(6) Local educational agency

The term ''local educational agency'' has the same meaning given that term under section 7801 of this title.

(7) New borrower

The term ''new borrower'' when used with respect to any date means an individual who

on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(8) Nonprofit

The term ''nonprofit'' as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(9) School or department of divinity

The term ''school or department of divinity'' means an institution, or a department or a branch of an institution, the program of instruction of which is designed for the education of students—

(A) to prepare the students to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation); or

(B) to prepare the students to teach theological subjects.

(10) Secondary school

The term ''secondary school'' has the same meaning given that term under section 7801 of this title.

(11) Secretary

The term ''Secretary'' means the Secretary of Education.

(12) Service-learning

The term ''service-learning'' has the same meaning given that term under section 12511(23) of title 42.

(13) Special education teacher

The term ''special education teacher'' means teachers who teach children with disabilities as defined in section 1401 of this title.

(14) State educational agency

The term ''State educational agency'' has the same meaning given that term under section 7801 of this title.

(15) State higher education agency

The term ''State higher education agency'' means the officer or agency primarily responsible for the State supervision of higher education.

(16) State; Freely Associated States

(A) State

The term ''State'' includes, in addition to the several States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

(B) Freely Associated States

The term ''Freely Associated States'' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(Pub. L. 89–329, title I, §103, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1589; amended Pub. L. 107–110, title X, §1076(g), Jan. 8, 2002, 115 Stat. 2091.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1141(b) of this title prior to repeal by Pub. L. 105–244.

A prior section 1003, Pub. L. 89–329, title I, §103, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 459; amended Pub. L. 103–208, §2(a)(1), Dec. 20, 1993, 107 Stat. 2457, related to authority to make grants under the school, college, and university partnership grant program, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1003, Pub. L. 89–329, title I, §103, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1279, related to limitation on contract authority, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1003, Pub. L. 89–329, title I, §103, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1375, related to duties of the Commission on National Development in Postsecondary Education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1003, Pub. L. 89–329, title I, §103, Nov. 8, 1965, 79 Stat. 1219; Pub. L. 92–318, title I, §102(a)(2), June 23, 1972, 86 Stat. 237; Pub. L. 94–482, title I, §101(b)(2), (g)(2), Oct. 12, 1976, 90 Stat. 2084, 2086; Pub. L. 95–43, §1(a)(1), June 15, 1977, 91 Stat. 213; Pub. L. 96–96, §1, Oct. 31, 1979, 93 Stat. 729, provided for the allotment of funds to States, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1004, Pub. L. 89–329, title I, §104, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 460; amended Pub. L. 103–208, §2(a)(2), Dec. 20, 1993, 107 Stat. 2457, related to grant applications, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1004, Pub. L. 89–329, title I, §104, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1376, related to administrative provisions and powers of Commission on National Development in Postsecondary Education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1004, Pub. L. 89–329, title I, §104, Nov. 8, 1965, 79 Stat. 1220; Pub. L. 94–482, title I, §101(b)(3), Oct. 12, 1976, 90 Stat. 2084; Pub. L. 95–43, §1(a)(2), June 15, 1977, 91 Stat. 213, described the allowable uses of States' allotments of funds, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1005, Pub. L. 89–329, title I, §105, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 461, related to peer review of applications, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1005, Pub. L. 89–329, title I, §105, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1377, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1005, Pub. L. 89–329, title I, §105, Nov. 8, 1965, 79 Stat. 1220; Pub. L. 90–575, title II, §202, Oct. 16, 1968, 82 Stat. 1036; Pub. L. 94–482, title I, §101(b)(4)–(10), (g)(2), Oct. 12, 1976, 90 Stat. 2084–2086; Pub. L. 95–43, §1(a)(3), (b)(1), (2), June 15, 1977, 91 Stat. 213, 218, set out the requisite features of State plans, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1005a, Pub. L. 89–329, title I, §106, as added Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86

Stat. 237; amended Pub. L. 94–482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, provided for special programs and projects relating to national and regional problems, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1006, Pub. L. 89–329, title I, §106, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 461, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1006, Pub. L. 89–329, title I, §107, formerly §106, Nov. 8, 1965, 79 Stat. 1221; Pub. L. 90–575, title II, §203(a), Oct. 16, 1968, 82 Stat. 1036, renumbered Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94–482, title I, §101(c), (g)(2), Oct. 12, 1976, 90 Stat. 2085, 2086, related to payment and method of payment of funds, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1007 to 1010 were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1007, Pub. L. 89–329, title I, §108, formerly §107, Nov. 8, 1965, 79 Stat. 1222, renumbered Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94–482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, related to disapproval of State plans, notice and hearing, findings of Commissioner of Education, and notification to State of noneligibility.

Section 1008, Pub. L. 89–329, title I, §109, formerly §108, Nov. 8, 1965, 79 Stat. 1222, renumbered Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, and amended Pub. L. 94–482, title I, §101(d), Oct. 12, 1976, 90 Stat. 2085, provided for judicial review of actions of Commissioner of Education and scope of that review.

Section 1008a, Pub. L. 89–329, title I, §110, as added Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59, and amended Pub. L. 94–135, title II, §201, Nov. 28, 1975, 89 Stat. 726; Pub. L. 94–482, title I, §101(g)(2), Oct. 12, 1976, 90 Stat. 2086, provided for programs and projects relating to problems of the elderly.

Section 1008b, Pub. L. 89–329, title I, §111, as added Pub. L. 94–482, title I, §101(e), Oct. 12, 1976, 90 Stat. 2085, related to technical assistance and administration.

Section 1009, Pub. L. 89–329, title I, §112, formerly §109, Nov. 8, 1965, 79 Stat. 1223; Pub. L. 91–230, title IV, §401(h)(4), Apr. 13, 1970, 84 Stat. 174, renumbered §110, Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, renumbered §111, Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59; Pub. L. 93–380, title VIII, §831, Aug. 21, 1974, 88 Stat. 603; Pub. L. 93–644, §9(a), Jan. 4, 1975, 88 Stat. 2310, renumbered §112 and amended Pub. L. 94–482, title I, §101(e), (f)(1), (g)(2), Oct. 12, 1976, 90 Stat. 2085, 2086; 1977 Reorg. Plan No. 2, §7(a)(13), 42 F.R. 62461, 91 Stat. 1637, provided for creation of a National Advisory Council on Extension and Continuing Education.

Section 1010, Pub. L. 89–329, title I, §113, formerly §110, Nov. 8, 1965, 79 Stat. 1224, renumbered §111, Pub. L. 92–318, title I, §102(a)(1), June 23, 1972, 86 Stat. 236, renumbered §112, Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59, renumbered §113 and amended Pub. L. 94–482, title I, §101(e), (f)(2), Oct. 12, 1976, 90 Stat. 2085, 2086, directed that nothing in the section be held to modify any authority under the Smith-Lever Act, section 341 et seq. of Title 7, Agriculture.

AMENDMENTS

2002—Pars. (4) to (6), (10), (14). Pub. L. 107–110 substituted ''7801'' for ''8801''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

PART B—ADDITIONAL GENERAL PROVISIONS

§ 1011. Antidiscrimination

(a) In general

Institutions of higher education receiving Federal financial assistance may not use such financial assistance, directly or indirectly, to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except that nothing in this subsection shall be construed to prohibit an institution from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or to have the institution's curriculum restricted on the subject of discrimination.

(b) Limitations on statutory construction

Nothing in this chapter shall be construed to limit the rights or responsibilities of any individual under the Americans With Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], or any other law.

(Pub. L. 89–329, title I, §111, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1590.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (b), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1142 of this title prior to repeal by Pub. L. 105–244.

A prior section 1011, Pub. L. 89–329, title I, §121, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 461, stated congressional findings and purposes of articulation agreements grant program, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1011, Pub. L. 89–329, title I, §111, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1279, related to institutional development, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1011, Pub. L. 89–329, title I, §111, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1377, stated Congressional findings with respect to education outreach programs, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1011, Pub. L. 89–329, title I, §114, formerly §111, Nov. 8, 1965, 79 Stat. 1224, renumbered §112 and amended Pub. L. 92–318, title I, §§102(a)(1), 131(d)(2)(A), June 23, 1972, 86 Stat. 236, 260, renumbered §113, Pub. L. 93–29, title VIII, §803, May 3, 1973, 87 Stat. 59, renumbered §114, Pub. L. 94–482, title I, §101(e), Oct. 12, 1976, 90 Stat. 2085, prohibited the giving of grants for programs relating to sectarian instruction or worship, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1011a. Protection of student speech and association rights

(a) Protection of rights

It is the sense of Congress that no student attending an institution of higher education on a full- or part-time basis should, on the basis of participation in protected speech or protected association, be excluded from participation in, be denied the benefits of, or be subjected to discrimination or official sanction under any education program, activity, or division of the institution directly or indirectly receiving financial assistance under this chapter, whether or not such program, activity, or division is sponsored or officially sanctioned by the institution.

(b) Construction

Nothing in this section shall be construed—

(1) to discourage the imposition of an official sanction on a student that has willfully participated in the disruption or attempted disruption of a lecture, class, speech, presentation, or performance made or scheduled to be made under the auspices of the institution of higher education; or

(2) to prevent an institution of higher education from taking appropriate and effective action to prevent violations of State liquor laws, to discourage binge drinking and other alcohol abuse, to protect students from sexual harassment including assault and date rape, to prevent hazing, or to regulate unsanitary or unsafe conditions in any student residence.

(c) Definitions

For the purposes of this section:

(1) Official sanction

The term ''official sanction''—

(A) means expulsion, suspension, probation, censure, condemnation, reprimand, or any other disciplinary, coercive, or adverse action taken by an institution of higher education or administrative unit of the institution; and

(B) includes an oral or written warning made by an official of an institution of higher education acting in the official capacity of the official.

(2) Protected association

The term ''protected association'' means the joining, assembling, and residing with others that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

(3) Protected speech

The term ''protected speech'' means speech that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

(Pub. L. 89–329, title I, § 112, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1591.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1011a, Pub. L. 89–329, title I, § 122, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 462, authorized grants to States, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011b. Treatment of territories and territorial student assistance

(a) Waiver authority

The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria do not take into account the unique circumstances in Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Freely Associated States.

(b) Eligibility

Notwithstanding any other provision of law, an institution of higher education that is located in any of the Freely Associated States, rather than in another State, shall be eligible, if otherwise qualified, for assistance under division 1 of subpart 2 of part A of subchapter IV of this chapter. This subsection shall cease to be effective on September 30, 2004.

(Pub. L. 89–329, title I, § 113, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1591.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1144a of this title prior to repeal by Pub. L. 105–244.

A prior section 1011b, Pub. L. 89–329, title I, § 123, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 462, related to State applications for grants, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011c. National Advisory Committee on Institutional Quality and Integrity

(a) Establishment

There is established in the Department a National Advisory Committee on Institutional Quality and Integrity (hereafter in this section referred to as the ''Committee''), which shall be composed of 15 members appointed by the Secretary from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including representatives of all sectors and types of institutions of higher education (as defined in section 1002 of this title), to assess the process of eligibility and certification of such institutions under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 and the provision of financial aid under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(b) Terms of members

Terms of office of each member of the Committee shall be 3 years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the mem-

ber's predecessor was appointed shall be appointed for the remainder of such term.

(c) Public notice

The Secretary shall—

(1) annually publish in the Federal Register a list containing the name of each member of the Committee and the date of the expiration of the term of office of the member; and

(2) publicly solicit nominations for each vacant position or expiring term of office on the Committee.

(d) Functions

The Committee shall—

(1) advise the Secretary with respect to establishment and enforcement of the standards of accrediting agencies or associations under subpart 2 of part G of subchapter IV of this chapter;

(2) advise the Secretary with respect to the recognition of a specific accrediting agency or association;

(3) advise the Secretary with respect to the preparation and publication of the list of nationally recognized accrediting agencies and associations;

(4) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs;

(5) advise the Secretary with respect to the eligibility and certification process for institutions of higher education under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, together with recommendations for improvements in such process;

(6) advise the Secretary with respect to the relationship between—

(A) accreditation of institutions of higher education and the certification and eligibility of such institutions; and

(B) State licensing responsibilities with respect to such institutions; and

(7) carry out such other advisory functions relating to accreditation and institutional eligibility as the Secretary may prescribe.

(e) Meeting procedures

The Committee shall meet not less than twice each year at the call of the Chairperson. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

(f) Report

Not later than November 30 of each year, the Committee shall make an annual report through the Secretary to Congress. The annual report shall contain—

(1) a list of the members of the Committee and their addresses;

(2) a list of the functions of the Committee;

(3) a list of dates and places of each meeting during the preceding fiscal year; and

(4) a summary of the activities, findings and recommendations made by the Committee during the preceding fiscal year.

(g) Termination

The Committee shall cease to exist on September 30, 2004.

(Pub. L. 89–329, title I, §114, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1592.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145 of this title prior to repeal by Pub. L. 105–244.

A prior section 1011c, Pub. L. 89–329, title I, §124, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 463, related to local applications for grants, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011d. Student representation

The Secretary shall, in appointing individuals to any commission, committee, board, panel, or other body in connection with the administration of this chapter, include individuals who are, at the time of appointment, attending an institution of higher education.

(Pub. L. 89–329, title I, §115, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1593.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145b of this title prior to repeal by Pub. L. 105–244.

A prior section 1011d, Pub. L. 89–329, title I, §125, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 463, related to articulation agreements, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011e. Financial responsibility of foreign students

Nothing in this chapter or any other Federal law shall be construed to prohibit any institution of higher education from requiring a student who is a foreign national (and not admitted to permanent residence in the United States) to guarantee the future payment of tuition and fees to such institution by—

(1) making advance payment of such tuition and fees;

(2) making deposits in an escrow account administered by such institution for such payments; or

(3) obtaining a bond or other insurance that such payments will be made.

(Pub. L. 89–329, title I, §116, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1593.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known

as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145c of this title prior to repeal by Pub. L. 105–244.

A prior section 1011e, Pub. L. 89–329, title I, § 126, as added Pub. L. 102–325, title I, § 101, July 23, 1992, 106 Stat. 464, related to State administrative costs, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011f. Disclosures of foreign gifts

(a) Disclosure report

Whenever any institution is owned or controlled by a foreign source or receives a gift from or enters into a contract with a foreign source, the value of which is $250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner.

(b) Contents of report

Each report to the Secretary required by this section shall contain the following:

(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

(3) In the case of an institution which is owned or controlled by a foreign source, the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control.

(c) Additional disclosures for restricted and conditional gifts

Notwithstanding the provisions of subsection (b) of this section, whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose the following:

(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

(d) Relation to other reporting requirements

(1) State requirements

If an institution described under subsection (a) of this section is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a) of this section. The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

(2) Use of other Federal reports

If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the executive branch requires a report containing requirements substantially similar to those required under this section, a copy of the report may be filed with the Secretary in lieu of a report required under subsection (a) of this section.

(e) Public inspection

All disclosure reports required by this section shall be public records open to inspection and copying during business hours.

(f) Enforcement

(1) Court orders

Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated under this section, a civil action may be brought by the Attorney General, at the request of the Secretary, in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of this section.

(2) Costs

For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

(g) Regulations

The Secretary may promulgate regulations to carry out this section.

(h) Definitions

For the purpose of this section—

(1) the term ''contract'' means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

(2) the term ''foreign source'' means—

(A) a foreign government, including an agency of a foreign government;

(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

(3) the term ''gift'' means any gift of money or property;

(4) the term ''institution'' means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State, that—

(A) is legally authorized within such State to provide a program of education beyond secondary school;

(B) provides a program for which the institution awards a bachelor's degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of the institution's subunits; and

(5) the term ''restricted or conditional gift or contract'' means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding—

(A) the employment, assignment, or termination of faculty;

(B) the establishment of departments, centers, research or lecture programs, or new faculty positions;

(C) the selection or admission of students; or

(D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

(Pub. L. 89–329, title I, §117, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1593.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145d of this title prior to repeal by Pub. L. 105–244.

A prior section 1011f, Pub. L. 89–329, title I, §127, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 464, related to priority grant applications, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011g. Application of peer review process

All applications submitted under the provisions of this chapter which require peer review shall be read by a panel of readers composed of individuals selected by the Secretary, which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

(Pub. L. 89–329, title I, §118, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1595.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1145d–1 of this title prior to repeal by Pub. L. 105–244.

A prior section 1011g, Pub. L. 89–329, title I, §128, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 464, related to reports and evaluation of programs, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011h. Binge drinking on college campuses

(a) Short title

This section may be cited as the ''Collegiate Initiative To Reduce Binge Drinking and Illegal Alcohol Consumption''.

(b) Sense of Congress

It is the sense of Congress that, in an effort to change the culture of alcohol consumption on college campuses, all institutions of higher education should carry out the following:

(1) The president of the institution should appoint a task force consisting of school administrators, faculty, students, Greek system representatives, and others to conduct a full examination of student and academic life at the institution. The task force should make recommendations for a broad range of policy and program changes that would serve to reduce alcohol and other drug-related problems. The institution should provide resources to assist the task force in promoting the campus policies and proposed environmental changes that have been identified.

(2) The institution should provide maximum opportunities for students to live in an alcohol-free environment and to engage in stimulating, alcohol-free recreational and leisure activities.

(3) The institution should enforce a ''zero tolerance'' policy on the illegal consumption of alcohol by students at the institution.

(4) The institution should vigorously enforce the institution's code of disciplinary sanctions for those who violate campus alcohol policies. Students with alcohol or other drug-related problems should be referred for assistance, including on-campus counseling programs if appropriate.

(5) The institution should adopt a policy to discourage alcoholic beverage-related sponsorship of on-campus activities. It should adopt policies limiting the advertisement and promotion of alcoholic beverages on campus.

(6) The institution should work with the local community, including local businesses, in a ''Town/Gown'' alliance to encourage responsible policies toward alcohol consumption and to address illegal alcohol use by students.

(Pub. L. 89–329, title I, §119, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1596.)

PRIOR PROVISIONS

A prior section 1011h, Pub. L. 89–329, title I, §129, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 465, authorized appropriations to carry out the articulation agreements grant program, prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1011i. Drug and alcohol abuse prevention

(a) Restriction on eligibility

Notwithstanding any other provision of law, no institution of higher education shall be eligible to receive funds or any other form of financial assistance under any Federal program, including participation in any federally funded or guaranteed student loan program, unless the institution certifies to the Secretary that the institution has adopted and has implemented a program to prevent the use of illicit drugs and the abuse of alcohol by students and employees that, at a minimum, includes—

(1) the annual distribution to each student and employee of—

(A) standards of conduct that clearly prohibit, at a minimum, the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees on the institution's property or as part of any of the institution's activities;

(B) a description of the applicable legal sanctions under local, State, or Federal law for the unlawful possession or distribution of illicit drugs and alcohol;

(C) a description of the health-risks associated with the use of illicit drugs and the abuse of alcohol;

(D) a description of any drug or alcohol counseling, treatment, or rehabilitation or re-entry programs that are available to employees or students; and

(E) a clear statement that the institution will impose sanctions on students and employees (consistent with local, State, and Federal law), and a description of those sanctions, up to and including expulsion or termination of employment and referral for prosecution, for violations of the standards of conduct required by subparagraph (A); and

(2) a biennial review by the institution of the institution's program to—

(A) determine the program's effectiveness and implement changes to the program if the changes are needed; and

(B) ensure that the sanctions required by paragraph (1)(E) are consistently enforced.

(b) Information availability

Each institution of higher education that provides the certification required by subsection (a) of this section shall, upon request, make available to the Secretary and to the public a copy of each item required by subsection (a)(1) of this section as well as the results of the biennial review required by subsection (a)(2) of this section.

(c) Regulations

(1) In general

The Secretary shall publish regulations to implement and enforce the provisions of this section, including regulations that provide for—

(A) the periodic review of a representative sample of programs required by subsection (a) of this section; and

(B) a range of responses and sanctions for institutions of higher education that fail to implement their programs or to consistently enforce their sanctions, including information and technical assistance, the development of a compliance agreement, and the termination of any form of Federal financial assistance.

(2) Rehabilitation program

The sanctions required by subsection (a)(1)(E) of this section may include the completion of an appropriate rehabilitation program.

(d) Appeals

Upon determination by the Secretary to terminate financial assistance to any institution of higher education under this section, the institution may file an appeal with an administrative law judge before the expiration of the 30-day period beginning on the date such institution is notified of the decision to terminate financial assistance under this section. Such judge shall hold a hearing with respect to such termination of assistance before the expiration of the 45-day period beginning on the date that such appeal is filed. Such judge may extend such 45-day period upon a motion by the institution concerned. The decision of the judge with respect to such termination shall be considered to be a final agency action.

(e) Alcohol and drug abuse prevention grants

(1) Program authority

The Secretary may make grants to institutions of higher education or consortia of such institutions, and enter into contracts with such institutions, consortia, and other organizations, to develop, implement, operate, improve, and disseminate programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and the violence associated with such use. Such grants or contracts may also be used for the support of a higher education center for alcohol and drug abuse prevention that will provide training, technical assistance, evaluation, dissemination, and associated services and assistance to the higher education community as determined by the Secretary and institutions of higher education.

(2) Awards

Grants and contracts shall be awarded under paragraph (1) on a competitive basis.

(3) Applications

An institution of higher education, a consortium of such institutions, or another organiza-

tion that desires to receive a grant or contract under paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

(4) Additional requirements

(A) Participation

In awarding grants and contracts under this subsection the Secretary shall make every effort to ensure—

(i) the equitable participation of private and public institutions of higher education (including community and junior colleges); and

(ii) the equitable geographic participation of such institutions.

(B) Consideration

In awarding grants and contracts under this subsection the Secretary shall give appropriate consideration to institutions of higher education with limited enrollment.

(5) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(f) National Recognition Awards

(1) Purpose

It is the purpose of this subsection to provide models of innovative and effective alcohol and drug abuse prevention programs in higher education and to focus national attention on exemplary alcohol and drug abuse prevention efforts.

(2) Awards

(A) In general

The Secretary shall make 5 National Recognition Awards for outstanding alcohol prevention programs and 5 National Recognition Awards for outstanding drug abuse prevention programs, on an annual basis, to institutions of higher education that—

(i) have developed and implemented innovative and effective alcohol prevention programs or drug abuse prevention programs; and

(ii) with respect to an application for an alcohol prevention program award, demonstrate in the application submitted under paragraph (3) that the institution has undertaken efforts designed to change the culture of college drinking consistent with the review criteria described in paragraph (3)(C)(iii).

(B) Ceremony

The awards shall be made at a ceremony in Washington, D.C.

(C) Document

The Secretary shall publish a document describing the alcohol and drug abuse prevention programs of institutions of higher education that receive the awards under this subsection and disseminate the document nationally to all public and private secondary school guidance counselors for use by secondary school juniors and seniors preparing to enter an institution of higher education. The document shall be disseminated not later than January 1 of each academic year.

(D) Amount and use

Each institution of higher education selected to receive an award under this subsection shall receive an award in the amount of $50,000. Such award shall be used for the maintenance and improvement of the institution's outstanding prevention program for the academic year following the academic year for which the award is made.

(3) Application

(A) In general

Each institution of higher education desiring an award under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall contain—

(i) a clear description of the goals and objectives of the prevention program of the institution;

(ii) a description of program activities that focus on alcohol or drug policy issues, policy development, modification, or refinement, policy dissemination and implementation, and policy enforcement;

(iii) a description of activities that encourage student and employee participation and involvement in activity development and implementation;

(iv) the objective criteria used to determine the effectiveness of the methods used in such programs and the means used to evaluate and improve the programs' efforts;

(v) a description of special initiatives used to reduce high-risk behavior or increase low-risk behavior; and

(vi) a description of coordination and networking efforts that exist in the community in which the institution is located for purposes of such programs.

(B) Application review

The Secretary shall appoint a committee to review applications submitted under this paragraph. The committee may include representatives of Federal departments or agencies the programs of which include alcohol abuse prevention and education efforts and drug abuse prevention and education efforts, directors or heads (or their representatives) of professional associations that focus on alcohol and drug abuse prevention efforts, and non-Federal scientists who have backgrounds in social science evaluation and research methodology and in education. Decisions of the committee shall be made directly to the Secretary without review by any other entity in the Department.

(C) Review criteria

The committee described in subparagraph (B) shall develop specific review criteria for reviewing and evaluating applications sub-

mitted under this paragraph. The review criteria shall include—

(i) measures of the effectiveness of the program of the institution, that includes changes in the campus alcohol or other drug environment or the climate and changes in alcohol or other drug use before and after the initiation of the program;

(ii) measures of program institutionalization, including—

(I) an assessment of needs of the institution;

(II) the institution's alcohol and drug policies, staff and faculty development activities, drug prevention criteria, student, faculty, and campus community involvement; and

(III) whether the program will be continued after the cessation of Federal funding; and

(iii) with respect to an application for an alcohol prevention program award, criteria for determining whether the institution has policies in effect that—

(I) prohibit alcoholic beverage sponsorship of athletic events, and prohibit alcoholic beverage advertising inside athletic facilities;

(II) prohibit alcoholic beverage marketing on campus, which may include efforts to ban alcohol advertising in institutional publications or efforts to prohibit alcohol-related advertisements at campus events;

(III) establish or expand upon alcohol-free living arrangements for all college students;

(IV) establish partnerships with community members and organizations to further alcohol prevention efforts on campus and the areas surrounding campus; and

(V) establish innovative communications programs involving students and faculty in an effort to educate students about alcohol-related risks.

(4) Eligibility

In order to be eligible to receive a National Recognition Award an institution of higher education shall—

(A) offer an associate or baccalaureate degree;

(B) have established an alcohol abuse prevention and education program or a drug abuse prevention and education program;

(C) nominate itself or be nominated by others, such as professional associations or student organizations, to receive the award; and

(D) not have received an award under this subsection during the 5 academic years preceding the academic year for which the determination is made.

(5) Authorization of appropriations

(A) In general

There is authorized to be appropriated to carry out this subsection $750,000 for fiscal year 1999.

(B) Availability

Funds appropriated under subparagraph (A) shall remain available until expended.

(Pub. L. 89–329, title I, § 120, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1596.)

PRIOR PROVISIONS

Provisions similar to subsecs. (a) to (d) of this section were contained in section 1145g of this title prior to repeal by Pub. L. 105–244.

§ 1011j. Prior rights and obligations

(a) Authorization of appropriations

(1) Pre-1987 parts C and D of subchapter VII

There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and for each of the 4 succeeding fiscal years to pay obligations incurred prior to 1987 under parts C and D of subchapter VII of this chapter, as such parts were in effect before the effective date of the Higher Education Amendments of 1992.

(2) Post-1992 and pre-1998 part C of subchapter VII

There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and for each of the 4 succeeding fiscal years to pay obligations incurred prior to October 7, 1998, under part C of subchapter VII of this chapter, as such part was in effect during the period—

(A) after the effective date of the Higher Education Amendments of 1992; and

(B) prior to October 7, 1998.

(b) Legal responsibilities

(1) Pre-1987 subchapter VII

All entities with continuing obligations incurred under parts A, B, C, and D of subchapter VII of this chapter, as such parts were in effect before the effective date of the Higher Education Amendments of 1992, shall be subject to the requirements of such part as in effect before the effective date of the Higher Education Amendments of 1992.

(2) Post-1992 and pre-1998 part C of subchapter VII

All entities with continuing obligations incurred under part C of subchapter VII of this chapter, as such part was in effect during the period—

(A) after the effective date of the Higher Education Amendments of 1992; and

(B) prior to October 7, 1998,

shall be subject to the requirements of such part as such part was in effect during such period.

(Pub. L. 89–329, title I, § 121, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1601.)

REFERENCES IN TEXT

Parts A, B, C, and D of subchapter VII of this chapter, as such parts were in effect before the effective date of the Higher Education Amendments of 1992, referred to in subsecs. (a)(1) and (b)(1), means parts A (§ 1132b et seq.), B (§ 1132c et seq.), C (§ 1132d et seq.), and D (§ 1132e et seq.) of subchapter VII of this chapter, as in effect before the effective date of Pub. L. 102–325. For effective date of Pub. L. 102–325, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment

note under section 1001 of this title. Pub. L. 102–325, title VII, §§703–707(a), July 23, 1992, 106 Stat. 738–753, amended subchapter VII of this chapter effective Oct. 1, 1992, by amending parts A to C generally, repealing part D, and redesignating former part E as D.

Part C of subchapter VII of this chapter, as such part was in effect during the period after the effective date of the Higher Education Amendments of 1992 and prior to October 7, 1998, referred to in subsecs. (a)(2) and (b)(2), probably means part C (§1132d et seq.) of subchapter VII of this chapter, as in effect during the period after the effective date of Pub. L. 102–325 and before it was amended by Pub. L. 105–244. For effective date of Pub. L. 102–325, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title. Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1786, amended subchapter VII of this chapter generally, effective Oct. 1, 1998, omitting part C which related to loans for construction, reconstruction, and renovation of academic housing, and other educational facilities and adding a new part C (§1139 et seq.) relating to urban community service.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1132a–1 of this title prior to the general amendment of subchapter VII of this chapter by Pub. L. 105–244.

A prior section 121 of Pub. L. 89–329, title I, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, related to adult learning research and was classified to section 1016 of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

§ 1011k. Recovery of payments

(a) Public benefit

Congress declares that, if a facility constructed with the aid of a grant under part A of subchapter VII of this chapter as such part A was in effect prior to October 7, 1998, or part B of such subchapter as part B was in effect prior to July 23, 1992, is used as an academic facility for 20 years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of 20 years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of such subchapter as so in effect.

(b) Recovery upon cessation of public benefit

If, within 20 years after completion of construction of an academic facility which has been constructed, in part with a grant under part A of subchapter VII of this chapter as such part A was in effect prior to October 7, 1998, or part B of subchapter VII of this chapter as such part B was in effect prior to July 23, 1992—

(1) the applicant under such parts as so in effect (or the applicant's successor in title or possession) ceases or fails to be a public or nonprofit institution; or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term ''academic facility'' (as such term was defined under subchapter VII of this chapter, as so in effect), unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(c) Prohibition on use for religion

Notwithstanding the provisions of subsections (a) and (b) of this section, no project assisted with funds under subchapter VII of this chapter (as in effect prior to October 7, 1998) shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

(Pub. L. 89–329, title I, §122, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1601.)

REFERENCES IN TEXT

Subchapter VII of this chapter, referred to in text, was amended, effective Oct. 1, 1992, by Pub. L. 102–325, title VII, §§703–707(a), July 23, 1992, 106 Stat. 738–753, by amending parts A to C generally, repealing part D, and redesignating former part E as D, and was further amended generally, effective Oct. 1, 1998, by Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1786, by substituting provisions relating to graduate and postsecondary improvement programs for former provisions relating to construction, reconstruction, and renovation of academic facilities.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1132i of this title prior to the general amendment of subchapter VII of this chapter by Pub. L. 105–244.

A prior section 122 of Pub. L. 89–329, title I, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286, limited funds authorized to be appropriated and was classified to section 1016a of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 1012, Pub. L. 89–329, title I, §112, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1282, related to establishment of off-campus program grants, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1012, Pub. L. 89–329, title I, §112, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1377, provided for State allotments including percentage breakdown and cases of States not conducting comprehensive statewide planning, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1013, Pub. L. 89–329, title I, §113, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1284, related to adult and continuing education staff development, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1013, Pub. L. 89–329, title I, §113, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1378; amended Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–524, §4(c)(1), Oct. 19, 1984, 98 Stat. 2488, related to comprehensive statewide planning with respect to education outreach programs, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1014, Pub. L. 89–329, title I, §114, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, related to administration of programs by Secretary, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1014, Pub. L. 89–329, title I, §114, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1379; amended Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–524, §4(c)(2), Oct. 19, 1984,

98 Stat. 2488, related to information services, prior to the general amendment of this subchapter by Pub. L. 99–498.

PART C—COST OF HIGHER EDUCATION

§ 1015. Improvements in market information and public accountability in higher education

(a) Improved data collection

(1) Development of uniform methodology

The Secretary shall direct the Commissioner of Education Statistics to convene a series of forums to develop nationally consistent methodologies for reporting costs incurred by postsecondary institutions in providing postsecondary education.

(2) Redesign of data systems

On the basis of the methodologies developed pursuant to paragraph (1), the Secretary shall redesign relevant parts of the postsecondary education data systems to improve the usefulness and timeliness of the data collected by such systems.

(3) Information to institutions

The Commissioner of Education Statistics shall—

(A) develop a standard definition for the following data elements:

(i) tuition and fees for a full-time undergraduate student;

(ii) cost of attendance for a full-time undergraduate student, consistent with the provisions of section 1087*ll* of this title;

(iii) average amount of financial assistance received by an undergraduate student who attends an institution of higher education, including—

(I) each type of assistance or benefit described in section 1078(a)(2)(C)(i)[1] of this title;

(II) fellowships; and

(III) institutional and other assistance; and

(iv) number of students receiving financial assistance described in each of subclauses (I), (II), and (III) of clause (iii);

(B) not later than 90 days after October 7, 1998, report the definitions to each institution of higher education and within a reasonable period of time thereafter inform the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives of those definitions; and

(C) collect information regarding the data elements described in subparagraph (A) with respect to at least all institutions of higher education participating in programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, beginning with the information from academic year 2000–2001 and annually thereafter.

(b) Data dissemination

The Secretary shall make available the data collected pursuant to subsection (a) of this section. Such data shall be available in a form that permits the review and comparison of the data submissions of individual institutions of higher education. Such data shall be presented in a form that is easily understandable and allows parents and students to make informed decisions based on the costs for typical full-time undergraduate students.

(c) Study

(1) In general

The Commissioner of Education Statistics shall conduct a national study of expenditures at institutions of higher education. Such study shall include information with respect to—

(A) the change in tuition and fees compared with the consumer price index and other appropriate measures of inflation;

(B) faculty salaries and benefits;

(C) administrative salaries, benefits and expenses;

(D) academic support services;

(E) research;

(F) operations and maintenance; and

(G) institutional expenditures for construction and technology and the potential cost of replacing instructional buildings and equipment.

(2) Evaluation

The study shall include an evaluation of—

(A) changes over time in the expenditures identified in paragraph (1);

(B) the relationship of the expenditures identified in paragraph (1) to college costs; and

(C) the extent to which increases in institutional financial aid and tuition discounting practices affect tuition increases, including the demographics of students receiving such discounts, the extent to which financial aid is provided to students with limited need in order to attract a student to a particular institution, and the extent to which Federal financial aid, including loan aid, has been used to offset the costs of such practices.

(3) Final report

The Commissioner of Education Statistics shall submit a report regarding the findings of the study required by paragraph (1) to the appropriate committees of Congress not later than September 30, 2002.

(4) Higher education market basket

The Bureau of Labor Statistics, in consultation with the Commissioner of Education Statistics, shall develop a higher education market basket that identifies the items that comprise the costs of higher education. The Bureau of Labor Statistics shall provide a report on the market basket to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 2002.

(5) Fines

In addition to actions authorized in section 1094(c) of this title, the Secretary may impose a fine in an amount not to exceed $25,000 on an

[1] See References in Text note below.

institution of higher education for failing to provide the information described in paragraph (1) in a timely and accurate manner, or for failing to otherwise cooperate with the National Center for Education Statistics regarding efforts to obtain data on the cost of higher education under this section and pursuant to the program participation agreement entered into under section 1094 of this title.

(d) Student aid recipient survey

(1) The Secretary shall survey student aid recipients on a regular cycle, but not less than once every 3 years—

(A) to identify the population of students receiving Federal student aid;

(B) to determine the income distribution and other socioeconomic characteristics of federally aided students;

(C) to describe the combinations of aid from State, Federal, and private sources received by students from all income groups;

(D) to describe the debt burden of loan recipients and their capacity to repay their education debts; and

(E) to disseminate such information in both published and machine readable form.

(2) The survey shall be representative of full-time and part-time, undergraduate, graduate, and professional and current and former students in all types of institutions, and should be designed and administered in consultation with the Congress and the postsecondary education community.

(Pub. L. 89–329, title I, §131, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1602.)

REFERENCES IN TEXT

Section 1078(a)(2)(C) of this title, referred to in subsec. (a)(3)(A)(iii)(I), was amended generally by Pub. L. 105–244, title IV, §417(a)(1)(C), Oct. 7, 1998, 112 Stat. 1682, and, as so amended, provisions formerly appearing in cl. (i) are now contained in cl. (ii).

PRIOR PROVISIONS

A prior section 1015, Pub. L. 89–329, title I, §131, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 465, authorized grants to eligible partnerships for education telecommunications activities, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1015, Pub. L. 89–329, title I, §115, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, authorized appropriations for former part A of this subchapter, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1015, Pub. L. 89–329, title I, §115, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1380, related to continuing education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1015, Pub. L. 89–329, title I, §131, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2086, set out the Congressional findings with regard to the lifelong learning program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 131 of Pub. L. 89–329, title I, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286, related to National Advisory Council on Continuing Education and was classified to section 1017 of this title, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 1015a, Pub. L. 89–329, title I, §132, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 465, related to grant applications, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1015a, Pub. L. 89–329, title I, §132, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2087, set out scope of lifelong learning program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1015b, Pub. L. 89–329, title I, §133, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 466, related to activities for which grants could be used, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1015b, Pub. L. 89–329, title I, §133, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2087; amended Pub. L. 95–43, §1(a)(4), June 15, 1977, 91 Stat. 213, related to implementation of lifelong learning program by Assistant Secretary, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1015c, Pub. L. 89–329, title I, §134, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 466, defined ''public broadcasting entity'' for purposes of former part C of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1015c, Pub. L. 89–329, title I, §134, as added Pub. L. 94–482, title I, §101(g)(3), Oct. 12, 1976, 90 Stat. 2089, related to annual reports by Assistant Secretary and content of these reports, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1015d, Pub. L. 89–329, title I, §135, as added Pub. L. 102–325, title I, §101, July 23, 1992, 106 Stat. 466, required grant recipients to submit reports, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 1016, Pub. L. 89–329, title I, §121, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1285, related to adult learning research, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1016, Pub. L. 89–329, title I, §116, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1381, provided for Federal discretionary grants, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1016a, Pub. L. 89–329, title I, §122, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286, limited funds authorized to be appropriated, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 1017, Pub. L. 89–329, title I, §131, as added Pub. L. 99–498, title I, §101, Oct. 17, 1986, 100 Stat. 1286; Pub. L. 102–54, §13(g)(1)(A), June 13, 1991, 105 Stat. 275, related to National Advisory Council on Continuing Education, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1017, Pub. L. 89–329, title I, §117, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1382; amended Pub. L. 99–386, title I, §103(a), Aug. 22, 1986, 100 Stat. 821, related to establishment and administration of the National Advisory Council on Continuing Education, prior to the general amendment of this subchapter by Pub. L. 99–498.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

STUDENT RELATED DEBT STUDY REQUIRED

Pub. L. 105–244, title VIII, §803, Oct. 7, 1998, 112 Stat. 1805, provided that:

''(a) IN GENERAL.—The Secretary of Education shall conduct a study that analyzes the distribution and increase in student-related debt in terms of—

''(1) demographic characteristics, such as race or ethnicity, and family income;

''(2) type of institution and whether the institution is a public or private institution;

''(3) loan source, such as Federal, State, institutional or other, and, if the loan source is Federal, whether the loan is or is not subsidized;

''(4) academic field of study;

''(5) parent loans, and whether the parent loans are federally guaranteed, private, or property-secured such as home equity loans; and

''(6) relation of student debt or anticipated debt to—

''(A) students' decisions about whether and where to enroll in college and whether or how much to borrow in order to attend college;

''(B) the length of time it takes students to earn baccalaureate degrees;

''(C) students' decisions about whether and where to attend graduate school;

''(D) graduates' employment decisions;

''(E) graduates' burden of repayment as reflected by the graduates' ability to save for retirement or invest in a home; and

''(F) students' future earnings.

''(b) REPORT.—After conclusion of the study required by subsection (a), the Secretary of Education shall submit a final report regarding the findings of the study to the Committee on Labor and Human Resources [now Committee on Health, Education, Labor, and Pensions] of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 18 months after the date of enactment of the Higher Education Amendments of 1998 [Oct. 7, 1998].

''(c) INFORMATION.—After the study and report under this section are concluded, the Secretary of Education shall determine which information described in subsection (a) would be useful for families to know and shall include such information as part of the comparative information provided to families about the costs of higher education under the provisions of part C of title I [probably means part C of title I of Pub. L. 89–329, which is classified generally to this part].''

PART D—ADMINISTRATIVE PROVISIONS FOR DELIVERY OF STUDENT FINANCIAL ASSISTANCE

§ 1018. Performance-Based Organization for delivery of Federal student financial assistance

(a) Establishment and purpose

(1) Establishment

There is established in the Department a Performance-Based Organization (hereafter referred to as the ''PBO'') which shall be a discrete management unit responsible for managing the operational functions supporting the programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, as specified in subsection (b) of this section.

(2) Purposes

The purposes of the PBO are—

(A) to improve service to students and other participants in the student financial assistance programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, including making those programs more understandable to students and their parents;

(B) to reduce the costs of administering those programs;

(C) to increase the accountability of the officials responsible for administering the operational aspects of these programs;

(D) to provide greater flexibility in the management of the operational functions of the Federal student financial assistance programs;

(E) to integrate the information systems supporting the Federal student financial assistance programs;

(F) to implement an open, common, integrated system for the delivery of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42; and

(G) to develop and maintain a student financial assistance system that contains complete, accurate, and timely data to ensure program integrity.

(b) General authority

(1) Authority of Secretary

Notwithstanding any other provision of this part, the Secretary shall maintain responsibility for the development and promulgation of policy and regulations relating to the programs of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42. In the exercise of its functions, the PBO shall be subject to the direction of the Secretary. The Secretary shall—

(A) request the advice of, and work in cooperation with, the Chief Operating Officer in developing regulations, policies, administrative guidance, or procedures affecting the information systems administered by the PBO, and other functions performed by the PBO;

(B) request cost estimates from the Chief Operating Officer for system changes required by specific policies proposed by the Secretary; and

(C) assist the Chief Operating Officer in identifying goals for the administration and modernization of the delivery system for student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(2) PBO functions

Subject to paragraph (1), the PBO shall be responsible for administration of the information and financial systems that support student financial assistance programs authorized under this subchapter, excluding the development of policy relating to such programs but including the following:

(A) The administrative, accounting, and financial management functions of the delivery system for Federal student assistance, including—

(i) the collection, processing and transmission of applicant data to students, institutions and authorized third parties, as provided for in section 1090 of this title;

(ii) design and technical specifications for software development and systems supporting the delivery of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42;

(iii) all software and hardware acquisitions and all information technology contracts related to the delivery and management of student financial assistance under

subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42;

(iv) all aspects of contracting for the information and financial systems supporting student financial assistance programs under this subchapter; and

(v) providing all customer service, training, and user support related to systems that support those programs.

(B) Annual development of a budget for the operations and services of the PBO, in consultation with the Secretary, and for consideration and inclusion in the Department's annual budget submission.

(3) Additional functions

The Secretary may allocate to the PBO such additional functions as the Secretary and the Chief Operating Officer determine are necessary or appropriate to achieve the purposes of the PBO.

(4) Independence

Subject to paragraph (1), in carrying out its functions, the PBO shall exercise independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions.

(5) Audits and review

The PBO shall be subject to the usual and customary Federal audit procedures and to review by the Inspector General of the Department.

(6) Changes

(A) In general

The Secretary and the Chief Operating Officer shall consult concerning the effects of policy, market, or other changes on the ability of the PBO to achieve the goals and objectives established in the performance plan described in subsection (c) of this section.

(B) Revisions to agreement

The Secretary and the Chief Operating Officer may revise the annual performance agreement described in subsection (d)(4) of this section in light of policy, market, or other changes that occur after the Secretary and the Chief Operating Officer enter into the agreement.

(c) Performance plan and report

(1) Performance plan

(A) In general

Each year, the Secretary and Chief Operating Officer shall agree on, and make available to the public, a performance plan for the PBO for the succeeding 5 years that establishes measurable goals and objectives for the organization.

(B) Consultation

In developing the 5-year performance plan and any revision to the plan, the Secretary and the Chief Operating Officer shall consult with students, institutions of higher education, Congress, lenders, the Advisory Committee on Student Financial Assistance, and other interested parties not less than 30 days prior to the implementation of the performance plan or revision.

(C) Areas

The plan shall include a concise statement of the goals for a modernized system for the delivery of student financial assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 and identify action steps necessary to achieve such goals. The plan shall address the PBO's responsibilities in the following areas:

(i) Improving service

Improving service to students and other participants in student financial aid programs authorized under this subchapter, including making those programs more understandable to students and their parents.

(ii) Reducing costs

Reducing the costs of administering those programs.

(iii) Improvement and integration of support systems

Improving and integrating the information and delivery systems that support those programs.

(iv) Delivery and information system

Developing an open, common, and integrated delivery and information system for programs authorized under this subchapter.

(v) Other areas

Any other areas identified by the Secretary.

(2) Annual report

Each year, the Chief Operating Officer shall prepare and submit to Congress, through the Secretary, an annual report on the performance of the PBO, including an evaluation of the extent to which the PBO met the goals and objectives contained in the 5-year performance plan described in paragraph (1) for the preceding year. The annual report shall include the following:

(A) An independent financial audit of the expenditures of both the PBO and programs administered by the PBO.

(B) Financial and performance requirements applicable to the PBO under the Chief Financial Officer Act of 1990 and the Government Performance and Results Act of 1993.

(C) The results achieved by the PBO during the year relative to the goals established in the organization's performance plan.

(D) The evaluation rating of the performance of the Chief Operating Officer and senior managers under subsections (d)(4) and (e)(2) of this section, including the amounts of bonus compensation awarded to these individuals.

(E) Recommendations for legislative and regulatory changes to improve service to students and their families, and to improve program efficiency and integrity.

(F) Other such information as the Director of the Office of Management and Budget

shall prescribe for performance based organizations.

(3) Consultation with stakeholders

The Chief Operating Officer, in preparing the report described in paragraph (2), shall establish appropriate means to consult with borrowers, institutions, lenders, guaranty agencies, secondary markets, and others involved in the delivery system of student aid under this subchapter—

(A) regarding the degree of satisfaction with the delivery system; and

(B) to seek suggestions on means to improve the delivery system.

(d) Chief Operating Officer

(1) Appointment

The management of the PBO shall be vested in a Chief Operating Officer who shall be appointed by the Secretary to a term of not less than 3 and not more than 5 years, and compensated without regard to chapters 33, 51, and 53 of title 5. The Secretary shall appoint the Chief Operating Officer within 6 months after October 7, 1998. The appointment shall be made on the basis of demonstrated management ability and expertise in information technology, including experience with financial systems, and without regard to political affiliation or activity.

(2) Reappointment

The Secretary may reappoint the Chief Operating Officer to subsequent terms of not less than 3 and not more than 5 years, so long as the performance of the Chief Operating Officer, as set forth in the performance agreement described in paragraph (4), is satisfactory.

(3) Removal

The Chief Operating Officer may be removed by—

(A) the President; or

(B) the Secretary, for misconduct or failure to meet performance goals set forth in the performance agreement in paragraph (4).

The President or Secretary shall communicate the reasons for any such removal to the appropriate committees of Congress.

(4) Performance agreement

(A) In general

Each year, the Secretary and the Chief Operating Officer shall enter into an annual performance agreement, that shall set forth measurable organization and individual goals for the Chief Operating Officer.

(B) Transmittal

The final agreement, and any revision to the final agreement, shall be transmitted to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, and made publicly available.

(5) Compensation

(A) In general

The Chief Operating Officer is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(B) of such title. The compensation of the Chief Operating Officer shall be considered for purposes of section 207(c)(2)(A) of title 18 to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of such title.

(B) Bonus

In addition, the Chief Operating Officer may receive a bonus in an amount that does not exceed 50 percent of such annual rate of basic pay, based upon the Secretary's evaluation of the Chief Operating Officer's performance in relation to the goals set forth in the performance agreement described in paragraph (2).[1]

(C) Payment

Payment of a bonus under this[2] subparagraph (B) may be made to the Chief Operating Officer only to the extent that such payment does not cause the Chief Operating Officer's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3.

(e) Senior management

(1) Appointment

(A) In general

The Chief Operating Officer may appoint such senior managers as that officer determines necessary without regard to the provisions of title 5 governing appointments in the competitive service.

(B) Compensation

The senior managers described in subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Performance agreement

Each year, the Chief Operating Officer and each senior manager appointed under this subsection shall enter into an annual performance agreement that sets forth measurable organization and individual goals. The agreement shall be subject to review and renegotiation at the end of each term.

(3) Compensation

(A) In general

A senior manager appointed under this subsection may be paid at an annual rate of basic pay of not more than the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of such title. The compensation of a senior manager shall be considered for purposes of section 207(c)(2)(A) of title 18 to be the equivalent of

[1] So in original. Probably should be paragraph ''(4).''

[2] So in original. The word ''this'' probably should not appear.

that described under clause (ii) of section 207(c)(2)(A) of such title.

(B) Bonus

In addition, a senior manager may receive a bonus in an amount such that the manager's total annual compensation does not exceed 125 percent of the maximum rate of basic pay for the Senior Executive Service, including any applicable locality-based comparability payment, based upon the Chief Operating Officer's evaluation of the manager's performance in relation to the goals set forth in the performance agreement described in paragraph (2).

(4) Removal

A senior manager shall be removable by the Chief Operating Officer, or by the Secretary if the position of Chief Operating Officer is vacant.

(f) Student Loan Ombudsman

(1) Appointment

The Chief Operating Officer, in consultation with the Secretary, shall appoint a Student Loan Ombudsman to provide timely assistance to borrowers of loans made, insured, or guaranteed under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 by performing the functions described in paragraph (3).

(2) Public information

The Chief Operating Officer shall disseminate information about the availability and functions of the Ombudsman to borrowers and potential borrowers, as well as institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in those student loan programs.

(3) Functions of Ombudsman

The Ombudsman shall—

(A) in accordance with regulations of the Secretary, receive, review, and attempt to resolve informally complaints from borrowers of loans described in paragraph (1), including, as appropriate, attempts to resolve such complaints within the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in the loan programs described in paragraph (1)(A);[3] and

(B) compile and analyze data on borrower complaints and make appropriate recommendations.

(4) Report

Each year, the Ombudsman shall submit a report to the Chief Operating Officer, for inclusion in the annual report under subsection (c)(2) of this section, that describes the activities, and evaluates the effectiveness of the Ombudsman during the preceding year.

(g) Personnel flexibility

(1) Personnel ceilings

The PBO shall not be subject to any ceiling relating to the number or grade of employees.

[3] So in original. Par. (1) does not contain a subpar. (A).

(2) Administrative flexibility

The Chief Operating Officer shall work with the Office of Personnel Management to develop and implement personnel flexibilities in staffing, classification, and pay that meet the needs of the PBO, subject to compliance with title 5.

(3) Excepted service

The Chief Operating Officer may appoint, without regard to the provisions of title 5 governing appointments in the competitive service, not more than 25 technical and professional employees to administer the functions of the PBO. These employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(h) Establishment of fair and equitable system for measuring staff performance

The PBO shall establish an annual performance management system, subject to compliance with title 5, and consistent with applicable provisions of law and regulations, which strengthens the organizational effectiveness of the PBO by providing for establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the performance plan of the PBO and its performance planning procedures, including those established under the Government Performance and Results Act of 1993, and communicating such goals or objectives to employees.

(i) Report

The Secretary and the Chief Operating Officer, not later than 180 days after October 7, 1998, shall report to Congress on the proposed budget and sources of funding for the operation of the PBO.

(j) Authorization of appropriations

The Secretary shall allocate from funds made available under section 1087h of this title such funds as are appropriate to the functions assumed by the PBO. In addition, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this part, including transition costs.

(Pub. L. 89–329, title I, §141, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1604.)

REFERENCES IN TEXT

The Chief Financial Officer Act of 1990, referred to in subsec. (c)(2)(B), probably means the Chief Financial Officers Act of 1990, Pub. L. 101–576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of Title 31, Money and Finance, and Tables.

The Government Performance and Results Act of 1993, referred to in subsecs. (c)(2)(B) and (h), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

The provisions of title 5 governing appointments in the competitive service, referred to in subsecs. (e)(1)(A) and (g)(3), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1018, Pub. L. 89–329, title I, § 141, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102 Stat. 1514, set out purpose of former part D of this subchapter as being the development of student literacy corps programs, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1018, Pub. L. 89–329, title I, § 118, as added Pub. L. 96–374, title I, § 101(a), Oct. 3, 1980, 94 Stat. 1382, defined terms used in former part D of this subchapter, prior to the general amendment of this subchapter by Pub. L. 99–498.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

STUDY OF MARKET MECHANISMS IN FEDERAL STUDENT LOAN PROGRAMS

Pub. L. 105–244, title VIII, § 801, Oct. 7, 1998, 112 Stat. 1803, directed the Comptroller General and Secretary of Education, in consultation with a study group, to design and conduct a study to identify and evaluate means of establishing a market mechanism for the delivery of certain student loans made pursuant to title IV of the Higher Education Act (20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.) and to transmit a final report to congressional committees not later than May 15, 2001.

§ 1018a. Procurement flexibility

(a) Procurement authority

Subject to the authority of the Secretary, the Chief Operating Officer of a PBO may exercise the authority of the Secretary to procure property and services in the performance of functions managed by the PBO. For the purposes of this section, the term ''PBO'' includes the Chief Operating Officer of the PBO and any employee of the PBO exercising procurement authority under the preceding sentence.

(b) In general

Except as provided in this section, the PBO shall abide by all applicable Federal procurement laws and regulations when procuring property and services. The PBO shall—

(1) enter into contracts for information systems supporting the programs authorized under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 to carry out the functions set forth in section 1018(b)(2) of this title; and

(2) obtain the services of experts and consultants without regard to section 3109 of title 5 and set pay in accordance with such section.

(c) Service contracts

(1) Performance-based servicing contracts

The Chief Operating Officer shall, to the extent practicable, maximize the use of performance-based servicing contracts, consistent with guidelines for such contracts published by the Office of Federal Procurement Policy, to achieve cost savings and improve service.

(2) Fee for service arrangements

The Chief Operating Officer shall, when appropriate and consistent with the purposes of the PBO, acquire services related to the subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 delivery system from any entity that has the capability and capacity to meet the requirements for the system. The Chief Operating Officer is authorized to pay fees that are equivalent to those paid by other entities to an organization that provides an information system or service that meets the requirements of the PBO, as determined by the Chief Operating Officer.

(d) Two-phase source-selection procedures

(1) In general

The PBO may use a two-phase process for selecting a source for a procurement of property or services.

(2) First phase

The procedures for the first phase of the process for a procurement are as follows:

(A) Publication of notice

The contracting officer for the procurement shall publish a notice of the procurement in accordance with section 416 of title 41 and subsections (e), (f), and (g) of section 637 of title 15, except that the notice shall include only the following:

(i) A general description of the scope or purpose of the procurement that provides sufficient information on the scope or purpose for sources to make informed business decisions regarding whether to participate in the procurement.

(ii) A description of the basis on which potential sources are to be selected to submit offers in the second phase.

(iii) A description of the information that is to be required under subparagraph (B).

(iv) Any additional information that the contracting officer determines appropriate.

(B) Information submitted by offerors

Each offeror for the procurement shall submit basic information, such as information on the offeror's qualifications, the proposed conceptual approach, costs likely to be associated with the proposed conceptual approach, and past performance of the offeror on Federal Government contracts, together with any additional information that is requested by the contracting officer.

(C) Selection for second phase

The contracting officer shall select the offerors that are to be eligible to participate in the second phase of the process. The contracting officer shall limit the number of the selected offerors to the number of sources that the contracting officer determines is appropriate and in the best interests of the Federal Government.

(3) Second phase

(A) In general

The contracting officer shall conduct the second phase of the source selection process in accordance with sections 253a and 253b of title 41.

(B) Eligible participants

Only the sources selected in the first phase of the process shall be eligible to participate in the second phase.

(C) Single or multiple procurements

The second phase may include a single procurement or multiple procurements within the scope, or for the purpose, described in the notice pursuant to paragraph (2)(A).

(4) Procedures considered competitive

The procedures used for selecting a source for a procurement under this subsection shall be considered competitive procedures for all purposes.

(e) Use of simplified procedures for commercial items

Whenever the PBO anticipates that commercial items will be offered for a procurement, the PBO may use (consistent with the special rules for commercial items) the special simplified procedures for the procurement without regard to—

(1) any dollar limitation otherwise applicable to the use of those procedures; and

(2) the expiration of the authority to use special simplified procedures under section 4202(e) of the Clinger-Cohen Act of 1996 (110 Stat. 654; 10 U.S.C. 2304 note).

(f) Flexible wait periods and deadlines for submission of offers of noncommercial items

(1) Authority

In carrying out a procurement, the PBO may—

(A) apply a shorter waiting period for the issuance of a solicitation after the publication of a notice under section 416 of title 41 than is required under subsection (a)(3)(A) of such section; and

(B) notwithstanding subsection (a)(3) of such section, establish any deadline for the submission of bids or proposals that affords potential offerors a reasonable opportunity to respond to the solicitation.

(2) Inapplicability to commercial items

Paragraph (1) does not apply to a procurement of a commercial item.

(3) Consistency with applicable international agreements

If an international agreement is applicable to the procurement, any exercise of authority under paragraph (1) shall be consistent with the international agreement.

(g) Modular contracting

(1) In general

The PBO may satisfy the requirements of the PBO for a system incrementally by carrying out successive procurements of modules of the system. In doing so, the PBO may use procedures authorized under this subsection to procure any such module after the first module.

(2) Utility requirement

A module may not be procured for a system under this subsection unless the module is useful independently of the other modules or useful in combination with another module previously procured for the system.

(3) Conditions for use of authority

The PBO may use procedures authorized under paragraph (4) for the procurement of an additional module for a system if—

(A) competitive procedures were used for awarding the contract for the procurement of the first module for the system; and

(B) the solicitation for the first module included—

(i) a general description of the entire system that was sufficient to provide potential offerors with reasonable notice of the general scope of future modules;

(ii) other information sufficient for potential offerors to make informed business judgments regarding whether to submit offers for the contract for the first module; and

(iii) a statement that procedures authorized under this subsection could be used for awarding subsequent contracts for the procurement of additional modules for the system.

(4) Procedures

If the procurement of the first module for a system meets the requirements set forth in paragraph (3), the PBO may award a contract for the procurement of an additional module for the system using any of the following procedures:

(A) Sole source

Award of the contract on a sole-source basis to a contractor who was awarded a contract for a module previously procured for the system under competitive procedures or procedures authorized under subparagraph (B).

(B) Adequate competition

Award of the contract on the basis of offers made by—

(i) a contractor who was awarded a contract for a module previously procured for the system after having been selected for award of the contract under this subparagraph or other competitive procedures; and

(ii) at least one other offeror that submitted an offer for a module previously procured for the system and is expected, on the basis of the offer for the previously procured module, to submit a competitive offer for the additional module.

(C) Other

Award of the contract under any other procedure authorized by law.

(5) Notice requirement

(A) Publication

Not less than 30 days before issuing a solicitation for offers for a contract for a module for a system under procedures authorized under subparagraph (A) or (B) of paragraph (4), the PBO shall publish in the Commerce Business Daily a notice of the intent to use such procedures to enter into the contract.

(B) Exception

Publication of a notice is not required under this paragraph with respect to a use of

procedures authorized under paragraph (4) if the contractor referred to in that subparagraph (who is to be solicited to submit an offer) has previously provided a module for the system under a contract that contained cost, schedule, and performance goals and the contractor met those goals.

(C) Content of notice

A notice published under subparagraph (A) with respect to a use of procedures described in paragraph (4) shall contain the information required under section 416(b) of title 41, other than paragraph (4) of such section, and shall invite the submission of any assertion that the use of the procedures for the procurement involved is not in the best interest of the Federal Government together with information supporting the assertion.

(6) Documentation

The basis for an award of a contract under this subsection shall be documented. However, a justification pursuant to section 253(f) of title 41 or section 637(h) of title 15 is not required.

(7) Simplified source-selection procedures

The PBO may award a contract under any other simplified procedures prescribed by the PBO for the selection of sources for the procurement of modules for a system, after the first module, that are not to be procured under a contract awarded on a sole-source basis.

(h) Use of simplified procedures for small business set-asides for services other than commercial items

(1) Authority

The PBO may use special simplified procedures for a procurement of services that are not commercial items if—

(A) the procurement is in an amount not greater than $1,000,000;

(B) the procurement is conducted as a small business set-aside pursuant to section 644(a) of title 15; and

(C) the price charged for supplies associated with the services procured are items of supply expected to be less than 20 percent of the total contract price.

(2) Inapplicability to certain procurements

The authority set forth in paragraph (1) may not be used for—

(A) an award of a contract on a sole-source basis; or

(B) a contract for construction.

(i) Guidance for use of authority

(1) Issuance by PBO

The Chief Operating Officer of the PBO, in consultation with the Administrator for Federal Procurement Policy, shall issue guidance for the use by PBO personnel of the authority provided in this section.

(2) Guidance from OFPP

As part of the consultation required under paragraph (1), the Administrator for Federal Procurement Policy shall provide the PBO with guidance that is designed to ensure, to the maximum extent practicable, that the authority under this section is exercised by the PBO in a manner that is consistent with the exercise of the authority by the heads of the other performance-based organizations.

(3) Compliance with OFPP guidance

The head of the PBO shall ensure that the procurements of the PBO under this section are carried out in a manner that is consistent with the guidance provided for the PBO under paragraph (2).

(j) Limitation on multiagency contracting

No department or agency of the Federal Government may purchase property or services under contracts entered into or administered by a PBO under this section unless the purchase is approved in advance by the senior procurement official of that department or agency who is responsible for purchasing by the department or agency.

(k) Laws not affected

Nothing in this section shall be construed to waive laws for the enforcement of civil rights or for the establishment and enforcement of labor standards that are applicable to contracts of the Federal Government.

***(l)* Definitions**

In this section:

(1) Commercial item

The term ''commercial item'' has the meaning given the term in section 403(12) of title 41.

(2) Competitive procedures

The term ''competitive procedures'' has the meaning given the term in section 259(b) of title 41.

(3) Sole-source basis

The term ''sole-source basis'', with respect to an award of a contract, means that the contract is awarded to a source after soliciting an offer or offers from, and negotiating with, only that source.

(4) Special rules for commercial items

The term ''special rules for commercial items'' means the regulations set forth in the Federal Acquisition Regulation pursuant to section 253(g)(1) of title 41 and section 427 of title 41.

(5) Special simplified procedures

The term ''special simplified procedures'' means the procedures applicable to purchases of property and services for amounts not greater than the simplified acquisition threshold that are set forth in the Federal Acquisition Regulation pursuant to section 253(g)(1)(B) of title 41 and section 427(a)(1) of title 41.

(Pub. L. 89–329, title I, § 142, as added Pub. L. 105–244, title I, § 101(a), Oct. 7, 1998, 112 Stat. 1611.)

REFERENCES IN TEXT

Section 4202(e) of the Clinger-Cohen Act of 1996, referred to in subsec. (e)(2), is section 4202(e) of Pub. L. 104–106, which is set out as a note under section 2304 of Title 10, Armed Forces.

PRIOR PROVISIONS

A prior section 1018a, Pub. L. 89–329, title I, § 142, as added Pub. L. 100–418, title VI, § 6201, Aug. 23, 1988, 102

Stat. 1515, related to grants for literacy corps programs, prior to the general amendment of this subchapter by Pub. L. 102–325.

§ 1018b. Administrative simplification of student aid delivery

(a) In general

In order to improve the efficiency and effectiveness of the student aid delivery system, the Secretary and the Chief Operating Officer shall encourage and participate in the establishment of voluntary consensus standards and requirements for the electronic transmission of information necessary for the administration of programs under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42.

(b) Participation in standard setting organizations

(1) The Chief Operating Officer shall participate in the activities of standard setting organizations in carrying out the provisions of this section.

(2) The Chief Operating Officer shall encourage higher education groups seeking to develop common forms, standards, and procedures in support of the delivery of Federal student financial assistance to conduct these activities within a standard setting organization.

(3) The Chief Operating Officer may pay necessary dues and fees associated with participating in standard setting organizations pursuant to this subsection.

(c) Adoption of voluntary consensus standards

Except with respect to the common financial reporting form under section 1090(a) of this title, the Secretary shall consider adopting voluntary consensus standards agreed to by the organization described in subsection (b) of this section for transactions required under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42, and common data elements for such transactions, to enable information to be exchanged electronically between systems administered by the Department and among participants in the Federal student aid delivery system.

(d) Use of clearinghouses

Nothing in this section shall restrict the ability of participating institutions and lenders from using a clearinghouse or servicer to comply with the standards for the exchange of information established under this section.

(e) Data security

Any entity that maintains or transmits information under a transaction covered by this section shall maintain reasonable and appropriate administrative, technical, and physical safeguards—

(1) to ensure the integrity and confidentiality of the information; and

(2) to protect against any reasonably anticipated security threats, or unauthorized uses or disclosures of the information.

(f) Definitions

(1) Clearinghouse

The term ''clearinghouse'' means a public or private entity that processes or facilitates the processing of nonstandard data elements into data elements conforming to standards adopted under this section.

(2) Standard setting organization

The term ''standard setting organization'' means an organization that—

(A) is accredited by the American National Standards Institute;

(B) develops standards for information transactions, data elements, or any other standard that is necessary to, or will facilitate, the implementation of this section; and

(C) is open to the participation of the various entities engaged in the delivery of Federal student financial assistance.

(3) Voluntary consensus standard

The term ''voluntary consensus standard'' means a standard developed or used by a standard setting organization described in paragraph (2).

(Pub. L. 89–329, title I, §143, as added Pub. L. 105–244, title I, §101(a), Oct. 7, 1998, 112 Stat. 1615.)

PRIOR PROVISIONS

Prior sections 1018b to 1018f were omitted in the general amendment of this subchapter by Pub. L. 102–325.

Section 1018b, Pub. L. 89–329, title I, §143, as added Pub. L. 100–418, title VI, §6201, Aug. 23, 1988, 102 Stat. 1515, related to use of funds.

Section 1018c, Pub. L. 89–329, title I, §144, as added Pub. L. 100–418, title VI, §6201, Aug. 23, 1988, 102 Stat. 1515; Pub. L. 101–610, title II, §221(a), (b), Nov. 16, 1990, 104 Stat. 3180, related to applications.

Section 1018d, Pub. L. 89–329, title I, §145, as added Pub. L. 100–418, title VI, §6201, Aug. 23, 1988, 102 Stat. 1516, related to technical assistance and coordination contracts.

Section 1018e, Pub. L. 89–329, title I, §146, as added Pub. L. 100–418, title VI, §6201, Aug. 23, 1988, 102 Stat. 1516; Pub. L. 101–305, §5, May 30, 1990, 104 Stat. 258; Pub. L. 101–610, title II, §221(c), Nov. 16, 1990, 104 Stat. 3180, related to authorization of appropriations.

Section 1018f, Pub. L. 89–329, title I, §147, as added Pub. L. 100–418, title VI, §6201, Aug. 23, 1988, 102 Stat. 1516, defined ''public community agency'', ''institution of higher education'' and ''Secretary''.

A prior section 1019, Pub. L. 89–329, title I, §119, as added Pub. L. 96–374, title I, §101(a), Oct. 3, 1980, 94 Stat. 1383, authorized appropriations for education outreach programs, prior to the general amendment of this subchapter by Pub. L. 99–498.

SUBCHAPTER II—TEACHER QUALITY ENHANCEMENT

CODIFICATION

Pub. L. 107–110, title X, §1051(1), Jan. 8, 2002, 115 Stat. 2080, added heading and struck out former heading which read as follows: ''TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS''.

PRIOR PROVISIONS

A prior title II of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title II, Nov. 8, 1965, 79 Stat. 1224, and amended by Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 96–49; Aug. 13, 1979, 93 Stat. 351. Title II was extensively revised by Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1383, and was set out in this subchapter as

having been added by Pub. L. 96–374, and amended, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

PART A—TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS

CODIFICATION

Pub. L. 107–110, title X, §1051(1), Jan. 8, 2002, 115 Stat. 2080, added heading.

§ 1021. Purposes; definitions

(a) Purposes

The purposes of this part are to—

(1) improve student achievement;

(2) improve the quality of the current and future teaching force by improving the preparation of prospective teachers and enhancing professional development activities;

(3) hold institutions of higher education accountable for preparing teachers who have the necessary teaching skills and are highly competent in the academic content areas in which the teachers plan to teach, such as mathematics, science, English, foreign languages, history, economics, art, civics, Government, and geography, including training in the effective uses of technology in the classroom; and

(4) recruit highly qualified individuals, including individuals from other occupations, into the teaching force.

(b) Definitions

In this part:

(1) Arts and sciences

The term ''arts and sciences'' means—

(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers 1 or more academic majors in disciplines or content areas corresponding to the academic subject matter areas in which teachers provide instruction; and

(B) when referring to a specific academic subject matter area, the disciplines or content areas in which academic majors are offered by the arts and science organizational unit.

(2) High need local educational agency

The term ''high need local educational agency'' means a local educational agency that serves an elementary school or secondary school located in an area in which there is—

(A) a high percentage of individuals from families with incomes below the poverty line;

(B) a high percentage of secondary school teachers not teaching in the content area in which the teachers were trained to teach; or

(C) a high teacher turnover rate.

(3) Poverty line

The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved.

(Pub. L. 89–329, title II, §201, as added Pub. L. 105–244, title II, §201, Oct. 7, 1998, 112 Stat. 1623; amended Pub. L. 107–110, title X, §1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1021, Pub. L. 89–329, title II, §201, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1383; amended Pub. L. 99–498, title II, §201(b), (c), Oct. 17, 1986, 100 Stat. 1287; Pub. L. 100–418, title VI, §6241, Aug. 23, 1988, 102 Stat. 1520; Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 467, related to congressional statement of purpose and authorization of appropriations, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1021, Pub. L. 89–329, title II, §201, as added Pub. L. 92–318, title I, §111(b)(1), June 23, 1972, 86 Stat. 238; amended Pub. L. 94–482, title I, §106, Oct. 12, 1976, 90 Stat. 2089; Pub. L. 96–49, §3(a), Aug. 13, 1979, 93 Stat. 351, provided for college library programs, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1021, Pub. L. 89–329, title II, §201, Nov. 8, 1965, 79 Stat. 1224; Pub. L. 90–575, title II, §211, Oct. 16, 1968, 82 Stat. 1036; Pub. L. 92–318, title I, §111(a)(1), June 23, 1972, 86 Stat. 238, authorized appropriations of $50,000,000 for each fiscal year ending June 30, 1966, 1967, and 1968, and $25,000,000; $75,000,000; $90,000,000; and $18,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, for library resources grants, prior to repeal by Pub. L. 92–318, title I, §111(b)(1), June 23, 1972, 86 Stat. 238.

AMENDMENTS

2002—Subsecs. (a), (b). Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' in introductory provisions.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1022. State grants

(a) In general

From amounts made available under section 1030(1) of this title for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible States to enable the eligible States to carry out the activities described in subsection (d) of this section.

(b) Eligible State

(1) Definition

In this part, the term ''eligible State'' means—

(A) the Governor of a State; or

(B) in the case of a State for which the constitution or law of such State designates another individual, entity, or agency in the State to be responsible for teacher certification and preparation activity, such individual, entity, or agency.

(2) Consultation

The Governor and the individual, entity, or agency designated under paragraph (1) shall

consult with the Governor, State board of education, State educational agency, or State agency for higher education, as appropriate, with respect to the activities assisted under this section.

(3) Construction

Nothing in this subsection shall be construed to negate or supersede the legal authority under State law of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official.

(c) Application

To be eligible to receive a grant under this section, an eligible State shall, at the time of the initial grant application, submit an application to the Secretary that—

(1) meets the requirement of this section;

(2) includes a description of how the eligible State intends to use funds provided under this section; and

(3) contains such other information and assurances as the Secretary may require.

(d) Uses of funds

An eligible State that receives a grant under this section shall use the grant funds to reform teacher preparation requirements, and to ensure that current and future teachers possess the necessary teaching skills and academic content knowledge in the subject areas in which the teachers are assigned to teach, by carrying out 1 or more of the following activities:

(1) Reforms

Implementing reforms that hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content areas in which the teachers plan to teach, and possess strong teaching skills, which may include the use of rigorous subject matter competency tests and the requirement that a teacher have an academic major in the subject area, or related discipline, in which the teacher plans to teach.

(2) Certification or licensure requirements

Reforming teacher certification or licensure requirements to ensure that teachers have the necessary teaching skills and academic content knowledge in the subject areas in which teachers are assigned to teach.

(3) Alternatives to traditional preparation for teaching

Providing prospective teachers with alternatives to traditional preparation for teaching through programs at colleges of arts and sciences or at nonprofit educational organizations.

(4) Alternative routes to State certification

Carrying out programs that—

(A) include support during the initial teaching experience; and

(B) establish, expand, or improve alternative routes to State certification of teachers for highly qualified individuals, including mid-career professionals from other occupations, paraprofessionals, former military personnel and recent college graduates with records of academic distinction.

(5) Recruitment; pay; removal

Developing and implementing effective mechanisms to ensure that local educational agencies and schools are able to effectively recruit highly qualified teachers, to financially reward those teachers and principals whose students have made significant progress toward high academic performance, such as through performance-based compensation systems and access to ongoing professional development opportunities for teachers and administrators, and to expeditiously remove incompetent or unqualified teachers consistent with procedures to ensure due process for the teachers.

(6) Social promotion

Development and implementation of efforts to address the problem of social promotion and to prepare teachers to effectively address the issues raised by ending the practice of social promotion.

(7) Recruitment

Activities described in section 1024(d) of this title.

(Pub. L. 89–329, title II, § 202, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1624; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1022, Pub. L. 89–329, title II, § 202, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1384; amended Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 468, required each institution of higher education receiving grants under this subchapter to annually notify designated State agency of its activities under this subchapter, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1022, Pub. L. 89–329, title II, § 202, Nov. 8, 1965, 79 Stat. 1224; Pub. L. 89–752, § 9, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title II, § 214(a), Oct. 16, 1968, 82 Stat. 1037; Pub. L. 92–318, title I, §§ 111(b)(2)(A), 112(a), (b)(1), June 23, 1972, 86 Stat. 238, 240, related to the basic grants for the college library resources program, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' in introductory provisions.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 1023. Partnership grants

(a) Grants

From amounts made available under section 1030(2) of this title for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible partnerships to enable the eligible partnerships to carry out the activities described in subsections (d) and (e) of this section.

(b) Definitions

(1) Eligible partnerships

In this part, the term ''eligible partnerships'' means an entity that—

(A) shall include—

(i) a partner institution;

(ii) a school of arts and sciences; and

(iii) a high need local educational agency; and

(B) may include a Governor, State educational agency, the State board of education, the State agency for higher education, an institution of higher education not described in subparagraph (A), a public charter school, a public or private elementary school or secondary school, a public or private nonprofit educational organization, a business, a teacher organization, or a prekindergarten program.

(2) Partner institution

In this section, the term ''partner institution'' means a private independent or State-supported public institution of higher education, the teacher training program of which demonstrates that—

(A) graduates from the teacher training program exhibit strong performance on State-determined qualifying assessments for new teachers through—

(i) demonstrating that 80 percent or more of the graduates of the program who intend to enter the field of teaching have passed all of the applicable State qualification assessments for new teachers, which shall include an assessment of each prospective teacher's subject matter knowledge in the content area or areas in which the teacher intends to teach; or

(ii) being ranked among the highest-performing teacher preparation programs in the State as determined by the State—

(I) using criteria consistent with the requirements for the State report card under section 1027(b) of this title; and

(II) using the State report card on teacher preparation required under section 1027(b) of this title, after the first publication of such report card and for every year thereafter; or

(B) the teacher training program requires all the students of the program to participate in intensive clinical experience, to meet high academic standards, and—

(i) in the case of secondary school candidates, to successfully complete an academic major in the subject area in which the candidate intends to teach or to demonstrate competence through a high level of performance in relevant content areas; and

(ii) in the case of elementary school candidates, to successfully complete an academic major in the arts and sciences or to demonstrate competence through a high level of performance in core academic subject areas.

(c) Application

Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

(1) contain a needs assessment of all the partners with respect to teaching and learning and a description of how the partnership will coordinate with other teacher training or professional development programs, and how the activities of the partnership will be consistent with State, local, and other education reform activities that promote student achievement;

(2) contain a resource assessment that describes the resources available to the partnership, the intended use of the grant funds, including a description of how the grant funds will be fairly distributed in accordance with subsection (f) of this section, and the commitment of the resources of the partnership to the activities assisted under this part, including financial support, faculty participation, time commitments, and continuation of the activities when the grant ends; and

(3) contain a description of—

(A) how the partnership will meet the purposes of this part;

(B) how the partnership will carry out the activities required under subsection (d) of this section and any permissible activities under subsection (e) of this section; and

(C) the partnership's evaluation plan pursuant to section 1026(b) of this title.

(d) Required uses of funds

An eligible partnership that receives a grant under this section shall use the grant funds to carry out the following activities:

(1) Reforms

Implementing reforms within teacher preparation programs to hold the programs accountable for preparing teachers who are highly competent in the academic content areas in which the teachers plan to teach, and for promoting strong teaching skills, including working with a school of arts and sciences and integrating reliable research-based teaching methods into the curriculum, which curriculum shall include programs designed to successfully integrate technology into teaching and learning.

(2) Clinical experience and interaction

Providing sustained and high quality preservice clinical experience including the mentoring of prospective teachers by veteran teachers, and substantially increasing interaction between faculty at institutions of higher education and new and experienced teachers, principals, and other administrators at elementary schools or secondary schools, and providing support, including preparation time, for such interaction.

(3) Professional development

Creating opportunities for enhanced and ongoing professional development that improves the academic content knowledge of teachers in the subject areas in which the teachers are certified to teach or in which the teachers are working toward certification to teach, and that promotes strong teaching skills.

(e) Allowable uses of funds

An eligible partnership that receives a grant under this section may use such funds to carry out the following activities:

(1) Teacher preparation and parent involvement

Preparing teachers to work with diverse student populations, including individuals with disabilities and limited English proficient individuals, and involving parents in the teacher preparation program reform process.

(2) Dissemination and coordination

Broadly disseminating information on effective practices used by the partnership, and coordinating with the activities of the Governor, State board of education, State higher education agency, and State educational agency, as appropriate.

(3) Managerial and leadership skills

Developing and implementing proven mechanisms to provide principals and superintendents with effective managerial and leadership skills that result in increased student achievement.

(4) Teacher recruitment

Activities described in section 1024(d) of this title.

(f) Special rule

No individual member of an eligible partnership shall retain more than 50 percent of the funds made available to the partnership under this section.

(g) Construction

Nothing in this section shall be construed to prohibit an eligible partnership from using grant funds to coordinate with the activities of more than one Governor, State board of education, State educational agency, local educational agency, or State agency for higher education.

(Pub. L. 89–329, title II, § 203, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1625; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1023, Pub. L. 89–329, title II, § 203, as added Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 468, required Secretary to ensure that programs under this subchapter were administered by appropriate library experts, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1023, Pub. L. 89–329, title II, § 203, Nov. 8, 1965, 79 Stat. 1225; Pub. L. 90–575, title II, § 212(a), Oct. 16, 1968, 82 Stat. 1036; Pub. L. 92–318, title I, §§ 111(b)(2)(B), 112(b)(2), 113(a), June 23, 1972, 86 Stat. 239, 240, provided for supplemental grants in the college library resources program, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' in introductory provisions.

Subsec. (c)(2), (3)(A). Pub. L. 107–110 substituted ''this part'' for ''this subchapter''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 1024. Teacher recruitment grants

(a) Program authorized

From amounts made available under section 1030(3) of this title for a fiscal year, the Secretary is authorized to award grants, on a competitive basis, to eligible applicants to enable the eligible applicants to carry out activities described in subsection (d) of this section.

(b) "Eligible applicant" defined

In this part, the term ''eligible applicant'' means—

(1) an eligible State described in section 1022(b) of this title; or

(2) an eligible partnership described in section 1023(b) of this title.

(c) Application

Any eligible applicant desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require, including—

(1) a description of the assessment that the eligible applicant, and the other entities with whom the eligible applicant will carry out the grant activities, have undertaken to determine the most critical needs of the participating high-need local educational agencies;

(2) a description of the activities the eligible applicant will carry out with the grant; and

(3) a description of the eligible applicant's plan for continuing the activities carried out with the grant, once Federal funding ceases.

(d) Uses of funds

Each eligible applicant receiving a grant under this section shall use the grant funds—

(1)(A) to award scholarships to help students pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program;

(B) to provide support services, if needed to enable scholarship recipients to complete postsecondary education programs; and

(C) for followup services provided to former scholarship recipients during the recipients first 3 years of teaching; or

(2) to develop and implement effective mechanisms to ensure that high need local educational agencies and schools are able to effectively recruit highly qualified teachers.

(e) Service requirements

The Secretary shall establish such requirements as the Secretary finds necessary to ensure that recipients of scholarships under this section who complete teacher education programs subsequently teach in a high-need local educational agency, for a period of time equivalent to the period for which the recipients receive scholarship assistance, or repay the amount of the scholarship. The Secretary shall use any such repayments to carry out additional activities under this section.

(Pub. L. 89–329, title II, § 204, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1627; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1024, Pub. L. 89–329, title II, § 204, Nov. 8, 1965, 79 Stat. 1226; Pub. L. 90–575, title II, § 212(b), (c), 213(a), Oct. 16, 1968, 82 Stat. 1036; Pub. L. 92–318, title I, § 111(b)(2)(C), June 23, 1972, 86 Stat. 239, provided for special purpose grants in the college library resources program, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' in introductory provisions.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 1025. Administrative provisions

(a) Duration; one-time awards; payments

(1) Duration

(A) Eligible States and eligible applicants

Grants awarded to eligible States and eligible applicants under this part shall be awarded for a period not to exceed 3 years.

(B) Eligible partnerships

Grants awarded to eligible partnerships under this part shall be awarded for a period of 5 years.

(2) One-time award

An eligible State and an eligible partnership may receive a grant under each of sections 1022, 1023, and 1024 of this title only once.

(3) Payments

The Secretary shall make annual payments of grant funds awarded under this part.

(b) Peer review

(1) Panel

The Secretary shall provide the applications submitted under this part to a peer review panel for evaluation. With respect to each application, the peer review panel shall initially recommend the application for funding or for disapproval.

(2) Priority

In recommending applications to the Secretary for funding under this part, the panel shall—

(A) with respect to grants under section 1022 of this title, give priority to eligible States serving States that—

(i) have initiatives to reform State teacher certification requirements that are designed to ensure that current and future teachers possess the necessary teaching skills and academic content knowledge in the subject areas in which the teachers are certified or licensed to teach;

(ii) include innovative reforms to hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content area in which the teachers plan to teach and have strong teaching skills; or

(iii) involve the development of innovative efforts aimed at reducing the shortage of highly qualified teachers in high poverty urban and rural areas;

(B) with respect to grants under section 1023 of this title—

(i) give priority to applications from eligible partnerships that involve businesses; and

(ii) take into consideration—

(I) providing an equitable geographic distribution of the grants throughout the United States; and

(II) the potential of the proposed activities for creating improvement and positive change.

(3) Secretarial selection

The Secretary shall determine, based on the peer review process, which application shall receive funding and the amounts of the grants. In determining grant amounts, the Secretary shall take into account the total amount of funds available for all grants under this part and the types of activities proposed to be carried out.

(c) Matching requirements

(1) State grants

Each eligible State receiving a grant under section 1022 or 1024 of this title shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (in cash or in kind) to carry out the activities supported by the grant.

(2) Partnership grants

Each eligible partnership receiving a grant under section 1023 or 1024 of this title shall provide, from non-Federal sources (in cash or in kind), an amount equal to 25 percent of the grant for the first year of the grant, 35 percent of the grant for the second year of the grant, and 50 percent of the grant for each succeeding year of the grant.

(d) Limitation on administrative expenses

An eligible State or eligible partnership that receives a grant under this part may not use more than 2 percent of the grant funds for purposes of administering the grant.

(e) Teacher qualifications provided to parents upon request

Any local educational agency or school that benefits from the activities assisted under this part shall make available, upon request and in an understandable and uniform format, to any parent of a student attending any school served by the local educational agency, information regarding the qualification of the student's classroom teacher with regard to the subject matter in which the teacher provides instruction. The local educational agency shall inform parents that the parents are entitled to receive the information upon request.

(Pub. L. 89–329, title II, § 205, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1628; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1025, Pub. L. 89–329, title II, § 205, Nov. 8, 1965, 79 Stat. 1226; Pub. L. 91–230, title IV, § 401(h)(4),

Apr. 13, 1970, 84 Stat. 174, created the Advisory Council on College Library Resources, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsecs. (a)(1), (b), (d), (e). Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' wherever appearing.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 1026. Accountability and evaluation

(a) State grant accountability report

An eligible State that receives a grant under section 1022 of this title shall submit an annual accountability report to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workforce of the House of Representatives. Such report shall include a description of the degree to which the eligible State, in using funds provided under such section, has made substantial progress in meeting the following goals:

(1) Student achievement

Increasing student achievement for all students as defined by the eligible State.

(2) Raising standards

Raising the State academic standards required to enter the teaching profession, including, where appropriate, through the use of incentives to incorporate the requirement of an academic major in the subject, or related discipline, in which the teacher plans to teach.

(3) Initial certification or licensure

Increasing success in the pass rate for initial State teacher certification or licensure, or increasing the numbers of highly qualified individuals being certified or licensed as teachers through alternative programs.

(4) Core academic subjects

(A) Secondary school classes

Increasing the percentage of secondary school classes taught in core academic subject areas by teachers—

(i) with academic majors in those areas or in a related field;

(ii) who can demonstrate a high level of competence through rigorous academic subject area tests; or

(iii) who can demonstrate competence through a high level of performance in relevant content areas.

(B) Elementary school classes

Increasing the percentage of elementary school classes taught by teachers—

(i) with academic majors in the arts and sciences; or

(ii) who can demonstrate competence through a high level of performance in core academic subjects.

(5) Decreasing teacher shortages

Decreasing shortages of qualified teachers in poor urban and rural areas.

(6) Increasing opportunities for professional development

Increasing opportunities for enhanced and ongoing professional development that improves the academic content knowledge of teachers in the subject areas in which the teachers are certified or licensed to teach or in which the teachers are working toward certification or licensure to teach, and that promotes strong teaching skills.

(7) Technology integration

Increasing the number of teachers prepared to integrate technology in the classroom.

(b) Eligible partnership evaluation

Each eligible partnership receiving a grant under section 1023 of this title shall establish and include in the application submitted under section 1023(c) of this title, an evaluation plan that includes strong performance objectives. The plan shall include objectives and measures for—

(1) increased student achievement for all students as measured by the partnership;

(2) increased teacher retention in the first 3 years of a teacher's career;

(3) increased success in the pass rate for initial State certification or licensure of teachers; and

(4) increased percentage of secondary school classes taught in core academic subject areas by teachers—

(A) with academic majors in the areas or in a related field; and

(B) who can demonstrate a high level of competence through rigorous academic subject area tests or who can demonstrate competence through a high level of performance in relevant content areas;

(5) increasing the percentage of elementary school classes taught by teachers with academic majors in the arts and sciences or who demonstrate competence through a high level of performance in core academic subject areas; and

(6) increasing the number of teachers trained in technology.

(c) Revocation of grant

(1) Report

Each eligible State or eligible partnership receiving a grant under this part shall report annually on the progress of the eligible State or eligible partnership toward meeting the purposes of this part and the goals, objectives, and measures described in subsections (a) and (b) of this section.

(2) Revocation

(A) Eligible States and eligible applicants

If the Secretary determines that an eligible State or eligible applicant is not making substantial progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the second year of a grant under this part, then the grant payment shall not be made for the third year of the grant.

(B) Eligible partnerships

If the Secretary determines that an eligible partnership is not making substantial

progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the third year of a grant under this part, then the grant payments shall not be made for any succeeding year of the grant.

(d) Evaluation and dissemination

The Secretary shall evaluate the activities funded under this part and report the Secretary's findings regarding the activities to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives. The Secretary shall broadly disseminate successful practices developed by eligible States and eligible partnerships under this part, and shall broadly disseminate information regarding such practices that were found to be ineffective.

(Pub. L. 89–329, title II, § 206, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1630; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1026, Pub. L. 89–329, title II, § 206, Nov. 8, 1965, 79 Stat. 1226, related to the accreditation of educational institutions, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsecs. (c), (d). Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' wherever appearing.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 1027. Accountability for programs that prepare teachers

(a) Development of definitions and reporting methods

Within 9 months of October 7, 1998, the Commissioner of the National Center for Education Statistics, in consultation with States and institutions of higher education, shall develop key definitions for terms, and uniform reporting methods (including the key definitions for the consistent reporting of pass rates), related to the performance of elementary school and secondary school teacher preparation programs.

(b) State report card on quality of teacher preparation

Each State that receives funds under this chapter shall provide to the Secretary, within 2 years of October 7, 1998, and annually thereafter, in a uniform and comprehensible manner that conforms with the definitions and methods established in subsection (a) of this section, a State report card on the quality of teacher preparation in the State, which shall include at least the following:

(1) A description of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by the State.

(2) The standards and criteria that prospective teachers must meet in order to attain initial teacher certification or licensure and to be certified or licensed to teach particular subjects or in particular grades within the State.

(3) A description of the extent to which the assessments and requirements described in paragraph (1) are aligned with the State's standards and assessments for students.

(4) The percentage of teaching candidates who passed each of the assessments used by the State for teacher certification and licensure, and the passing score on each assessment that determines whether a candidate has passed that assessment.

(5) The percentage of teaching candidates who passed each of the assessments used by the State for teacher certification and licensure, disaggregated and ranked, by the teacher preparation program in that State from which the teacher candidate received the candidate's most recent degree, which shall be made available widely and publicly.

(6) Information on the extent to which teachers in the State are given waivers of State certification or licensure requirements, including the proportion of such teachers distributed across high- and low-poverty school districts and across subject areas.

(7) A description of each State's alternative routes to teacher certification, if any, and the percentage of teachers certified through alternative certification routes who pass State teacher certification or licensure assessments.

(8) For each State, a description of proposed criteria for assessing the performance of teacher preparation programs within institutions of higher education in the State, including indicators of teacher candidate knowledge and skills.

(9) Information on the extent to which teachers or prospective teachers in each State are required to take examinations or other assessments of their subject matter knowledge in the area or areas in which the teachers provide instruction, the standards established for passing any such assessments, and the extent to which teachers or prospective teachers are required to receive a passing score on such assessments in order to teach in specific subject areas or grade levels.

(c) Initial report

(1) In general

Each State that receives funds under this chapter, not later than 6 months of[1] October 7, 1998, and in a uniform and comprehensible manner, shall submit to the Secretary the information described in paragraphs (1), (5), and (6) of subsection (b) of this section. Such information shall be compiled by the Secretary and submitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the

[1] So in original. Probably should be ''after''.

House of Representatives not later than 9 months after October 7, 1998.

(2) Construction

Nothing in this subsection shall be construed to require a State to gather information that is not in the possession of the State or the teacher preparation programs in the State, or readily available to the State or teacher preparation programs.

(d) Report of Secretary on quality of teacher preparation

(1) Report card

The Secretary shall provide to Congress, and publish and make widely available, a report card on teacher qualifications and preparation in the United States, including all the information reported in paragraphs (1) through (9) of subsection (b) of this section. Such report shall identify States for which eligible States and eligible partnerships received a grant under this part. Such report shall be so provided, published and made available not later than 2 years 6 months after October 7, 1998, and annually thereafter.

(2) Report to Congress

The Secretary shall report to Congress—

(A) a comparison of States' efforts to improve teaching quality; and

(B) regarding the national mean and median scores on any standardized test that is used in more than 1 State for teacher certification or licensure.

(3) Special rule

In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification or licensure assessment during an academic year, the Secretary shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over a 3-year period.

(e) Coordination

The Secretary, to the extent practicable, shall coordinate the information collected and published under this part among States for individuals who took State teacher certification or licensure assessments in a State other than the State in which the individual received the individual's most recent degree.

(f) Institutional report cards on quality of teacher preparation

(1) Report card

Each institution of higher education that conducts a teacher preparation program that enrolls students receiving Federal assistance under this chapter, not later than 18 months after October 7, 1998, and annually thereafter, shall report to the State and the general public, in a uniform and comprehensible manner that conforms with the definitions and methods established under subsection (a) of this section, the following information:

(A) Pass rate

(i) For the most recent year for which the information is available, the pass rate of the institution's graduates on the teacher certification or licensure assessments of the State in which the institution is located, but only for those students who took those assessments within 3 years of completing the program.

(ii) A comparison of the program's pass rate with the average pass rate for programs in the State.

(iii) In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification or licensure assessment during an academic year, the institution shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over a 3-year period.

(B) Program information

The number of students in the program, the average number of hours of supervised practice teaching required for those in the program, and the faculty-student ratio in supervised practice teaching.

(C) Statement

In States that approve or accredit teacher education programs, a statement of whether the institution's program is so approved or accredited.

(D) Designation as low-performing

Whether the program has been designated as low-performing by the State under section 1028(a) of this title.

(2) Requirement

The information described in paragraph (1) shall be reported through publications such as school catalogs and promotional materials sent to potential applicants, secondary school guidance counselors, and prospective employers of the institution's program graduates.

(3) Fines

In addition to the actions authorized in section 1094(c) of this title, the Secretary may impose a fine not to exceed $25,000 on an institution of higher education for failure to provide the information described in this subsection in a timely or accurate manner.

(Pub. L. 89–329, title II, § 207, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1632; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b), (c)(1), and (f)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1027, Pub. L. 89–329, title II, § 207, Nov. 8, 1965, 79 Stat. 1227; Pub. L. 92–318, title I, § 131(d)(2)(B), June 23, 1972, 86 Stat. 260, prohibited grants for library resources to be used for sectarian instruction or religious worship, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsecs. (d)(1), (e). Pub. L. 107–110 substituted ''this part'' for ''this subchapter''.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 1028. State functions

(a) State assessment

In order to receive funds under this chapter, a State, not later than 2 years after October 7, 1998, shall have in place a procedure to identify, and assist, through the provision of technical assistance, low-performing programs of teacher preparation within institutions of higher education. Such State shall provide the Secretary an annual list of such low-performing institutions that includes an identification of those institutions at-risk of being placed on such list. Such levels of performance shall be determined solely by the State and may include criteria based upon information collected pursuant to this part. Such assessment shall be described in the report under section 1027(b) of this title.

(b) Termination of eligibility

Any institution of higher education that offers a program of teacher preparation in which the State has withdrawn the State's approval or terminated the State's financial support due to the low performance of the institution's teacher preparation program based upon the State assessment described in subsection (a) of this section—

(1) shall be ineligible for any funding for professional development activities awarded by the Department of Education; and

(2) shall not be permitted to accept or enroll any student that receives aid under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in the institution's teacher preparation program.

(c) Negotiated rulemaking

If the Secretary develops any regulations implementing subsection (b)(2) of this section, the Secretary shall submit such proposed regulations to a negotiated rulemaking process, which shall include representatives of States, institutions of higher education, and educational and student organizations.

(Pub. L. 89–329, title II, § 208, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1634; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1028, Pub. L. 89–329, title II, § 208, Nov. 8, 1965, 79 Stat. 1227, required that institutions inform State agencies of their activities under the college library resources program, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–110 substituted ''this part'' for ''this subchapter''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 1029. General provisions

(a) Methods

In complying with sections 1027 and 1028 of this title, the Secretary shall ensure that States and institutions of higher education use fair and equitable methods in reporting and that the reporting methods protect the privacy of individuals.

(b) Special rule

For each State in which there are no State certification or licensure assessments, or for States that do not set minimum performance levels on those assessments—

(1) the Secretary shall, to the extent practicable, collect data comparable to the data required under this part from States, local educational agencies, institutions of higher education, or other entities that administer such assessments to teachers or prospective teachers; and

(2) notwithstanding any other provision of this part, the Secretary shall use such data to carry out requirements of this part related to assessments or pass rates.

(c) Limitations

(1) Federal control prohibited

Nothing in this part shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to prohibit private, religious, or home schools from participation in programs or services under this part.

(2) No change in State control encouraged or required

Nothing in this part shall be construed to encourage or require any change in a State's treatment of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law.

(3) National system of teacher certification prohibited

Nothing in this part shall be construed to permit, allow, encourage, or authorize the Secretary to establish or support any national system of teacher certification.

(Pub. L. 89–329, title II, § 209, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1635; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1029, Pub. L. 89–329, title II, § 211, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1384; amended Pub. L. 99–498, title II, § 202, Oct. 17, 1986, 100 Stat. 1287; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 468, related to college library technology and cooperation grants, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

AMENDMENTS

2002—Subsecs. (b), (c). Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' wherever appearing.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 1030. Authorization of appropriations

There are authorized to be appropriated to carry out this part $300,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years, of which—

(1) 45 percent shall be available for each fiscal year to award grants under section 1022 of this title;

(2) 45 percent shall be available for each fiscal year to award grants under section 1023 of this title; and

(3) 10 percent shall be available for each fiscal year to award grants under section 1024 of this title.

(Pub. L. 89–329, title II, § 210, as added Pub. L. 105–244, title II, § 201, Oct. 7, 1998, 112 Stat. 1635; amended Pub. L. 107–110, title X, § 1051(2), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1030, Pub. L. 89–329, title II, § 213, as added Pub. L. 99–498, title II, § 203, Oct. 17, 1986, 100 Stat. 1289, which defined ''full-time equivalent students'', was omitted in the general amendment of this subchapter by Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 467.

A prior section 1031, Pub. L. 89–329, title II, § 221, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1385; amended Pub. L. 99–498, title II, § 204(b)(1), Oct. 17, 1986, 100 Stat. 1289; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 469, authorized grants in accordance with former sections 1032 and 1033 of this title, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1031, Pub. L. 89–329, title II, § 221, as added Pub. L. 92–318, title I, § 111(b)(3)(A), June 23, 1972, 86 Stat. 239, contained the grant authority for training and research programs, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1031, Pub. L. 89–329, title II, § 221, Nov. 8, 1965, 79 Stat. 1227; Pub. L. 90–575, title II, § 215, Oct. 16, 1968, 82 Stat. 1037; Pub. L. 92–318, title I, § 111(a)(2), June 23, 1972, 86 Stat. 238, authorized appropriations of $15,000,000 for each fiscal year ending June 30, 1966, 1967, and 1968, and $11,800,000; $28,000,000; $38,000,000; and $12,000,000 for fiscal years ending June 30, 1969, 1970, 1971, and 1972, prior to repeal by Pub. L. 92–318, title I, § 111(b)(3)(A), June 23, 1972, 86 Stat. 239.

A prior section 1032, Pub. L. 89–329, title II, § 222, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1385; amended Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 469, related to library education and human resource development, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1032, Pub. L. 89–329, title II, § 222, Nov. 8, 1965, 79 Stat. 1227, defined the term ''librarianship'', prior to repeal by Pub. L. 92–318, title I, § 111(b)(3)(A), June 23, 1972, 86 Stat. 239.

A prior section 1033, Pub. L. 89–329, title II, § 223, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1385; amended Pub. L. 99–498, title II, § 205, Oct. 17, 1986, 100 Stat. 1289; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 470, authorized Secretary to make grants and enter into contracts for research and development projects, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1033, Pub. L. 89–329, title II, § 222, formerly § 223, Nov. 8, 1965, 79 Stat. 1227; Pub. L. 90–575, title II, § 216, Oct. 16, 1968, 82 Stat. 1037, renumbered and amended Pub. L. 92–318, title I, § 111(b)(3)(B)–(D), June 23, 1972, 86 Stat. 239, 240, related to grants for training in librarianship, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1034, Pub. L. 89–329, title II, § 224, as added Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 470, required Secretary to consult with appropriate library and information science professional bodies in determining critical needs and priorities under former sections 1032 and 1033 of this title, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1034, Pub. L. 89–329, title II, § 224, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1385, authorized special purpose grants, prior to repeal by Pub. L. 99–498, title II, § 204(a), Oct. 17, 1986, 100 Stat. 1289.

Another prior section 1034, Pub. L. 89–329, title II, § 223, formerly § 224, Nov. 8, 1965, 79 Stat. 1228, Pub. L. 91–230, title IV, § 401(h)(4), Apr. 13, 1970, 84 Stat. 174, and renumbered Pub. L. 92–318, title I, § 111(b)(3)(D), June 23, 1972, 86 Stat. 240, related to grants for research and demonstration projects, prior to the general amendment of this subchapter by Pub. L. 96–374.

AMENDMENTS

2002—Pub. L. 107–110 substituted ''this part'' for ''this subchapter'' in introductory provisions.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

PART B—PREPARING TOMORROW'S TEACHERS TO USE TECHNOLOGY

§ 1041. Purpose and program authority

(a) Purpose

It is the purpose of this part to assist consortia of public and private entities—

(1) to carry out programs that prepare prospective teachers to use advanced technology to prepare all students to meet challenging State and local academic content and student academic achievement standards; and

(2) to improve the ability of institutions of higher education to carry out such programs.

(b) Program authority

(1) In general

The Secretary is authorized to award grants to eligible applicants, or enter into contracts or cooperative agreements with eligible applicants, on a competitive basis in order to pay for the Federal share of the cost of projects to develop or redesign teacher preparation programs to enable prospective teachers to use

advanced technology effectively in their classrooms.

(2) Period of awards

The Secretary may award grants, or enter into contracts or cooperative agreements, under this part for periods that are not more than 5 years in duration.

(Pub. L. 89–329, title II, § 221, as added Pub. L. 107–110, title X, § 1051(3), Jan. 8, 2002, 115 Stat. 2080.)

PRIOR PROVISIONS

A prior section 1041, Pub. L. 89–329, title II, § 231, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1386; amended Pub. L. 99–498, title II, §§ 204(b)(2), 206, Oct. 17, 1986, 100 Stat. 1289; Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 470, authorized grants to institutions with major research libraries, prior to repeal by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1041, Pub. L. 89–329, title II, § 231, as added Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090, set out the Congressional statement of findings and purpose for the research library resources strengthening program, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1041, Pub. L. 89–329, title II, § 231, Nov. 8, 1965, 79 Stat. 1228; Pub. L. 90–575, title II, §§ 217, 218, Oct. 16, 1968, 82 Stat. 1037; Pub. L. 92–318, title I, § 114(a), June 23, 1972, 86 Stat. 240, authorized appropriations for assistance to Library of Congress for acquisition of Library material, prior to the general amendment of former part C of this subchapter by Pub. L. 94–482, title I, § 107, Oct. 12, 1976, 90 Stat. 2090.

A prior section 221 of Pub. L. 89–329 was classified to section 1031 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 221 of Pub. L. 89–329 was classified to section 1031 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 221 of Pub. L. 89–329 was classified to section 1031 of this title, prior to repeal by Pub. L. 92–318.

EFFECTIVE DATE

Part effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as a note under section 6301 of this title.

§ 1042. Eligibility

(a) Eligible applicants

In order to receive a grant or enter into a contract or cooperative agreement under this part, an applicant shall be a consortium that includes the following:

(1) At least one institution of higher education that awards baccalaureate degrees and prepares teachers for their initial entry into teaching.

(2) At least one State educational agency or local educational agency.

(3) One or more of the following entities:

(A) An institution of higher education (other than the institution described in paragraph (1)).

(B) A school or department of education at an institution of higher education.

(C) A school or college of arts and sciences (as defined in section 1021(b) of this title) at an institution of higher education.

(D) A professional association, foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, or other entity, with the capacity to contribute to the technology-related reform of teacher preparation programs.

(b) Application requirements

In order to receive a grant or enter into a contract or cooperative agreement under this part, an eligible applicant shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application shall include the following:

(1) A description of the proposed project, including how the project would—

(A) ensure that individuals participating in the project would be prepared to use advanced technology to prepare all students, including groups of students who are underrepresented in technology-related fields and groups of students who are economically disadvantaged, to meet challenging State and local academic content and student academic achievement standards; and

(B) improve the ability of at least one participating institution of higher education described in subsection (a)(1) of this section to ensure such preparation.

(2) A demonstration of—

(A) the commitment, including the financial commitment, of each of the members of the consortium for the proposed project; and

(B) the active support of the leadership of each organization that is a member of the consortium for the proposed project.

(3) A description of how each member of the consortium will participate in project activities.

(4) A description of how the proposed project will be continued after Federal funds are no longer awarded under this part for the project.

(5) A plan for the evaluation of the project, which shall include benchmarks to monitor progress toward specific project objectives.

(c) Matching requirements

(1) In general

The Federal share of the cost of any project funded under this part shall not exceed 50 percent. Except as provided in paragraph (2), the non-Federal share of the cost of such project may be provided in cash or in kind, fairly evaluated, including services.

(2) Acquisition of equipment

Not more than 10 percent of the funds awarded for a project under this part may be used to acquire equipment, networking capabilities, or infrastructure, and the non-Federal share of the cost of any such acquisition shall be provided in cash.

(Pub. L. 89–329, title II, § 222, as added Pub. L. 107–110, title X, § 1051(3), Jan. 8, 2002, 115 Stat. 2081.)

PRIOR PROVISIONS

A prior section 1042, Pub. L. 89–329, title II, § 232, as added Pub. L. 96–374, title II, § 201, Oct. 3, 1980, 94 Stat. 1386; amended Pub. L. 102–325, title II, § 201, July 23, 1992, 106 Stat. 471, required Secretary to endeavor to

achieve broad and equitable geographical distribution of grants, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1042, Pub. L. 89–329, title II, §232, as added Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2090; amended Pub. L. 96–49, §3(b), Aug. 13, 1979, 93 Stat. 351, which authorized appropriations through fiscal year 1980, was omitted in the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 1042, Pub. L. 89–329, title II, §232, as added Pub. L. 92–318, title I, §115(a), June 23, 1972, 86 Stat. 241, which required an evaluation and report to Congressional committees by the Librarian of the Congress, was omitted in the general amendment of former part C of this subchapter by Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2090.

A prior section 222 of Pub. L. 89–329 was classified to section 1032 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 222 of Pub. L. 89–329 was classified to section 1032 of this title, prior to repeal by Pub. L. 92–318.

Another prior section 222 of Pub. L. 89–329 was classified to section 1033 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1043. Use of funds

(a) Required uses

A consortium that receives a grant or enters into a contract or cooperative agreement under this part shall use funds made available under this part for—

(1) a project creating one or more programs that prepare prospective teachers to use advanced technology to prepare all students, including groups of students who are underrepresented in technology-related fields and groups of students who are economically disadvantaged, to meet challenging State and local academic content and student academic achievement standards; and

(2) evaluating the effectiveness of the project.

(b) Permissible uses

The consortium may use funds made available under this part for a project, described in the application submitted by the consortium under this part, that carries out the purpose of this part, such as the following:

(1) Developing and implementing high-quality teacher preparation programs that enable educators—

(A) to learn the full range of resources that can be accessed through the use of technology;

(B) to integrate a variety of technologies into curricula and instruction in order to expand students' knowledge;

(C) to evaluate educational technologies and their potential for use in instruction;

(D) to help students develop their technical skills; and

(E) to use technology to collect, manage, and analyze data to improve teaching and decisionmaking.

(2) Developing alternative teacher development paths that provide elementary schools and secondary schools with well-prepared, technology-proficient educators.

(3) Developing achievement-based standards and assessments aligned with the standards to measure the capacity of prospective teachers to use technology effectively in their classrooms.

(4) Providing technical assistance to entities carrying out other teacher preparation programs.

(5) Developing and disseminating resources and information in order to assist institutions of higher education to prepare teachers to use technology effectively in their classrooms.

(6) Subject to section 1042(c)(2) of this title, acquiring technology equipment, networking capabilities, infrastructure, software, and digital curricula to carry out the project.

(Pub. L. 89–329, title II, §223, as added Pub. L. 107–110, title X, §1051(3), Jan. 8, 2002, 115 Stat. 2082.)

PRIOR PROVISIONS

A prior section 1043, Pub. L. 89–329, title II, §233, as added Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2090, related to eligibility for assistance under research library resources strengthening program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 223 of Pub. L. 89–329 was classified to section 1033 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 223 of Pub. L. 89–329 was renumbered section 222, and was classified to section 1033 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Another prior section 223 of Pub. L. 89–329 was classified to section 1034 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1044. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 2002 and 2003.

(Pub. L. 89–329, title II, §224, as added Pub. L. 107–110, title X, §1051(3), Jan. 8, 2002, 115 Stat. 2083.)

PRIOR PROVISIONS

A prior section 1044, Pub. L. 89–329, title II, §234, as added Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2090, related to regional balance in allocation of funds, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 224 of Pub. L. 89–329 was classified to section 1034 of this title, prior to repeal by Pub. L. 104–208.

Another prior section 224 of Pub. L. 89–329 was classified to section 1034 of this title, prior to repeal by Pub. L. 99–498.

Another prior section 224 of Pub. L. 89–329 was renumbered section 223, and was classified to section 1034 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1045 and 1046 were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1045, Pub. L. 89–329, title II, §235, as added Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2091, set out limitations on grants as regards sectarian or religious use.

Section 1046, Pub. L. 89–329, title II, §236, as added Pub. L. 94–482, title I, §107, Oct. 12, 1976, 90 Stat. 2091, required consultations by grantees with State agencies.

A prior section 1047, Pub. L. 89–329, title II, §241, as added Pub. L. 99–498, title II, §207, Oct. 17, 1986, 100 Stat. 1289; amended Pub. L. 102–325, title II, §201, July 23, 1992, 106 Stat. 471; Pub. L. 103–208, §2(a)(3), Dec. 20, 1993, 107 Stat. 2457, authorized Secretary to make grants to and enter into contracts with eligible institutions, li-

brary organizations or agencies to assist in strengthening library and information science programs and libraries in historically black colleges and universities and other minority-serving institutions, prior to repeal by Pub. L. 104–208, div. A, title I, §101(e) [title VII, §708(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Another prior section 1047 and prior sections 1047a to 1047j were omitted in the general amendment of former part D of this subchapter by Pub. L. 99–498.

Section 1047, Pub. L. 89–329, title II, §241, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1386, stated congressional declaration of purpose.

Section 1047a, Pub. L. 89–329, title II, §242, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1387, established National Periodical System Corporation.

Section 1047b, Pub. L. 89–329, title II, §243, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1387, related to functions of National Periodical System Corporation.

Section 1047c, Pub. L. 89–329, title II, §244, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1387, related to board of directors of National Periodical System Corporation.

Section 1047d, Pub. L. 89–329, title II, §245, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1388, related to director and staff of National Periodical System Corporation.

Section 1047e, Pub. L. 89–329, title II, §246, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1388, related to nonprofit nature of National Periodical System Corporation.

Section 1047f, Pub. L. 89–329, title II, §247, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1388, related to authority of National Periodical System Corporation.

Section 1047g, Pub. L. 89–329, title II, §248, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1389, related to congressional approval of design for national periodical system.

Section 1047h, Pub. L. 89–329, title II, §249, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1389, related to effect of former part D of this subchapter on copyright law.

Section 1047i, Pub. L. 89–329, title II, §250, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1389, defined terms used in former part D of this subchapter.

Section 1047j, Pub. L. 89–329, title II, §251, as added Pub. L. 96–374, title II, §201, Oct. 3, 1980, 94 Stat. 1390, authorized appropriations to carry out former part D of this subchapter.

SUBCHAPTER III—INSTITUTIONAL AID

CODIFICATION

Title III of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title III, Nov. 8, 1965, 79 Stat. 1229, and amended by Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98–95, Sept. 26, 1983, 97 Stat. 708; Pub. L. 98–312, June 12, 1984, 98 Stat. 233. Such title is shown herein, however, as having been added by Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1290, without reference to such intervening amendments because of the extensive revision of title III by Pub. L. 99–498.

§ 1051. Findings and purpose

(a) Findings

The Congress finds that—

(1) there are a significant number of institutions of higher education serving high percentages of minority students and students from low-income backgrounds, that face problems that threaten their ability to survive;

(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning and development activities, including endowment building;

(3) in order to be competitive and provide a high-quality education for all, institutions of higher education should improve their technological capacity and make effective use of technology;

(4) the subchapter III program prior to 1985 did not always meet the specific development needs of historically Black colleges and universities and other institutions with large concentrations of minority, low-income students;

(5) the solution of the problems of these institutions would enable them to become viable, fiscally stable and independent, thriving institutions of higher education;

(6) providing assistance to eligible institutions will enhance the role of such institutions in providing access and quality education to low-income and minority students;

(7) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations, and in becoming financially independent; and

(8) there is a particular national interest in aiding those institutions of higher education that have historically served students who have been denied access to postsecondary education because of race or national origin and whose participation in the American system of higher education is in the Nation's interest so that equality of access and quality of postsecondary education opportunities may be enhanced for all students.

(b) Purpose

It is the purpose of this subchapter to assist such institutions in equalizing educational opportunity through a program of Federal assistance.

(Pub. L. 89–329, title III, §301, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1290; amended Pub. L. 102–325, title III, §301, July 23, 1992, 106 Stat. 472; Pub. L. 103–208, §2(a)(4), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 105–244, title III, §302, Oct. 7, 1998, 112 Stat. 1637.)

PRIOR PROVISIONS

A prior section 1051, Pub. L. 89–329, title III, §301, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1390, stated Congressional findings and purposes for program of providing Federal assistance to institutions of higher education, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1051, Pub. L. 89–329, title III, §301, Nov. 8, 1965, 79 Stat. 1229; Pub. L. 89–752, §10, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title II, §§221, 222, Oct. 16, 1968, 82 Stat. 1038; Pub. L. 92–318, title I, §121(a), June 23, 1972, 86 Stat. 241; Pub. L. 94–482, title I, §111, Oct. 12, 1976, 90 Stat. 2091; Pub. L. 96–49, §4, Aug. 13, 1979, 93 Stat. 351, related to a program of special assistance to strengthen the academic quality of developing institutions, prior to the general revision of this subchapter by Pub. L. 96–374.

Prior sections 1052 to 1056 were omitted in the general revision of this subchapter by Pub. L. 96–374.

Section 1052, Pub. L. 89–329, title III, § 302, Nov. 8, 1965, 79 Stat. 1229; Pub. L. 92–318, title I, § 121(a), June 23, 1972, 86 Stat. 241; Pub. L. 93–380, title VIII, § 832, Aug. 21, 1974, 88 Stat. 603; Pub. L. 94–482, title I, § 112, Oct. 12, 1976, 90 Stat. 2091, related to eligibility for special assistance.

Section 1053, Pub. L. 89–329, title III, § 303, Nov. 8, 1965, 79 Stat. 1230; Pub. L. 91–230, title IV, § 401(h)(4), Apr. 13, 1970, 84 Stat. 174; Pub. L. 92–318, title I, § 121(a), title III, § 301(a)(1), June 23, 1972, 86 Stat. 242, 326, provided for the establishment of an Advisory Council on Developing Institutions.

Section 1054, Pub. L. 89–329, title III, § 304, Nov. 8, 1965, 79 Stat. 1230; Pub. L. 92–318, title I, § 121(a), June 23, 1972, 86 Stat. 243, authorized the Commissioner of Education to make grants and awards.

Section 1055, Pub. L. 89–329, title III, § 305, Nov. 8, 1965, 79 Stat. 1231; Pub. L. 92–318, title I, § 121(a), June 23, 1972, 86 Stat. 244, related to assistance to developing institutions under other programs.

Section 1056, Pub. L. 89–329, title III, § 306, as added Pub L. 90–575, title II, § 223(a), Oct. 16, 1968, 82 Stat. 1038; amended Pub. L. 92–318, title I, § 121(a), June 23, 1972, 86 Stat. 245, prohibited the use of funds for religious activities.

AMENDMENTS

1998—Pars. (3) to (8). Pub. L. 105–244 added par. (3) and redesignated former pars. (3) to (7) as (4) to (8), respectively.

1993—Subsec. (a)(2). Pub. L. 103–208 struck out the comma after ''planning''.

1992—Subsec. (a)(1). Pub. L. 102–325, § 301(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;''.

Subsec. (a)(2). Pub. L. 102–325, § 301(2), struck out ''recruitment activities,'' after ''long-range planning,''.

Subsec. (a)(5). Pub. L. 102–325, § 301(3), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''providing a minimum level of assistance to all categories of eligible institutions will assure the continued participation of the institutions in the program established in this subchapter and enhance their role in providing access and quality education to low-income and minority students;''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 5 of Pub. L. 103–208 provided that:

''(a) IN GENERAL.—Except as otherwise provided therein or in subsection (b) of this section, the amendments made by section 2 of this Act [see Tables for classification] shall be effective as if such amendments were included in the Higher Education Amendments of 1992 (Public Law 102–325), except that section 492 of the Act [section 1098a of this title] shall not apply to the amendments made by this Act [see Tables for classification].

''(b) EXCEPTIONS.—

''(1) EFFECTIVE ON OCTOBER 1, 1993.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after October 1, 1993: (b)(29), (j)(28), (j)(36), and (j)(40) [amending sections 1070d–34, 1134e, 1134j, and 1134q of this title].

''(2) EFFECTIVE ON DATE OF ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after the date of enactment of this Act [Dec. 20, 1993]: (b)(2), (b)(7), (b)(28), (c)(3), (c)(5), (c)(13)(B), (c)(13)(C), (c)(18), (c)(30), (c)(62) [amending sections 1070a, 1070a–11, 1070d–33, 1075, 1077a, 1078, 1078–1, and 1085 of this title].

''(3) EFFECTIVE 30 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 30 days after the date of enactment of this Act [Dec. 20, 1993]: (c)(19), (c)(20), (c)(21), (c)(59) [amending sections 1078 and 1085 of this title].

''(4) EFFECTIVE 60 DAYS AFTER ENACTMENT.—The amendments made by the following subsections of section 2 of this Act shall be effective on and after 60 days after the date of enactment of this Act [Dec. 20, 1993]: (c)(31) and (c)(53) [amending sections 1078–1 and 1083 of this title].

''(5) EFFECTIVE ON APRIL 1, 1994.—The amendments made by section 2(c)(43)(B) of this Act [amending section 1078–8 of this title] shall be effective on and after April 1, 1994.

''(6) EFFECTIVE ON JULY 1, 1994.—The amendments made by the following subsection[s] of section 2 of this Act shall be effective on and after July 1, 1994: (b)(25), (c)(2), (c)(13)(A), (c)(29) [amending sections 1070b–2, 1075, 1078, and 1078–1 of this title].

''(7) COHORT DEFAULT DATA EXAMINATIONS.—The amendment made by section 2(c)(60)(A) [amending section 1085 of this title] shall be effective on and after October 1, 1994.

''(8) COHORT DEFAULT RATE DETERMINATIONS.—The amendments made to subsection[s] (a)(3) and (m)(1)(B) of section 435 of this [the] Act [section 1085(a)(3) and (m)(1)(B) of this title] shall apply with respect to the determination (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section 301(b) of Pub. L. 99–498 provided that: ''The amendment made by subsection (a) [enacting this subchapter] shall take effect July 1, 1987.''

PART A—STRENGTHENING INSTITUTIONS

§ 1057. Program purpose

(a) General authorization

The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

(b) Grants awarded; special consideration

(1) From the sums available for this part under section 1068h(a)(1) of this title, the Secretary may award grants to any eligible institution with an application approved under section 1068 [1] of this title in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution.

(2) Special consideration shall be given to any eligible institution—

(A) which has endowment funds (other than any endowment fund built under section 1065 of this title as in effect on September 30, 1986, and under part B of this subchapter) the market value of which, per full-time equivalent student, is less than the average current market value of the endowment funds, per full-

[1] See References in Text note below.

time equivalent student (other than any endowment fund built under section 1065 of this title as in effect on September 30, 1986, and under part B of this subchapter) at similar institutions; or

(B) which has expenditures per full-time equivalent student for library materials which is less than the average of the expenditures for library materials per full-time equivalent student by other similarly situated institutions.

(3) Special consideration shall be given to applications which propose, pursuant to the institution's plan, to engage in—

(A) faculty development;

(B) funds and administrative management;

(C) development and improvement of academic programs;

(D) acquisition of equipment for use in strengthening funds management and academic programs;

(E) joint use of facilities such as libraries and laboratories; and

(F) student services.

(c) Authorized activities

Grants awarded under this section shall be used for 1 or more of the following activities:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including the integration of computer technology into institutional facilities to create smart buildings.

(3) Support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in the field of instruction of the faculty.

(4) Development and improvement of academic programs.

(5) Purchase of library books, periodicals, and other educational materials, including telecommunications program material.

(6) Tutoring, counseling, and student service programs designed to improve academic success.

(7) Funds management, administrative management, and acquisition of equipment for use in strengthening funds management.

(8) Joint use of facilities, such as laboratories and libraries.

(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(10) Establishing or improving an endowment fund.

(11) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

(12) Other activities proposed in the application submitted pursuant to subsection (c)[2] that—

(A) contribute to carrying out the purposes of the program assisted under this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(d) Endowment fund

(1) In general

An eligible institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at such institution.

(2) Matching requirement

In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds from non-Federal sources, in an amount equal to or greater than the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

(3) Comparability

The provisions of part C of this subchapter, regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

(Pub. L. 89–329, title III, § 311, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1291; amended Pub. L. 100–50, § 2(a)(1), June 3, 1987, 101 Stat. 335; Pub. L. 105–244, title III, §§ 301(c)(1), 303(a), Oct. 7, 1998, 112 Stat. 1636, 1638.)

REFERENCES IN TEXT

Section 1068 of this title, referred to in subsec. (b)(1), was in the original a reference to section 351 of Pub. L. 89–329 which was translated as if it referred to section 391 of Pub. L. 89–329 to reflect the probable intent of Congress. Pub. L. 105–244, title III, § 301(a)(2), (7), Oct. 7, 1998, 112 Stat. 1636, renumbered sections 351 and 1021 of Pub. L. 89–329 as sections 391 and 351, respectively, of Pub. L. 89–329, and those sections are classified to sections 1067a and 1068, respectively, of this title.

PRIOR PROVISIONS

A prior section 1057, Pub. L. 89–329, title III, § 311, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1391, enumerated purposes and established grant authority for program to strengthen eligible institutions, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–244, § 301(c)(1), substituted ''section 1068h(a)(1)'' for ''section 1069f(a)(1)''.

Subsecs. (c), (d). Pub. L. 105–244, § 303(a), added subsecs. (c) and (d).

1987—Subsec. (b)(1). Pub. L. 100–50 substituted ''section 1069f(a)(1) of this title'' for ''section 1069d(a)(1) of this title''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

[2] So in original.

§ 1058. Definitions; eligibility

(a) Educational and general expenditures

For the purpose of this part, the term ''educational and general expenditures'' means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

(b) Eligible institution

For the purpose of this part, the term ''eligible institution'' means—

(1) an institution of higher education—

(A) which has an enrollment of needy students as required by subsection (c)[1] of this section;

(B) except as provided in section 1068a(b) of this title, the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(C) which is—

(i) legally authorized to provide, and provides within the State, an educational program for which such institution awards a bachelor's degree;

(ii) a junior or community college; or

(iii) the College of the Marshall Islands, the College of Micronesia/Federated States of Micronesia, and Palau Community College;

(D) which is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or which is, according to such an agency or association, making reasonable progress toward accreditation;

(E) which meets such other requirements as the Secretary may prescribe; and

(F) located in a State; and

(2) any branch of any institution of higher education described under paragraph (1) which by itself satisfies the requirements contained in subparagraphs (A) and (B) of such paragraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under paragraph (1)(A) shall be given twice the weight of the factor described under paragraph (1)(B).

(c) Endowment fund

For the purpose of this part, the term ''endowment fund'' means a fund that—

(1) is established by State law, by an institution of higher education, or by a foundation that is exempt from Federal income taxation;

(2) is maintained for the purpose of generating income for the support of the institution; and

(3) does not include real estate.

(d) Enrollment of needy students

For the purpose of this part, the term ''enrollment of needy students'' means an enrollment at an institution of higher education or a junior or community college which includes—

(1) at least 50 percent of the degree students so enrolled who are receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in the second fiscal year preceding the fiscal year for which the determination is being made (other than loans for which an interest subsidy is paid pursuant to section 1078 of this title), or

(2) a substantial percentage of students receiving Pell Grants in the second fiscal year preceding the fiscal year for which determination is being made, in comparison with the percentage of students receiving Pell Grants at all such institutions in the second fiscal year preceding the fiscal year for which the determination is made, unless the requirement of this subdivision is waived under section 1068a(a) of this title.

(e) Full-time equivalent students

For the purpose of this part, the term ''full-time equivalent students'' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

(f) Junior or community college

For the purpose of this part, the term ''junior or community college'' means an institution of higher education—

(1) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(3) that—

(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree, or

(B) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(g) Historically black college or university

For the purposes of this section, no historically black college or university which is eligible for and receives funds under part B of this subchapter is eligible for or may receive funds under this part.

(Pub. L. 89–329, title III, § 312, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat.

[1] See References in Text note below.

1292; amended Pub. L. 100–50, § 2(a)(2)–(6), June 3, 1987, 101 Stat. 335; Pub. L. 100–369, § 10(a), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title III, § 302(a), (b), July 23, 1992, 106 Stat. 472; Pub. L. 103–208, § 2(a)(5), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–382, title III, § 353, Oct. 20, 1994, 108 Stat. 3966; Pub. L. 105–244, title III, §§ 301(c)(2), 303(b), Oct. 7, 1998, 112 Stat. 1636, 1639.)

REFERENCES IN TEXT

Subsection (c) of this section, referred to in subsec. (b)(1)(A), was redesignated subsec. (d) of this section and a new subsec. (c) was added by Pub. L. 105–244, title III, § 303(b), Oct. 7, 1998, 112 Stat. 1639.

PRIOR PROVISIONS

A prior section 1058, Pub. L. 89–329, title III, § 312, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1391, defined terms used in this subchapter, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b)(1)(B). Pub. L. 105–244, § 301(c)(2)(A), substituted ''section 1068a(b)'' for ''section 1067(b)''.

Subsec. (c). Pub. L. 105–244, § 303(b)(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (c)(2). Pub. L. 105–244, § 301(c)(2)(B), substituted ''section 1068a(a)'' for ''section 1067(a)''.

Subsecs. (d) to (g). Pub. L. 105–244, § 303(b)(1), redesignated subsecs. (c) to (f) as (d) to (g), respectively.

1994—Subsec. (b)(1)(C). Pub. L. 103–382, § 353(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''(C)(i) which is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (ii) which is a junior or community college;''.

Subsec. (b)(1)(F). Pub. L. 103–382, § 353(2), (3), added subpar. (F).

1993—Subsec. (c)(2). Pub. L. 103–208 inserted ''the'' after ''such institutions in''.

1992—Subsec. (b)(1), (2). Pub. L. 102–325, § 302(a)(1), (2), inserted ''and'' at end of subpar. (D), struck out subpar. (E), redesignated subpar. (F) as (E) and inserted ''and'' at end, and substituted period for semicolon at end of par. (2). Prior to amendment, subpar. (E) of par. (1) read as follows: ''except as provided in section 1067(b) of this title which has, during the 5 academic years preceding the academic year for which it seeks assistance under this part—

''(i) met the requirement of either subparagraph (C)(i) or (C)(ii), or of both such subparagraphs (simultaneously or consecutively); and

''(ii) met the requirement of subparagraph (D); and''.

Subsec. (b)(3) to (5). Pub. L. 102–325, § 302(a)(3), struck out pars. (3) to (5) which read as follows:

''(3) any institution of higher education which has an enrollment of which at least 20 percent are Mexican American, Puerto Rican, Cuban, or other Hispanic students, or combination thereof, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1);

''(4) any institution of higher education which has an enrollment of at least 60 percent American Indian, or in the case of Alaska natives, an enrollment of at least 5 percent, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1); and

''(5) any institution of higher education which has an enrollment of which at least 5 percent are Native Hawaiian, Asian American, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian, or any combination thereof, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1).''

Subsec. (c)(2). Pub. L. 102–325, § 302(b), substituted ''second fiscal year preceding the fiscal year for which the determination is made, unless the requirement'' for ''second preceding fiscal year, unless the requirement''.

1988—Subsec. (f). Pub. L. 100–369 added subsec. (f).

1987—Subsec. (b)(1)(C), (D). Pub. L. 100–50, § 2(a)(2)(A), inserted ''which'' before ''is'' wherever appearing.

Subsec. (b)(1)(E). Pub. L. 100–50, § 2(a)(2)(B), inserted ''which'' before ''has''.

Subsec. (b)(1)(F). Pub. L. 100–50, § 2(a)(2)(C), inserted ''which'' before ''meets''.

Subsec. (b)(3), (5). Pub. L. 100–50, § 2(a)(3), (4), substituted ''subparagraphs (A), (B), (C), and (D)'' for ''subparagraphs (A) and (B)''.

Subsec. (c)(1). Pub. L. 100–50, § 2(a)(5), inserted ''in the second fiscal year preceding the fiscal year for which the determination is being made'' after ''chapter 34 of title 42''.

Subsec. (c)(2). Pub. L. 100–50, § 2(a)(6), substituted ''fiscal year preceding the fiscal year for which determination is being made'' for ''preceding fiscal year'' and ''second preceding fiscal year'' for ''such fiscal year''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1059. Duration of grant

(a) Award period

The Secretary may award a grant to an eligible institution under this part for 5 years.

(b) Limitations

In awarding grants under this part the Secretary shall give priority to applicants who are not already receiving a grant under this part, except that for the purpose of this subsection a grant under subsection (c) of this section and a grant under section 1068c(a)(1) of this title shall not be considered a grant under this part.

(c) Planning grants

Notwithstanding subsection (a) of this section, the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of preparation of plans and applications for a grant under this part.

(d) Wait-out-period

Each eligible institution that received a grant under this part for a 5-year period shall not be eligible to receive an additional grant under this part until 2 years after the date on which the 5-year grant period terminates.

(Pub. L. 89–329, title III, § 313, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1294; amended Pub. L. 102–325, title III, § 302(c), July 23, 1992, 106 Stat. 472; Pub. L. 103–208,

§ 2(a)(6), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 105–244, title III, §§ 301(c)(3), 303(c), Oct. 7, 1998, 112 Stat. 1637, 1639.)

PRIOR PROVISIONS

A prior section 1059, Pub. L. 89–329, title III, § 313, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1392, provided for duration of grants under this part, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–244, § 303(c)(1), inserted ''subsection (c) of this section and a grant under'' after ''this subsection a grant under''.

Pub. L. 105–244, § 301(c)(3), substituted ''section 1068c(a)(1)'' for ''section 1069(a)(1)''.

Subsec. (d). Pub. L. 105–244, § 303(c)(2), added subsec. (d).

1993—Subsec. (b). Pub. L. 103–208 inserted before period at end '', except that for the purpose of this subsection a grant under section 1069(a)(1) of this title shall not be considered a grant under this part''.

1992—Subsecs. (a), (b). Pub. L. 102–325 amended subsecs. (a) and (b) generally, substituting present provisions for provisions which related: in subsec. (a), to the awarding of grants for not to exceed 3, 4, or 5 years; and in subsec. (b), to waiting periods for awarding of subsequent grants.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1059a. Applications

Each eligible institution desiring to receive assistance under this part shall submit an application in accordance with the requirements of section 1068 of this title.

(Pub. L. 89–329, title III, § 314, as added Pub. L. 105–244, title III, § 303(d), Oct. 7, 1998, 112 Stat. 1639.)

PRIOR PROVISIONS

A prior section 1059a, Pub. L. 89–329, title III, § 314, as added Pub. L. 100–50, § 2(b), June 3, 1987, 101 Stat. 336, related to application review process, prior to repeal by Pub. L. 105–244, § 3, title III, § 303(d), Oct. 7, 1998, 112 Stat. 1585, 1639, effective Oct. 1, 1998.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1059b. Goals for financial management and academic program

(a) Goals

Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs, and include a plan of how the applicant intends to achieve those goals.

(b) Continuation requirements

Any continuation application shall demonstrate the progress made toward achievement of the goals described pursuant to subsection (a) of this section.

(Pub. L. 89–329, title III, § 315, as added Pub. L. 102–325, title III, § 302(d)(1), July 23, 1992, 106 Stat. 472.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1059c. American Indian tribally controlled colleges and universities

(a) Program authorized

The Secretary shall provide grants and related assistance to Indian Tribal Colleges and Universities to enable such institutions to improve and expand their capacity to serve Indian students.

(b) Definitions

In this section:

(1) Indian

The term ''Indian'' has the meaning given the term in section 1801 of title 25.

(2) Indian tribe

The term ''Indian tribe'' has the meaning given the term in section 1801 of title 25.

(3) Tribal College or University

The term ''Tribal College or University'' has the meaning give the term ''tribally controlled college or university'' in section 1801 of title 25, and includes an institution listed in the Equity in Educational Land Grant Status Act of 1994.

(4) Institution of higher education

The term ''institution of higher education'' means an institution of higher education as defined in section 1001(a) of this title, except that paragraph (2) of such section shall not apply.

(c) Authorized activities

(1) In general

Grants awarded under this section shall be used by Tribal Colleges or Universities to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Indian students.

(2) Examples of authorized activities

The activities described in paragraph (1) may include—

(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

(C) support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

(D) academic instruction in disciplines in which Indians are underrepresented;

(E) purchase of library books, periodicals, and other educational materials, including telecommunications program material;

(F) tutoring, counseling, and student service programs designed to improve academic success;

(G) funds management, administrative management, and acquisition of equipment for use in strengthening funds management;

(H) joint use of facilities, such as laboratories and libraries;

(I) establishing or improving a development office to strengthen or improve contributions from alumni and the private sector;

(J) establishing or enhancing a program of teacher education designed to qualify students to teach in elementary schools or secondary schools, with a particular emphasis on teaching Indian children and youth, that shall include, as part of such program, preparation for teacher certification;

(K) establishing community outreach programs that encourage Indian elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education; and

(L) other activities proposed in the application submitted pursuant to subsection (d) of this section that—

(i) contribute to carrying out the activities described in subparagraphs (A) through (K); and

(ii) are approved by the Secretary as part of the review and acceptance of such application.

(3) Endowment fund

(A) In general

A Tribal College or University may use not more than 20 percent of the grant funds provided under this section to establish or increase an endowment fund at the institution.

(B) Matching requirement

In order to be eligible to use grant funds in accordance with subparagraph (A), the Tribal College or University shall provide matching funds, in an amount equal to the Federal funds used in accordance with subparagraph (A), for the establishment or increase of the endowment fund.

(C) Comparability

The provisions of part C of this subchapter regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this paragraph, shall apply to funds used under subparagraph (A).

(d) Application process

(1) Institutional eligibility

To be eligible to receive assistance under this section, a Tribal College or University shall be an eligible institution under section 1058(b) of this title.

(2) Application

Any Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, and in such manner, as the Secretary may by regulation reasonably require. The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for such applications that takes into account the limited number of institutions that are eligible for assistance under this section. Each such application shall include—

(A) a 5-year plan for improving the assistance provided by the Tribal College or University to Indian students, increasing the rates at which Indian secondary school students enroll in higher education, and increasing overall postsecondary retention rates for Indian students; and

(B) such enrollment data and other information and assurances as the Secretary may require to demonstrate compliance with paragraph (1).

(3) Special rules

(A) Eligibility

No Tribal College or University that receives funds under this section shall concurrently receive funds under other provisions of this part or part B of this subchapter.

(B) Exemption

Section 1059(d) of this title shall not apply to institutions that are eligible to receive funds under this section.

(C) Distribution

In awarding grants under this section, the Secretary shall, to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions.

(Pub. L. 89–329, title III, § 316, as added Pub. L. 102–325, title III, § 302(d)(1), July 23, 1992, 106 Stat. 473; amended Pub. L. 103–208, § 2(a)(7), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 105–244, title III, § 303(e), Oct. 7, 1998, 112 Stat. 1639; Pub. L. 106–211, § 1(a), (b)(1), May 26, 2000, 114 Stat. 330.)

REFERENCES IN TEXT

The Equity in Educational Land Grant Status Act of 1994, referred to in subsec. (b)(3), means the Equity in Educational Land-Grant Status Act of 1994, Pub. L. 103–382, title V, part C, Oct. 20, 1994, 108 Stat. 4048, as amended, which is set out as a note under section 301 of Title 7, Agriculture.

AMENDMENTS

2000—Subsec. (d)(2). Pub. L. 106–211, § 1(a), inserted after first sentence ''The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for such applications that takes into account the limited number of institutions that are eligible for assistance under this section.''

Subsec. (d)(3). Pub. L. 106–211, § 1(b)(1), added par. (3) and struck out heading and text of former par. (3). Text read as follows: ''For the purposes of this part, no Tribal College or University that is eligible for and receives funds under this section may concurrently receive

other funds under this part or part B of this subchapter.''

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (e) authorizing grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic and other low-income students.

1993—Subsec. (c). Pub. L. 103–208 substituted ''(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—'' for ''Such programs may include—''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–211, §1(c), May 26, 2000, 114 Stat. 331, provided that: ''The amendments made by this Act [amending this section and section 1059d of this title] shall be effective on the date of the enactment of this Act [May 26, 2000].''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1059d. Alaska Native and Native Hawaiian-serving institutions

(a) Program authorized

The Secretary shall provide grants and related assistance to Alaska Native-serving institutions and Native Hawaiian-serving institutions to enable such institutions to improve and expand their capacity to serve Alaska Natives and Native Hawaiians.

(b) Definitions

For the purpose of this section—

(1) the term ''Alaska Native'' has the meaning given the term in section 7546 of this title;

(2) the term ''Alaska Native-serving institution'' means an institution of higher education that—

(A) is an eligible institution under section 1058(b) of this title; and

(B) at the time of application, has an enrollment of undergraduate students that is at least 20 percent Alaska Native students;

(3) the term ''Native Hawaiian'' has the meaning given the term in section 7517 of this title; and

(4) the term ''Native Hawaiian-serving institution'' means an institution of higher education which—

(A) is an eligible institution under section 1058(b) of this title; and

(B) at the time of application, has an enrollment of undergraduate students that is at least 10 percent Native Hawaiian students.

(c) Authorized activities

(1) Types of activities authorized

Grants awarded under this section shall be used by Alaska Native-serving institutions and Native Hawaiian-serving institutions to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Alaska Natives or Native Hawaiians.

(2) Examples of authorized activities

Such programs may include—

(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

(D) curriculum development and academic instruction;

(E) purchase of library books, periodicals, microfilm, and other educational materials;

(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

(G) joint use of facilities such as laboratories and libraries; and

(H) academic tutoring and counseling programs and student support services.

(d) Application process

(1) Institutional eligibility

Each Alaska Native-serving institution and Native Hawaiian-serving institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is an Alaska Native-serving institution or a Native Hawaiian-serving institution as defined in subsection (b) of this section, along with such other information and data as the Secretary may by regulation require.

(2) Applications

Any institution which is determined by the Secretary to be an Alaska Native-serving institution or a Native Hawaiian-serving institution may submit an application for assistance under this section to the Secretary. The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for such applications that takes into account the limited number of institutions that are eligible for assistance under this section. Such application shall include—

(A) a 5-year plan for improving the assistance provided by the Alaska Native-serving institution or the Native Hawaiian-serving institution to Alaska Native or Native Hawaiian students; and

(B) such other information and assurance as the Secretary may require.

(3) Special rules

(A) Eligibility

No Alaskan Native-serving institution or Native Hawaiian-serving institution that receives funds under this section shall concurrently receive funds under other provisions of this part or part B of this subchapter.

(B) Exemption

Section 1059(d) of this title shall not apply to institutions that are eligible to receive funds under this section.

(C) Distribution

In awarding grants under this section, the Secretary shall, to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions.

(Pub. L. 89–329, title III, § 317, as added Pub. L. 105–244, title III, § 303(f), Oct. 7, 1998, 112 Stat. 1641; amended Pub. L. 106–211, § 1(a), (b)(2), May 26, 2000, 114 Stat. 330; Pub. L. 107–110, title VII, § 702(a), Jan. 8, 2002, 115 Stat. 1946.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–110, § 702(a)(1), substituted ''section 7546'' for ''section 7938''.

Subsec. (b)(3). Pub. L. 107–110, § 702(a)(2), substituted ''section 7517'' for ''section 7912''.

2000—Subsec. (d)(2). Pub. L. 106–211, § 1(a), inserted after first sentence ''The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for such applications that takes into account the limited number of institutions that are eligible for assistance under this section.''

Subsec. (d)(3). Pub. L. 106–211, § 1(b)(2), added par. (3).

Subsec. (e). Pub. L. 106–211, § 1(b)(2), struck out heading and text of subsec. (e). Text read as follows: ''For the purposes of this section, no Alaska Native-serving institution or Native Hawaiian-serving institution which is eligible for and receives funds under this section may concurrently receive other funds under this part or part B of this subchapter.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

§ 1060. Findings and purposes

The Congress finds that—

(1) the historically Black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for Black, low-income, and educationally disadvantaged Americans;

(2) States and the Federal Government have discriminated in the allocation of land and financial resources to support Black public institutions under the Morrill Act of 1862 [7 U.S.C. 301 et seq.] and its progeny, and against public and private Black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under this chapter and other Federal programs which benefit institutions of higher education;

(3) the current state of Black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of Black postsecondary institutions to ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and

(4) financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically Black colleges and universities are appropriate methods to enhance these institutions and facilitate a decrease in reliance on governmental financial support and to encourage reliance on endowments and private sources.

(Pub. L. 89–329, title III, § 321, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1294.)

REFERENCES IN TEXT

The Morrill Act of 1862, referred to in par. (2), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, also known as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 301 of Title 7 and Tables.

This chapter, referred to in par. (2), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1060, Pub. L. 89–329, title III, § 321, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1393, set out purpose and grant authority for program of aiding institutions with special needs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1060, Pub. L. 90–575, title V, § 504, Oct. 16, 1968, 82 Stat. 1062, related to eligibility for student assistance because of conviction of crimes involving force, disruption, or seizure of property of educational institution; refusal to obey regulations or orders and disruption of administration of institution; other misconduct, disciplinary proceedings, and freedom of expression; and description of programs covered by such disqualification, prior to repeal by Pub. L. 92–318, title I, § 139B(b), June 23, 1972, 86 Stat. 282.

EXECUTIVE ORDER NO. 12320

Ex. Ord. No. 12320, Sept. 15, 1981, 46 F.R. 46107, which provided for the development of a Federal program to achieve a significant increase in the participation by historically Black colleges and universities in Federally sponsored programs, was revoked by Ex. Ord. No. 12677, Apr. 28, 1989, 54 F.R. 18869, formerly set out below.

EXECUTIVE ORDER NO. 12677

Ex. Ord. No. 12677, Apr. 28, 1989, 54 F.R. 18869, which provided for the development of a Federal program to achieve a significant increase in the participation by historically Black colleges and universities in Federally sponsored programs, was revoked by Ex. Ord. No. 12876, § 13, Nov. 1, 1993, 58 F.R. 58735, formerly set out below.

EXECUTIVE ORDER NO. 12876

Ex. Ord. No. 12876, Nov. 1, 1993, 58 F.R. 58735, which established in the Department of Education the President's Board of Advisors on Historically Black Colleges

and Universities, a Presidential advisory committee, was revoked by Ex. Ord. No. 13256, § 11, Feb. 12, 2002, 67 F.R. 6825, set out below.

EX. ORD. NO. 13256. PRESIDENT'S BOARD OF ADVISORS ON HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Ex. Ord. No. 13256, Feb. 12, 2002, 67 F.R. 6823, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, in order to advance the development of the Nation's full human potential and to advance equal opportunity in higher education, to strengthen the capacity of historically black colleges and universities to provide the highest quality education, and to increase opportunities for these institutions to participate in and benefit from Federal programs, as do other colleges and universities, it is hereby ordered as follows:

SECTION 1. There is established, in the Office of the Secretary of Education, a Presidential advisory committee entitled the ''President's Board of Advisors on Historically Black Colleges and Universities'' (Board). The Board shall prepare and issue an annual report to the President on the results of the participation of historically black colleges and universities in Federal programs. The Board also shall provide advice to the President and to the Secretary of Education (Secretary) regarding the needs of historically black colleges and universities in the areas of infrastructure, academic programs, and faculty and institutional development. In the annual report to the President, the Board shall make recommendations on how to increase the private sector role, including the role of private foundations, in strengthening historically black colleges and universities. Particular emphasis should also be given in the report to enhancing institutional planning and development, strengthening fiscal stability and financial management, and improving institutional infrastructure, including the use of technology, to ensure the long-term viability and enhancement of these institutions.

SEC. 2. The Board shall be appointed by the President. The Board membership shall include sitting presidents of historically black colleges and universities, representatives of other higher education institutions, business and financial leaders, representatives of private foundations, and secondary school administrators. The President shall designate a Chair or Co-Chairs from among the members.

SEC. 3. The White House Initiative on Historically Black Colleges and Universities (Initiative), located in the Office of the Secretary of Education, shall: (1) provide staff, resources, and assistance to the Board; (2) assist the Secretary in performing the liaison function between the executive branch and historically black colleges and universities; and (3) serve the Secretary in carrying out the responsibilities described in section 6 of this order.

SEC. 4. To carry out this order, each executive department and agency identified by the Secretary may, consistent with applicable law and regulations, enter into appropriate grants, contracts, or cooperative agreements with historically black colleges and universities. The head of each department or agency so identified shall establish an annual plan that will establish clear goals for how the department or agency intends to increase the capacity of historically black colleges and universities to compete effectively for grants, contracts, or cooperative agreements and to encourage historically black colleges and universities to participate in Federal programs. The department's or agency's annual goal should be clearly reflected in the department's or agency's annual budget submission to the Office of Management and Budget. To facilitate the attainment of these goals, the head of each department or agency identified by the Secretary shall provide, as appropriate, technical assistance and information to historically black colleges and universities regarding the program activities of the department or agency and the preparation of applications or proposals for grants, contracts, or cooperative agreements.

SEC. 5. Each executive department and agency identified by the Secretary shall appoint a senior official, who is a full-time officer of the Federal Government, to report directly to the department or agency head with respect to department or agency activity under this order, and to serve as liaison to the Board and to the Initiative. To the extent permitted by law and regulations, each executive department and agency identified by the Secretary shall provide appropriate information requested by the Board and staff pursuant to the order.

SEC. 6. Each executive department and agency identified by the Secretary shall develop an annual plan for, and shall document the agency's effort in, increasing the capacity of historically black colleges and universities to participate in Federal programs. Each department's and agency's plan shall describe new or existing department and agency programs and measurable objectives for proposed department and agency actions, in connection with those programs, to achieve the purposes of this order. These plans shall be submitted at such time and in such form as the Secretary shall require. In consultation with the participating departments and agencies, the Secretary shall review the plans and develop, with the advice of the Board, an integrated Annual Federal Plan for Assistance to Historically Black Colleges and Universities for submission to the President. The Secretary shall provide the president of each historically black college and university with a copy of, and an opportunity to comment on, the proposed Annual Federal Plan prior to its submission to the President. Each participating department and agency shall submit to the Secretary an Annual Performance Report that shall measure each department's and agency's performance against the objectives set forth in the department's or agency's annual plan. The Secretary shall be responsible for monitoring compliance with the Annual Federal Plan after it is approved by the President.

SEC. 7. In developing its annual plan, each executive department and agency identified by the Secretary shall emphasize programs and activities that develop the capacity of historically black colleges and universities to contribute to the development of human capital and to strengthen America's economic and technological base through: (1) infrastructure development and acquisitions for instruction and research; (2) student and faculty doctoral fellowships and faculty development; (3) domestic and international faculty and student exchanges and study-abroad opportunities; (4) undergraduate and graduate student internships; and (5) summer, part-time, and permanent employment opportunities.

SEC. 8. Each year, the Board shall report to the President on the progress achieved in enhancing the capacity of historically black colleges and universities to serve their students, including findings and recommendations for individual departments and agencies in connection with their Annual Performance Reports, as described in section 6 of this order.

SEC. 9. The Board, in consultation with the Department of Education and other executive departments and agencies, shall develop a Private Sector Strategy to assist historically black colleges and universities in: (1) increasing voluntary private-sector contributions to support the enhancement of endowments and the overall financial stability of such institutions; (2) improving and enhancing the quality and number of private-sector partnerships focused on academic program development, student achievement and faculty development, cooperative research and development projects, and faculty exchanges; and (3) improving information management, and facilities, and strengthening academic course offerings.

SEC. 10. (a) The provisions in this Executive Order shall be implemented to the fullest extent permitted by law.

(b) The Department of Education shall provide funding and administrative support for the Board and the Initiative.

(c) Members of the Board shall serve without compensation, but shall be reimbursed for all travel ex-

penses, including per diem in lieu of subsistence, as authorized by law;

(d) Insofar as the Federal Advisory Committee Act, as amended [5 App. U.S.C.], may apply to the Board, any functions of the President under that Act, except for those in section 6 of that Act, shall be performed by the Department of Education, in accordance with the guidelines that have been issued by the Administrator of General Services.

SEC. 11. Executive Order 12876 of November 1, 1993, as amended, is hereby revoked.

GEORGE W. BUSH.

EXTENSION OF TERM OF PRESIDENT'S BOARD OF ADVISORS ON HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 1997, by Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 1999, by Ex. Ord. No. 13062, §1(e), Sept. 29, 1997, 62 F.R. 51755, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

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

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

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

Term of President's Board of Advisors on Historically Black Colleges and Universities extended until Sept. 30, 2007, by Ex. Ord. No. 13385, Sept. 29, 2005, 70 F.R. 57989, set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

DETERMINATIONS REGARDING PRESIDENT'S BOARD OF ADVISORS

Memorandum of the President of the United States, Aug. 17, 1990, 55 F.R. 46491, provided:

Memorandum for the Secretary of Education

By virtue of the authority vested in me as President by the Constitution and the laws of the United States of America, including section 208 of title 18 of the United States Code and section 301 of title 3 of the United States Code, I hereby delegate to the Secretary of Education my authority to make determinations under subsection (b) of section 208 of title 18, United States Code, for the members of the President's Board of Advisors on Historically Black Colleges and Universities, established pursuant to Executive Order 12677 of April 28, 1989 [formerly set out above].

This memorandum shall be published in the Federal Register.

GEORGE BUSH.

§ 1061. Definitions

For the purpose of this part:

(1) The term ''graduate'' means an individual who has attended an institution for at least three semesters and fulfilled academic requirements for undergraduate studies in not more than 5 consecutive school years.

(2) The term ''part B institution'' means any historically Black college or university that was established prior to 1964, whose principal mission was, and is, the education of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation,,[1] except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under section 1060 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from July 18, 1988, be considered a part B institution.

(3) The term ''Pell Grant recipient'' means a recipient of financial aid under subpart 1 of part A of subchapter IV of this chapter.

(4) The term ''professional and academic areas in which Blacks are underrepresented'' shall be determined by the Secretary and the Commissioner of the Bureau of Labor Statistics, on the basis of the most recent available satisfactory data, as professional and academic areas in which the percentage of Black Americans who have been educated, trained, and employed is less than the percentage of Blacks in the general population.

(5) The term ''school year'' means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

(Pub. L. 89–329, title III, §322, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1294; amended Pub. L. 100–369, §10(c), July 18, 1988, 102 Stat. 838.)

PRIOR PROVISIONS

A prior section 1061, Pub. L. 89–329, title III, §322, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1393, defined terms used in this part, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1061, Pub. L. 89–329, title IV, §401, Nov. 8, 1965, 79 Stat. 1232; Pub. L. 90–575, title I, §101(a), (b)(1), Oct. 16, 1968, 82 Stat. 1017; Pub. L. 91–95, §4, Oct. 22, 1969, 83 Stat. 143; Pub. L. 92–318, title I, §131(a)(1)(A), June 23, 1972, 86 Stat. 247, related to statement of purpose and authorization of appropriations for educational opportunity grants, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

AMENDMENTS

1988—Par. (2). Pub. L. 100–369 inserted '',, except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under section 1060 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from July 18, 1988, be considered a part B institution'' after ''accreditation''.

[1] So in original.

§ 1062. Grants to institutions

(a) General authorization; uses of funds

From amounts available under section 1069f(a)(2)[1] of this title in any fiscal year the Secretary shall make grants (under section 1063 of this title) to institutions which have applications approved by the Secretary (under section 1063a of this title) for any of the following uses:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

(3) Support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

(4) Academic instruction in disciplines in which Black Americans are underrepresented.

(5) Purchase of library books, periodicals, microfilm, and other educational materials, including telecommunications program materials.

(6) Tutoring, counseling, and student service programs designed to improve academic success.

(7) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

(8) Joint use of facilities, such as laboratories and libraries.

(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(10) Establishing or enhancing a program of teacher education designed to qualify students to teach in a public elementary or secondary school in the State that shall include, as part of such program, preparation for teacher certification.

(11) Establishing community outreach programs which will encourage elementary and secondary students to develop the academic skills and the interest to pursue postsecondary education.

(12) Other activities proposed in the application submitted pursuant to section 1063a of this title that—

(A) contribute to carrying out the purposes of this part; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(b) Endowment fund

(1) In general

An institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at the institution.

(2) Matching requirement

In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds from non-Federal sources, in an amount equal to or greater than the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

(3) Comparability

The provisions of part C of this subchapter regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

(c) Limitations

(1) No grant may be made under this chapter for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For the purpose of this subsection, the term ''school or department of divinity'' means an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

(2) Not more than 50 percent of the allotment of any institution may be available for the purpose of constructing or maintaining a classroom, library, laboratory, or other instructional facility.

(Pub. L. 89–329, title III, § 323, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1295; amended Pub. L. 100–50, § 2(a)(7), June 3, 1987, 101 Stat. 335; Pub. L. 100–369, § 10(b), July 18, 1988, 102 Stat. 838; Pub. L. 102–325, title III, § 303(a), (b), July 23, 1992, 106 Stat. 474, 475; Pub. L. 103–208, § 2(a)(8), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 105–244, title III, § 304(a), Oct. 7, 1998, 112 Stat. 1642.)

REFERENCES IN TEXT

Section 1069f(a)(2) of this title, referred to in subsec. (a), was in the original a reference to section 360(a)(2) of Pub. L. 89–329. Section 360 of Pub. L. 89–329 was renumbered section 399 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and was transferred to section 1068h of this title.

This chapter, referred to in subsec. (c)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1062, Pub. L. 89–329, title III, § 323, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1395, provided for duration of grants to institutions with special needs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1062, Pub. L. 89–329, title IV, § 402, Nov. 8, 1965, 79 Stat. 1232; Pub. L. 90–575, title I, § 102, Oct. 16, 1968, 82 Stat. 1017, related to determination of amount of grant and establishment of basic criteria or schedules, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

AMENDMENTS

1998—Subsecs. (b), (c). Pub. L. 105–244, § 304(a)(1), (2), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (c)(3). Pub. L. 105–244, § 304(a)(3), struck out par. (3) which read as follows: ''The Secretary shall not

[1] See References in Text note below.

award a grant under this part for telecommunications technology equipment, facilities or services, if such equipment, facilities or services are available pursuant to section 396(k) of title 47.''

1993—Subsec. (b)(3). Pub. L. 103–208 realigned margin.

1992—Subsec. (a)(2). Pub. L. 102–325, § 303(a)(1), inserted '', including purchase or rental of telecommunications technology equipment or services'' after ''facilities''.

Subsec. (a)(5). Pub. L. 102–325, § 303(a)(2), inserted '', including telecommunications program materials'' after ''materials''.

Subsec. (a)(9) to (12). Pub. L. 102–325, § 303(a)(3), added pars. (9) to (12).

Subsec. (b)(3). Pub. L. 102–325, § 303(b), added par. (3).

1988—Subsec. (a)(3). Pub. L. 100–369, § 10(b)(1), inserted '', and faculty development'' after ''exchanges''.

Subsec. (a)(7), (8). Pub. L. 100–369, § 10(b)(2), added pars. (7) and (8).

1987—Subsec. (a). Pub. L. 100–50 substituted ''section 1069f(a)(2) of this title'' for ''section 1069d(a)(2) of this title''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1063. Allotments to institutions

(a) Allotment; Pell Grant basis

From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-half that amount as the number of Pell Grant recipients in attendance at such institution at the end of the school year preceding the beginning of that fiscal year bears to the total number of Pell Grant recipients at all part B institutions.

(b) Allotment; graduates basis

From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates for such school year at such institution bears to the total number of graduates for such school year at all part B institutions.

(c) Allotment; graduate and professional student basis

From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth of that amount as the percentage of graduates per institution, who are admitted to and in attendance at, within 5 years of graduation with a baccalaureate degree, a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented, bears to the percentage of such graduates per institution for all part B institutions.

(d) Minimum allotment

(1) Notwithstanding subsections (a), (b), and (c) of this section, the amount allotted to each part B institution under this section shall not be less than $500,000.

(2) If the amount appropriated pursuant to section 1069f(a)(2)(A)[1] of this title for any fiscal year is not sufficient to pay the minimum allotment required by paragraph (1) of this subsection to all part B institutions, the amount of such minimum allotments shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allocation shall be increased on the same basis as they were reduced (until the amount allotted equals the minimum allotment required by paragraph (1)).

(e) Reallotment

The amount of any part B institution's allotment under subsection (a), (b), (c), or (d) of this section for any fiscal year which the Secretary determines will not be required for such institution for the period such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may determine to other part B institutions in proportion to the original allotment to such other institutions under this section for such fiscal year.

(f) Special merger rule

(1) The Secretary shall permit any eligible institution for a grant under part B in any fiscal year prior to the fiscal year 1986 to apply for a grant under this part if the eligible institution has merged with another institution of higher education which is not so eligible or has merged with an eligible institution.

(2) The Secretary may establish such regulations as may be necessary to carry out the requirement of paragraph (1) of this subsection.

(g) Special rule for certain District of Columbia eligible institutions

In any fiscal year that the Secretary determines that Howard University or the University of the District of Columbia will receive an allotment under subsections (b) and (c) of this section which is not in excess of amounts received by Howard University under section 123 of this title, relating to annual authorization of appropriations for Howard University, or by the University of the District of Columbia under the District of Columbia Home Rule Act (87 Stat. 774) for such fiscal year, then Howard University and the University of the District of Columbia, as the case may be, shall be ineligible to receive an allotment under this section.

(Pub. L. 89–329, title III, § 324, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1296; amended Pub. L. 99–509, title VII, § 7007,

[1] See References in Text note below.

Oct. 21, 1986, 100 Stat. 1950; Pub. L. 102–325, title III, § 303(c), (d), July 23, 1992, 106 Stat. 475; Pub. L. 105–33, title XI, § 11717(b), Aug. 5, 1997, 111 Stat. 786.)

REFERENCES IN TEXT

Section 1069f(a)(2)(A) of this title, referred to in subsec. (d)(2), was in the original a reference to section 360(a)(2)(A) of Pub. L. 89–329. Section 360 of Pub. L. 89–329 was renumbered section 399 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and was transferred to section 1068h of this title.

The District of Columbia Home Rule Act, referred to in subsec. (g), is Pub. L. 93–198, Dec. 24, 1973, 87 Stat. 774, as amended. For classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1063, Pub. L. 89–329, title III, § 324, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1395, related to Federal share of grants to institutions with special needs, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1063, Pub. L. 89–329, title IV, § 403, Nov. 8, 1965, 79 Stat. 1233, related to duration of grant and eligibility for payments, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

AMENDMENTS

1997—Subsec. (g). Pub. L. 105–33 substituted ''District of Columbia Home Rule Act'' for ''District of Columbia Self-Government and Governmental Reorganization Act''.

1992—Subsec. (c). Pub. L. 102–325, § 303(c), inserted '', within 5 years of graduation with a baccalaureate degree,'' after ''in attendance at''.

Subsec. (d)(1). Pub. L. 102–325, § 303(d), substituted ''$500,000'' for ''$350,000''.

1986—Subsec. (c). Pub. L. 99–509, § 7007(4), amended subsec. generally, substituting ''percentage of graduates per institution'' for ''number of graduates'' and ''percentage of such graduates per institution'' for ''number of such graduates''.

Subsec. (d). Pub. L. 99–509, § 7007(1), (2), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 99–509, § 7007(1), (3), redesignated former subsec. (d) as (e), and substituted ''subsection (a), (b), (c), or (d) of this section'' for ''subsection (a), (b), or (c) of this section''. Former subsec. (e) redesignated (f).

Subsecs. (f), (g). Pub. L. 99–509, § 7007(1), redesignated subsecs. (e) and (f) as (f) and (g), respectively.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–33 effective Oct. 1, 1997, except as otherwise provided in title XI of Pub. L. 105–33, see section 11721 of Pub. L. 105–33, set out as a note under section 4246 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1063a. Applications

(a) Contents

No part B institution shall be entitled to its allotment of Federal funds for any grant under section 1063 of this title for any period unless that institution meets the requirements of subparagraphs (C), (D), and (E)[1] of section 1058(b)(1) of this title and submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this chapter will be used for the purposes set forth in section 1062 of this title; and

(2) provide for making an annual report to the Secretary and provide for—

(A) conducting, except as provided in subparagraph (B), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this subchapter at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(B) with regard to an eligible institution which is audited under chapter 75 of title 31 deeming such audit to satisfy the requirements of subparagraph (A) for the period covered by such audit.

(b) Approval

The Secretary shall approve any application which meets the requirements of subsection (a) of this section and shall not disapprove any application submitted under this part, or any modification thereof, without first affording such institution reasonable notice and opportunity for a hearing.

(c) Goals for financial management and academic programs

Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs and include a plan of how the applicant intends to achieve those goals.

(Pub. L. 89–329, title III, § 325, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1296; amended Pub. L. 100–50, § 2(a)(8), June 3, 1987, 101 Stat. 335; Pub. L. 102–325, title III, § 303(e), July 23, 1992, 106 Stat. 475.)

REFERENCES IN TEXT

Section 1058(b)(1)(E) of this title, referred to in subsec. (a), was repealed and section 1058(b)(1)(F) was redesignated section 1058(b)(1)(E) by Pub. L. 102–325, title III, § 302(a)(1)(B), (C), July 23, 1992, 106 Stat. 472.

This chapter, referred to in subsec. (a)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–325 added subsec. (c).

1987—Subsec. (a)(1). Pub. L. 100–50 substituted ''section 1062 of this title'' for ''section 1061 of this title''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

[1] See References in Text note below.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1063b. Professional or graduate institutions

(a) General authorization

(1) Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the postgraduate institutions listed in subsection (e) of this section that is determined by the Secretary to be making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities in mathematics, engineering, or the physical or natural sciences for Black Americans.

(2) No grant in excess of $1,000,000 may be made under this section unless the postgraduate institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources, except that no institution shall be required to match any portion of the first $1,000,000 of the institution's award from the Secretary. After funds are made available to each eligible institution under the funding rules described in subsection (f) of this section, the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the failure of an institution to comply with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement.

(b) Duration

Grants shall be made for a period not to exceed 5 years.

(c) Uses of funds

A grant under this section may be used for—

(1) purchase, rental or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

(2) construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

(3) purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials;

(4) scholarships, fellowships, and other financial assistance for needy graduate and professional students to permit the enrollment of the students in and completion of the doctoral degree in medicine, dentistry, pharmacy, veterinary medicine, law, and the doctorate degree in the physical or natural sciences, engineering, mathematics, or other scientific disciplines in which African Americans are underrepresented;

(5) establish or improve a development office to strengthen and increase contributions from alumni and the private sector;

(6) assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 1065 of this title; and

(7) funds and administrative management, and the acquisition of equipment, including software, for use in strengthening funds management and management information systems.

(d) Application

Any institution eligible for a grant under this section shall submit an application which—

(1) demonstrates how the grant funds will be used to improve graduate educational opportunities for Black and low-income students, and lead to greater financial independence; and

(2) provides, in the case of applications for grants in excess of $1,000,000, the assurances required by subsection (a)(2) of this section and specifies the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

(e) Eligibility

(1) In general

Independent professional or graduate institutions and programs eligible for grants under subsection (a) of this section are the following[1]

(A) Morehouse School of Medicine;

(B) Meharry Medical School;

(C) Charles R. Drew Postgraduate Medical School;

(D) Clark-Atlanta University;

(E) Tuskegee University School of Veterinary Medicine and other qualified graduate programs;

(F) Xavier University School of Pharmacy and other qualified graduate programs;

(G) Southern University School of Law and other qualified graduate programs;

(H) Texas Southern University School of Law and School of Pharmacy and other qualified graduate programs;

(I) Florida A&M University School of Pharmaceutical Sciences and other qualified graduate programs;

(J) North Carolina Central University School of Law and other qualified graduate programs;

(K) Morgan State University qualified graduate program;

(L) Hampton University qualified graduate program;

(M) Alabama A&M qualified graduate program;

(N) North Carolina A&T State University qualified graduate program;

(O) University of Maryland Eastern Shore qualified graduate program;

(P) Jackson State University qualified graduate program;

(Q) Norfolk State University qualified graduate programs; and

(R) Tennessee State University qualified graduate programs.

(2) Qualified graduate program

(A) For the purposes of this section, the term ''qualified graduate program'' means a graduate or professional program that pro-

[1] So in original. Probably should be followed by a colon.

vides a program of instruction in the physical or natural sciences, engineering, mathematics, or other scientific discipline in which African Americans are underrepresented and has students enrolled in such program at the time of application for a grant under this section.

(B) Notwithstanding the enrollment requirement contained in subparagraph (A), an institution may use an amount equal to not more than 10 percent of the institution's grant under this section for the development of a new qualified graduate program.

(3) Special rule

Institutions that were awarded grants under this section prior to October 1, 1998, shall continue to receive such grants, subject to the availability of appropriated funds, regardless of the eligibility of the institutions described in subparagraphs (Q) and (R) of paragraph (1).

(4) One grant per institution

The Secretary shall not award more than 1 grant under this section in any fiscal year to any institution of higher education or university system.

(5) Institutional choice

The president or chancellor of the institution may decide which graduate or professional school or qualified graduate program will receive funds under the grant in any 1 fiscal year, if the allocation of funds among the schools or programs is delineated in the application for funds submitted to the Secretary under this section.

(f) Funding rule

Subject to subsection (g) of this section, of the amount appropriated to carry out this section for any fiscal year—

(1) the first $26,600,000 (or any lesser amount appropriated) shall be available only for the purposes of making grants to institutions or programs described in subparagraphs (A) through (P) of subsection (e)(1) of this section;

(2) any amount in excess of $26,600,000, but not in excess of $28,600,000, shall be available for the purpose of making grants to institutions or programs described in subparagraphs (Q) and (R) of subsection (e)(1) of this section; and

(3) any amount in excess of $28,600,000, shall be made available to each of the institutions or programs identified in subparagraphs (A) through (R)[2] pursuant to a formula developed by the Secretary that uses the following elements:

(A) The ability of the institution to match Federal funds with non-Federal funds.

(B) The number of students enrolled in the programs for which the eligible institution received funding under this section in the previous year.

(C) The average cost of education per student, for all full-time graduate or professional students (or the equivalent) enrolled in the eligible professional or graduate school, or for doctoral students enrolled in the qualified graduate programs.

(D) The number of students in the previous year who received their first professional or doctoral degree from the programs for which the eligible institution received funding under this section in the previous year.

(E) The contribution, on a percent basis, of the programs for which the institution is eligible to receive funds under this section to the total number of African Americans receiving graduate or professional degrees in the professions or disciplines related to the programs for the previous year.

(g) Hold harmless rule

Notwithstanding paragraphs (2) and (3) of subsection (f) of this section, no institution or qualified program identified in subsection (e)(1) of this section that received a grant for fiscal year 1998 and that is eligible to receive a grant in a subsequent fiscal year shall receive a grant amount in any such subsequent fiscal year that is less than the grant amount received for fiscal year 1998, unless the amount appropriated is not sufficient to provide such grant amounts to all such institutions and programs, or the institution cannot provide sufficient matching funds to meet the requirements of this section.

(Pub. L. 89–329, title III, §326, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1297; amended Pub. L. 100–50, §2(a)(9), (10), June 3, 1987, 101 Stat. 335; Pub. L. 102–325, title III, §303(f)(1), (g), July 23, 1992, 106 Stat. 475, 476; Pub. L. 103–208, §2(a)(9), Dec. 20, 1993, 107 Stat. 2457; Pub. L. 104–141, §2, May 6, 1996, 110 Stat. 1328; Pub. L. 105–244, title III, §304(b), Oct. 7, 1998, 112 Stat. 1643.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, §304(b)(1)(A)(i), inserted ''in mathematics, engineering, or the physical or natural sciences'' after ''graduate education opportunities''.

Subsec. (a)(2). Pub. L. 105–244, §304(b)(1)(A)(ii), substituted ''$1,000,000 may'' for ''$500,000 may'' and '', except that no institution shall be required to match any portion of the first $1,000,000 of the institution's award from the Secretary. After funds are made available to each eligible institution under the funding rules described in subsection (f) of this section, the Secretary shall distribute, on a pro rata basis, any amounts which were not so made available (by reason of the failure of an institution to comply with the matching requirements of this paragraph) among the institutions that have complied with such matching requirement.'' for ''except that the Morehouse School of Medicine shall receive at least $3,000,000.''

Subsec. (c). Pub. L. 105–244, §304(b)(2), added pars. (1) to (7) and struck out former pars. (1) to (3) which read as follows:

''(1) any of the purposes enumerated under section 1062 of this title;

''(2) to establish or improve a development office to strengthen and increase contributions from alumni and the private sector; and

''(3) to assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 1065 of this title.''

Subsec. (d)(2). Pub. L. 105–244, §304(b)(1)(B), substituted ''$1,000,000'' for ''$500,000''.

Subsec. (e)(1). Pub. L. 105–244, §304(b)(3)(A)(i), substituted ''are the following'' for ''include—'' in introductory provisions.

Subsec. (e)(1)(E) to (J). Pub. L. 105–244, §304(b)(3)(A)(ii), inserted ''and other qualified graduate programs'' before semicolon at end.

[2] So in original. Probably should be ''subparagraphs (A) to (R) of subsection (e)(1) of this section''.

Subsec. (e)(1)(P). Pub. L. 105–244, § 304(b)(3)(A)(iv)(I), inserted ''University'' after ''State''.

Subsec. (e)(1)(Q), (R). Pub. L. 105–244, § 304(b)(3)(A)(iii), (iv)(II), (III), added subpars. (Q) and (R).

Subsec. (e)(2). Pub. L. 105–244, § 304(b)(3)(B), added par. (2) and struck out heading and text of former par. (2). Text read as follows: ''For the purposes of this section, the term 'qualified graduate program' means a graduate or professional program that—

''(A) provides a program of instruction in the physical or natural sciences, engineering, mathematics, or other scientific discipline in which African Americans are underrepresented; and

''(B) has students enrolled in such program at the time of application for a grant under this section.''

Subsec. (e)(3). Pub. L. 105–244, § 304(b)(3)(B), added par. (3) and struck out heading and text of former par. (3). Text read as follows: ''Graduate institutions that were awarded grants under this section prior to October 1, 1992 shall continue to receive such grant payments, regardless of the eligibility of the graduate institutions described in subparagraphs (F) through (P), until such grant period has expired or September 30, 1993, whichever is later.''

Subsec. (e)(5). Pub. L. 105–244, § 304(b)(3)(C), added par. (5).

Subsec. (f). Pub. L. 105–244, § 304(b)(4)(A), substituted ''Subject to subsection (g), of the amount appropriated'' for ''Of the amount appropriated'' in introductory provisions.

Subsec. (f)(1). Pub. L. 105–244, § 304(b)(4)(B), substituted ''$26,600,000'' for ''$12,000,000'' and ''(A) through (P)'' for ''(A) through (E)''.

Subsec. (f)(2), (3). Pub. L. 105–244, § 304(b)(4)(C), added pars. (2) and (3) and struck out former par. (2) which read as follows: ''any amount appropriated in excess of $12,000,000 shall be available—

''(A) for the purposes of making grants, in equal amounts not to exceed $500,000, to institutions or programs described in subparagraphs (F) through (P) of subsection (e)(1) of this section; and

''(B) secondly for the purposes of making grants to institutions or programs described in subparagraphs (A) through (P) of subsection (e)(1) of this section.''

Subsec. (g). Pub. L. 105–244, § 304(b)(5), added subsec. (g).

1996—Subsec. (b). Pub. L. 104–141 struck out at end ''No more than two 5-year grants (for a period of not more than 10 years) may be made to any one undergraduate or postgraduate institution.''

1993—Subsec. (e)(2). Pub. L. 103–208 redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''has been accredited by a nationally recognized accrediting agency or association or has been approved by a nationally recognized approving agency; and''.

1992—Subsec. (e). Pub. L. 102–325, § 303(f)(1), substituted ''Eligibility'' for ''Eligible professional or graduate institutions'' in heading and amended text generally. Prior to amendment, text read as follows: ''Independent professional or graduate institutions eligible for grants under subsection (a) of this section include—

''(1) Morehouse School of Medicine;

''(2) Meharry Medical School;

''(3) Charles R. Drew Postgraduate Medical School;

''(4) Atlanta University; and

''(5) Tuskegee Institute School of Veterinary Medicine.''

Subsec. (f). Pub. L. 102–325, § 303(g), added subsec. (f).

1987—Subsec. (a)(2). Pub. L. 100–50, § 2(a)(9), inserted ''except that the Morehouse School of Medicine shall receive at least $3,000,000''.

Subsec. (c)(3). Pub. L. 100–50, § 2(a)(10), made technical amendment to reference to section 1065 of this title to correct reference to corresponding section of original act.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

CONGRESSIONAL FINDINGS

Section 1 of Pub. L. 104–141 provided that: ''The Congress finds the following:

''(1) The Historically Black Graduate Professional Schools identified under section 326 of the Higher Education Act [20 U.S.C. 1063b] may receive grant funds if the Secretary of Education determines that such institutions make a substantial contribution to the legal, medical, dental, veterinary, or other graduate opportunity for African Americans.

''(2) The health professions schools which participate under section 326 train 50 percent of the Nation's African American physicians, 50 percent of the Nation's African American dentists, 50 percent of the Nation's African American pharmacists, and 75 percent of the Nation's African American veterinarians.

''(3) A majority of the graduates of these schools practice in poor urban and rural areas of the country providing care to many disadvantaged Americans.

''(4) The survival of these schools will contribute to the improved health status of disadvantaged persons, and of all Americans.''

§ 1063c. Reporting and audit requirements

(a) Recordkeeping

Each recipient of a grant under this part shall keep such records as the Secretary shall prescribe, including records which fully disclose—

(1) the amount and disposition by such recipient of the proceeds of such assistance;

(2) the cost of the project or undertaking in connection with which such assistance is given or used;

(3) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

(4) such other records as will facilitate an effective audit.

(b) Repayment of unexpended funds

Any funds paid to an institution and not expended or used for the purposes for which the funds were paid within 10 years following the date of the initial grant awarded to an institution under part B of this subchapter shall be repaid to the Treasury of the United States.

(Pub. L. 89–329, title III, § 327, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1298; amended Pub. L. 100–50, § 2(a)(11), June 3, 1987, 101 Stat. 335.)

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–50 substituted ''part'' for ''chapter'' in introductory text.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

PART C—ENDOWMENT CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B

§ 1064. Repealed. Pub. L. 102–325, title III, § 304(a)(2), July 23, 1992, 106 Stat. 476

Section, Pub. L. 89–329, title III, § 331, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1298, related to establishment of challenge grant program.

A prior section 1064, Pub. L. 89–329, title III, § 331, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1395; amended Pub. L. 97–35, title V, § 516(c)(2), Aug. 13, 1981, 95 Stat. 447, established a challenge grant program, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1064, Pub. L. 89–329, title IV, § 404, Nov. 8, 1965, 79 Stat. 1233, related to time and manner of making application for grant, selection of recipients and conditions precedent to award, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1065. Endowment challenge grants

(a) Purpose; definitions

(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fund raising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

(2) For the purpose of this section:

(A) The term ''endowment fund'' means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

(B) The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

(C) The term ''endowment fund income'' means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

(D)(i) The term ''eligible institution'' means an institution that is an—

(I) eligible institution under part A of this subchapter or would be considered to be such an institution if section 1058(b)(1)(C) of this title referred to a postgraduate degree rather than a bachelor's degree;

(II) institution eligible for assistance under part B of this subchapter or would be considered to be such an institution if section 1063 of this title referred to a postgraduate degree rather than a baccalaureate degree; or

(III) institution of higher education that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

(ii) The Secretary may waive the requirements of subclauses (I) and (II) of clause (i) with respect to a postgraduate degree in the case of any institution otherwise eligible under clause (i) for an endowment challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

(b) Grants authorized

(1) From sums available for this section under section 1068h of this title, the Secretary is authorized to award endowment challenge grants to eligible institutions to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g) of this section.

(2)(A) Except as provided in subparagraph (B), no institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

(B) The Secretary may make a grant under this part to an eligible institution in any fiscal year if the institution—

(i) applies for a grant in an amount not exceeding $500,000; and

(ii) has deposited in the eligible institution's endowment fund established under this section an amount which is equal to ½ of the amount of such grant.

(C) An eligible institution of higher education that is awarded a grant under subparagraph (B) shall not be eligible to receive an additional grant under subparagraph (B) until 10 years after the date on which the grant period terminates.

(3) The period of a grant under this section shall be not more than 20 years. During the grant period, an institution may not withdraw or expend any of the endowment fund corpus. After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in subsection (a)(2)(D) of this section.

(B) No institution shall be ineligible for an endowment challenge grant under this section for a fiscal year by reason of the previous receipt of such a grant but no institution shall be eligible to receive such a grant for more than 2 fiscal years out of any period of 5 consecutive fiscal years.

(5) An endowment challenge grant awarded under this section to an eligible institution

shall be in an amount which is not less than $50,000 in any fiscal year.

(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulation;

(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulation, including any monetary liability that may arise as a result of such violation.

(c) Grant agreement; endowment fund provisions

(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2) of this section, (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest-bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of such person's own affairs.

(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 percent of the total aggregate endowment fund income earned prior to the time of expenditure.

(ii) The Secretary may permit an institution to spend more than 50 percent of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) any other unusual occurrence or exigent circumstance.

(d) Repayment provisions

(1) If at any time an institution withdraws part of the endowment fund corpus, the institution shall repay to the Secretary an amount equal to 50 percent of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional challenge grants, or to increase existing endowment grants, to other eligible institutions.

(2) If an institution expends more of the endowment fund income than is permitted under subsection (c) of this section, the institution shall repay the Secretary an amount equal to 50 percent of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional challenge grants, or to increase existing challenge grants, to other eligible institutions.

(e) Audit information

An institution receiving a grant under this section shall provide to the Secretary (or a designee thereof) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

(f) Selection criteria

In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

(1) give priority to an applicant that is receiving assistance under part A of this subchapter or part B of this subchapter or has received a grant under part A of this subchapter or part B of this subchapter within the 5 fiscal years preceding the fiscal year in which the applicant is applying for a grant under this section;

(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's existing endowment in relation to the number of full-time equivalent students enrolled at such institution; and

(3) consider—

(A) the effort made by the applicant to build or maintain its existing endowment fund; and

(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

(g) Application

Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe, including a description of the long- and short-term plans for raising and using the funds under this part. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f) of this section, the Secretary may approve an application for a grant if an institution, in its application, provides adequate assur-

ances that it will comply with the requirements of this section.

(h) Termination and recovery provisions

(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3) of this section;

(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2) of this section; or

(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of each original grant under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing challenge grants, to other eligible institutions under this part.

(Pub. L. 89–329, title III, §331, formerly §332, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1299; amended Pub. L. 100–50, §2(a)(12), June 3, 1987, 101 Stat. 336; renumbered §331 and amended Pub. L. 102–325, title III, §304(a)(3), (b), July 23, 1992, 106 Stat. 476; Pub. L. 103–208, §2(a)(8), (10), (11), Dec. 20, 1993, 107 Stat. 2457, 2458; Pub. L. 105–244, title III, §305, Oct. 7, 1998, 112 Stat. 1646.)

PRIOR PROVISIONS

A prior section 331 of Pub. L. 89–329, title III, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1298, related to establishment of challenge grant program, was classified to section 1064 of this title prior to repeal by Pub. L. 102–325, §304(a)(2).

A prior section 1065, Pub. L. 89–329, title III, §332, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1396, related to applications for challenge grants, prior to the general revision of this subchapter by Pub. L. 99–498.

Another prior section 1065, Pub. L. 89–329, title IV, §405, Nov. 8, 1965, 79 Stat. 1234; Pub. L. 90–575, title I, §101(b)(2), Oct. 16, 1968, 82 Stat. 1017, related to allotment and reallotment of funds among the States, prior to the general revision of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

A prior section 1065a, Pub. L. 89–329, title III, §333, as added Pub. L. 98–95, §2, Sept. 26, 1983, 97 Stat. 708, established program of matching grants to increase endowments at eligible institutions of higher education, prior to the general revision of this subchapter by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–244, §305(1), substituted ''section 1068h'' for ''section 1069f''.

Subsec. (b)(2)(B), (C). Pub. L. 105–244, §305(2), added subpars. (B) and (C) and struck out former subpars. (B) and (C) which authorized Secretary to make grants under this part to eligible institutions in amounts which varied depending on amount appropriated in each fiscal year to carry out this part and limited rights of institutions to reapply for grants when amount appropriated was below specified amounts.

1993—Subsecs. (a)(2)(D), (b)(2)(B), (C), (5). Pub. L. 103–208 realigned margins and in subsec. (b)(5) substituted ''An endowment'' for ''an endowment''.

1992—Subsec. (a)(1). Pub. L. 102–325, §304(b)(1)(A), struck out ''of higher education'' after ''eligible institutions''.

Subsec. (a)(2)(D). Pub. L. 102–325, §304(b)(1)(B), added subpar. (D).

Subsec. (b)(1). Pub. L. 102–325, §304(b)(2), inserted ''endowment'' before ''challenge grants'' and struck out ''of higher education'' after ''eligible institutions''.

Subsec. (b)(2)(B), (C). Pub. L. 102–325, §304(b)(3), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

''(B) In any fiscal year in which the appropriations for this part exceeds $10,000,000, the Secretary may make a grant under this part to an eligible institution of higher education if such institution—

''(i) has deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant; and

''(ii) applies for a grant in an amount exceeding $1,000,000.

''(C) An eligible institution of higher education that is awarded a grant under this section shall not be eligible to reapply for a grant under this section during the 10 years immediately following the period that it received such grant.''

Subsec. (b)(4)(A). Pub. L. 102–325, §304(b)(4), substituted ''subsection (a)(2)(D) of this section'' for ''section 1064(a)(1) of this title''.

Subsec. (b)(4)(B). Pub. L. 102–325, §304(b)(5), substituted ''an endowment challenge grant'' for ''a challenge grant''.

Subsec. (b)(5). Pub. L. 102–325, §304(b)(6), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''Except as provided in paragraph (2)(B), a challenge grant under this section to an eligible institution year shall—

''(A) not be less than $50,000 for any fiscal year; and

''(B) not be more than (i) $250,000 for fiscal year 1987; or (ii) $500,000 for fiscal year 1988 or any succeeding fiscal year.''

Subsec. (f)(1). Pub. L. 102–325, §304(b)(7), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''give priority to an applicant which is a recipient of a grant made under part A or B of this subchapter (or section 1069a of this title) during the academic year in which the applicant is applying for a grant under this section;''.

Subsec. (g). Pub. L. 102–325, §304(b)(8), inserted '', including a description of the long- and short-term plans for raising and using the funds under this part'' before period at end of first sentence.

1987—Subsec. (f)(1). Pub. L. 100–50 inserted ''(or section 1069a of this title)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

PART D—HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING

CODIFICATION

Pub. L. 105–244, title III, § 301(a)(3), Oct. 7, 1998, 112 Stat. 1636, redesignated part B of subchapter VII of this chapter as part D of subchapter III of this chapter.

PRIOR PROVISIONS

A prior part D, consisting of sections 1066 to 1069, 1069b to 1069d, and 1069f, was redesignated part F (§ 1068 et seq.) of this subchapter by Pub. L. 105–244, title III, § 301(a)(1), Oct. 7, 1998, 112 Stat. 1636.

§ 1066. Findings

The Congress finds that—

(1) a significant part of the Federal mission in education has been to attain equal opportunity in higher education for low-income, educationally disadvantaged Americans and African Americans;

(2) the Nation's historically Black colleges and universities have played a prominent role in American history and have an unparalleled record of fostering the development of African American youth by recognizing their potential, enhancing their academic and technical skills, and honing their social and political skills through higher education;

(3) the academic and residential facilities on the campuses of all historically Black colleges and universities have suffered from neglect, deferred maintenance and are in need of capital improvements in order to provide appropriate settings for learning and social development through higher education;

(4) due to their small enrollments, limited endowments and other financial factors normally considered by lenders in construction financing, historically Black colleges and universities often lack access to the sources of funding necessary to undertake the necessary capital improvements through borrowing and bond financing;

(5) despite their track record of long-standing and remarkable institutional longevity and viability, historically Black colleges and universities often lack the financial resources necessary to gain access to traditional sources of capital financing such as bank loans and bond financing; and

(6) Federal assistance to facilitate low-cost capital basis for historically Black colleges and universities will enable such colleges and universities to continue and expand their educational mission and enhance their significant role in American higher education.

(Pub. L. 89–329, title III, § 341, formerly title VII, § 721, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 741; renumbered title III, § 341, Pub. L. 105–244, title III, § 301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1132c of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 1066, Pub. L. 89–329, title III, § 351, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1302, and amended, which related to applications for assistance under this subchapter, was renumbered section 391 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068 of this title.

Another prior section 1066, Pub. L. 89–329, title III, § 341, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1396, related to applications for assistance, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1066, Pub. L. 89–329, title IV, § 406, Nov. 8, 1965, 79 Stat. 1234; Pub. L. 90–575, title I, § 101(b)(2), Oct. 16, 1968, 82 Stat. 1017, related to allocation of allotted funds to institutions, filing dates for application, criteria for making allocations, additional allocations and payments, prior to the general amendment of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1066a. Definitions

For the purposes of this part:

(1) The term ''eligible institution'' means a ''part B institution'' as that term is defined in section 1061(2) of this title.

(2) The term ''loan'' means a loan made to an eligible institution under the provisions of this part and pursuant to an agreement with the Secretary.

(3) The term ''qualified bond'' means any obligation issued by the designated bonding authority at the direction of the Secretary, the net proceeds of which are loaned to an eligible institution for the purposes described in section 1066b(b) of this title.

(4) The term ''funding'' means any payment under this part from the Secretary to the eligible institution or its assignee in fulfillment of the insurance obligations of the Secretary pursuant to an agreement under section 1066b of this title.

(5) The term ''capital project'' means, subject to section 1066c(b) of this title the repair, renovation, or, in exceptional circumstances, the construction or acquisition, of—

(A) any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by colleges and universities for instructional or research purposes or for housing students, faculty, and staff;

(B) a facility for the administration of an educational program, or a student center or student union, except that not more than 5 percent of the loan proceeds provided under this part may be used for the facility, center or union if the facility, center or union is owned, leased, managed, or operated by a private business, that, in return for such use, makes a payment to the eligible institution;

(C) instructional equipment technology,,[1] research instrumentation, and any capital equipment or fixture related to facilities described in subparagraph (A);

(D) a maintenance, storage, or utility facility that is essential to the operation of a facility, a library, a dormitory, equipment, instrumentation, a fixture, real property or

[1] So in original.

an interest therein, described in this paragraph;

(E) a facility designed to provide primarily outpatient health care for students or faculty;

(F) physical infrastructure essential to support the projects authorized under this paragraph, including roads, sewer and drainage systems, and water, power, lighting, telecommunications, and other utilities;

(G) any other facility, equipment or fixture which is essential to the maintaining of accreditation of the member institution by a nationally recognized accrediting agency or association; and

(H) any real property or interest therein underlying facilities described in subparagraph (A) or (G).

(6) The term ''interest'' includes accredited value or any other payment constituting interest on an obligation.

(7) The term ''outstanding'', when used with respect to bonds, shall not include bonds the payment of which shall have been provided for by the irrevocable deposit in trust of obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make payments on such bonds.

(8) The term ''designated bonding authority'' means the private, for-profit corporation selected by the Secretary pursuant to section 1066d(1) of this title for the purpose of issuing taxable construction bonds in furtherance of the purposes of this part.

(9) The term ''Advisory Board'' means the Advisory Board established by section 1066f of this title.

(Pub. L. 89–329, title III, §342, formerly title VII, §722, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 742; renumbered title III, §342, and amended Pub. L. 105–244, title III, §§301(a)(3), (4), (c)(4), 306(a), Oct. 7, 1998, 112 Stat. 1636, 1637, 1646.)

CODIFICATION

Section was formerly classified to section 1132c–1 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 342 of Pub. L. 89–329 was classified to section 1067 of this title prior to the general amendment of this subchapter by Pub. L. 99–498.

AMENDMENTS

1998—Par. (3). Pub. L. 105–244, §301(c)(4)(A), substituted ''section 1066b(b)'' for ''section 1132c–2(b)''.

Par. (4). Pub. L. 105–244, §301(c)(4)(B), substituted ''section 1066b'' for ''section 1132c–2''.

Par. (5). Pub. L. 105–244, §301(c)(4)(C), substituted ''section 1066c(b)'' for ''section 1132c–3(b)'' in introductory provisions.

Par. (5)(B). Pub. L. 105–244, §306(a)(2), added subpar. (B). Former subpar. (B) redesignated (C).

Par. (5)(C). Pub. L. 105–244, §306(a)(1), (3), redesignated subpar. (B) as (C) and inserted ''technology,'' after ''instructional equipment''. Former subpar. (C) redesignated (G).

Par. (5)(D) to (F). Pub. L. 105–244, §306(a)(4), added subpars. (D) to (F). Former subpar. (D) redesignated (H).

Par. (5)(G). Pub. L. 105–244, §306(a)(1), redesignated subpar. (C) as (G).

Par. (5)(H). Pub. L. 105–244, §306(a)(1), (5), redesignated subpar. (D) as (H) and substituted ''(G)'' for ''(C)''.

Par. (8). Pub. L. 105–244, §301(c)(4)(D), substituted ''section 1066d(1)'' for ''section 1132c–4(1)''.

Par. (9). Pub. L. 105–244, §301(c)(4)(E), substituted ''section 1066f'' for ''section 1132c–6''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1066b. Federal insurance for bonds

(a) General rule

Subject to the limitations in section 1066c of this title, the Secretary is authorized to enter into insurance agreements to provide financial insurance to guarantee the full payment of principal and interest on qualified bonds upon the conditions set forth in subsections (b), (c) and (d) of this section.

(b) Responsibilities of designated bonding authority

The Secretary may not enter into an insurance agreement described in subsection (a) of this section unless the Secretary designates a qualified bonding authority in accordance with sections 1066d(1) and 1066e[1] of this title and the designated bonding authority agrees in such agreement to—

(1) use the proceeds of the qualified bonds, less costs of issuance not to exceed 2 percent of the principal amount thereof, to make loans to eligible institutions or for deposit into an escrow account for repayment of the bonds;

(2) provide in each loan agreement with respect to a loan that not less than 95 percent of the proceeds of the loan will be used—

(A) to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project; or

(B) to refinance an obligation the proceeds of which were used to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project;

(3)(A) charge such interest on loans, and provide for such a schedule of repayments of loans, as will, upon the timely repayment of the loans, provide adequate and timely funds for the payment of principal and interest on the bonds; and

(B) require that any payment on a loan expected to be necessary to make a payment of principal and interest on the bonds be due not less than 60 days prior to the date of the payment on the bonds for which such loan payment is expected to be needed;

(4) prior to the making of any loan, provide for a credit review of the institution receiving the loan and assure the Secretary that, on the basis of such credit review, it is reasonable to anticipate that the institution receiving the loan will be able to repay the loan in a timely manner pursuant to the terms thereof;

(5) provide in each loan agreement with respect to a loan that, if a delinquency on such

[1] See References in Text note below.

loan results in a funding under the insurance agreement, the institution obligated on such loan shall repay the Secretary, upon terms to be determined by the Secretary, for such funding;

(6) assign any loans to the Secretary, upon the demand of the Secretary, if a delinquency on such loan has required a funding under the insurance agreement;

(7) in the event of a delinquency on a loan, engage in such collection efforts as the Secretary shall require for a period of not less than 45 days prior to requesting a funding under the insurance agreement;

(8) establish an escrow account—

(A) into which each eligible institution shall deposit 5 percent of the proceeds of any loan made under this part, with each eligible institution required to maintain in the escrow account an amount equal to 5 percent of the outstanding principal of all loans made to such institution under this part; and

(B) the balance of which—

(i) shall be available to the Secretary to pay principal and interest on the bonds in the event of delinquency in loan repayment; and

(ii) shall be used to return to an eligible institution an amount equal to any remaining portion of such institution's 5 percent deposit of loan proceeds following scheduled repayment of such institution's loan;

(9) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in amounts being withdrawn from the escrow account to pay principal and interest on bonds, subsequent payments on such loan shall be available to replenish such escrow account;

(10) comply with the limitations set forth in section 1066c of this title; and

(11) make loans only to eligible institutions under this part in accordance with conditions prescribed by the Secretary to ensure that loans are fairly allocated among as many eligible institutions as possible, consistent with making loans of amounts that will permit capital projects of sufficient size and scope to significantly contribute to the educational program of the eligible institutions.

(c) Additional agreement provisions

Any insurance agreement described in subsection (a) of this section shall provide as follows:

(1) The payment of principal and interest on bonds shall be insured by the Secretary until such time as such bonds have been retired or canceled.

(2) The Federal liability for delinquencies and default for bonds guaranteed under this part shall only become effective upon the exhaustion of all the funds held in the escrow account described in subsection (b)(8) of this section.

(3) The Secretary shall create a letter of credit authorizing the Department of the Treasury to disburse funds to the designated bonding authority or its assignee.

(4) The letter of credit shall be drawn upon in the amount determined by paragraph (5) of this subsection upon the certification of the designated bonding authority to the Secretary or the Secretary's designee that there is a delinquency on 1 or more loans and there are insufficient funds available from loan repayments and the escrow account to make a scheduled payment of principal and interest on the bonds.

(5) Upon receipt by the Secretary or the Secretary's designee of the certification described in paragraph (4) of this subsection, the designated bonding authority may draw a funding under the letter of credit in an amount equal to—

(A) the amount required to make the next scheduled payment of principal and interest on the bonds, less

(B) the amount available to the designated bonding authority from loan repayments and the escrow account.

(6) All funds provided under the letter of credit shall be paid to the designated bonding authority within 2 business days following receipt of the certification described in paragraph (4).

(d) Full faith and credit provisions

Subject to subsection (c)(1) of this section the full faith and credit of the United States is pledged to the payment of all funds which may be required to be paid under the provisions of this section.

(e) Sale of bonds

Notwithstanding any other provision of law, a qualified bond guaranteed under this part may be sold to any party that offers terms that the Secretary determines are in the best interest of the eligible institution.

(Pub. L. 89–329, title III, § 343, formerly title VII, § 723, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 743; amended Pub. L. 103–382, title III, § 360C, Oct. 20, 1994, 108 Stat. 3972; renumbered title III, § 343, and amended Pub. L. 105–244, title III, §§ 301(a)(3), (4), (c)(5), 306(b), Oct. 7, 1998, 112 Stat. 1636, 1637, 1646.)

REFERENCES IN TEXT

Section 1066e of this title, referred to in subsec. (b), was repealed by Pub. L. 105–244, title III, § 306(d), Oct. 7, 1998, 112 Stat. 1647.

CODIFICATION

Section was formerly classified to section 1132c–2 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 343 of Pub. L. 89–329 was classified to section 1068 of this title prior to the general amendment of this subchapter by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 301(c)(5)(A), substituted ''section 1066c'' for ''section 1132c–3''.

Subsec. (b). Pub. L. 105–244, § 301(c)(5)(B)(i), substituted ''sections 1066d(1) and 1066e'' for ''sections 1132c–4(1) and 1132c–5'' in introductory provisions.

Subsec. (b)(8). Pub. L. 105–244, § 306(b)(1), substituted ''5 percent'' for ''10 percent'' wherever appearing.

Subsec. (b)(10). Pub. L. 105–244, § 301(c)(5)(B)(ii), substituted ''section 1066c'' for ''section 1132c–3''.

Subsec. (d). Pub. L. 105–244, § 301(c)(5)(B)(iii), made technical amendment to reference in original act which appears in text as reference to subsection (c)(1) of this section.

Subsec. (e). Pub. L. 105–244, § 306(b)(2), added subsec. (e).

1994—Subsec. (b)(8)(A). Pub. L. 103–382, § 360C(1)(A), inserted before semicolon ‘‘, with each eligible institution required to maintain in the escrow account an amount equal to 10 percent of the outstanding principal of all loans made to such institution under this part’’.

Subsec. (b)(8)(B)(ii). Pub. L. 103–382, § 360C(1)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ‘‘when all bonds under this part are retired or canceled, shall be divided among the eligible institutions making deposits into such account on the basis of the amount of each such institution’s deposit;’’.

Subsec. (b)(11). Pub. L. 103–382, § 360C(2), substituted ‘‘conditions’’ for ‘‘regulations’’.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1066c. Limitations on Federal insurance for bonds issued by designated bonding authority

(a) Limit on amount

At no time shall the aggregate principal amount of outstanding bonds insured under this part together with any accrued unpaid interest thereon exceed $375,000,000, of which—

(1) not more than $250,000,000 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

(2) not more than $125,000,000 shall be used for loans to eligible institutions which are historically Black public colleges and universities.

For purposes of paragraphs (1) and (2), Lincoln University of Pennsylvania is an historically Black public institution. No institution of higher education that has received assistance under section 123 of this title shall be eligible to receive assistance under this part.

(b) Limitation on credit authority

The authority of the Secretary to issue letters of credit and insurance under this part is effective only to the extent provided in advance by appropriations Acts.

(c) Religious activity prohibition

No loan may be made under this part for any educational program, activity or service related to sectarian instruction or religious worship or provided by a school or department of divinity or to an institution in which a substantial portion of its functions is subsumed in a religious mission.

(d) Discrimination prohibition

No loan may be made to an institution under this part if the institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.]), or disabling condition; except that the prohibition with respect to religion shall not apply to an institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

(Pub. L. 89–329, title III, § 344, formerly title VII, § 724, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 745; renumbered title III, § 344, Pub. L. 105–244, title III, § 301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (d), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

CODIFICATION

Section was formerly classified to section 1132c–3 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 344 of Pub. L. 89–329 was classified to section 1069 of this title prior to the general amendment of this subchapter by Pub. L. 99–498.

§ 1066d. Authority of Secretary

In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary—

(1) shall, within 120 days of July 23, 1992, publish in the Federal Register a notice and request for proposals for any private for-profit organization or entity wishing to serve as the designated bonding authority under this part, which notice shall—

(A) specify the time and manner for submission of proposals; and

(B) specify any information, qualifications, criteria, or standards the Secretary determines to be necessary to evaluate the financial capacity and administrative capability of any applicant to carry out the responsibilities of the designated bonding authority under this part;

(2) shall require that the first loans for capital projects authorized under section 1066b of this title be made no later than March 31, 1994;

(3) may sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this part without regard to the amount in controversy, and any action instituted under this section by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office;

(4)(A) may foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has been assigned a loan pursuant to this part; and

(B) in the event of such an acquisition, notwithstanding any other provisions of law re-

lating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, except that—

(i) such action shall not preclude any other action by the Secretary to recover any deficiency in the amount of a loan assigned to the Secretary; and

(ii) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(5) may sell, exchange, or lease real or personal property and securities or obligations;

(6) may include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this part will be achieved; and

(7) may, directly or by grant or contract, provide technical assistance to eligible institutions to prepare the institutions to qualify, apply for, and maintain a capital improvement loan, including a loan under this part.

(Pub. L. 89–329, title III, § 345, formerly title VII, § 725, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 745; amended Pub. L. 103–208, § 2(j)(16), Dec. 20, 1993, 107 Stat. 2481; renumbered title III, § 345, and amended Pub. L. 105–244, title III, §§ 301(a)(3), (4), (c)(6), 306(c), Oct. 7, 1998, 112 Stat. 1636, 1637, 1647.)

CODIFICATION

Section was formerly classified to section 1132c–4 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 345 of Pub. L. 89–329 was classified to section 1069a of this title prior to the general amendment of this subchapter by Pub. L. 99–498.

AMENDMENTS

1998—Par. (2). Pub. L. 105–244, § 301(c)(6), substituted ''section 1066b'' for ''section 1132c–2''.

Par. (7). Pub. L. 105–244, § 306(c), added par. (7).

1993—Pars. (2) to (6). Pub. L. 103–208 added par. (2) and redesignated former pars. (2) to (5) as (3) to (6), respectively.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§ 1066e. Repealed. Pub. L. 105–244, title III, § 306(d), Oct. 7, 1998, 112 Stat. 1647

Section, Pub. L. 89–329, title III, § 346, formerly title VII, § 726, as added Pub. L. 102–325, title VII, § 704, July 23, 1992, 106 Stat. 746; amended Pub. L. 103–208, § 2(j)(17), Dec. 20, 1993, 107 Stat. 2481; renumbered title III, § 346, Pub. L. 105–244, title III, § 301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, prohibited institution receiving a loan under this part from receiving grant under former part A of subchapter VII of this chapter.

CODIFICATION

Section was formerly classified to section 1132c–5 of this title prior to renumbering by Pub. L. 105–244.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1066f. HBCU Capital Financing Advisory Board

(a) Establishment and purpose

There is established within the Department of Education, the Historically Black College and Universities Capital Financing Advisory Board (hereinafter in this part referred to as the ''Advisory Board'') which shall provide advice and counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on African American college campuses, and advise the Congress of the United States regarding the progress made in implementing this part. The Advisory Board shall meet with the Secretary at least twice each year to advise him as to the capital needs of historically Black colleges and universities, how those needs can be met through the program authorized by this part, and what additional steps might be taken to improve the operation and implementation of the construction financing program.

(b) Board membership

(1) Composition

The Advisory Board shall be appointed by the Secretary and shall be composed of 9 members as follows:

(A) The Secretary or the Secretary's designee.

(B) Three members who are presidents of private historically Black colleges or universities.

(C) Two members who are presidents of public historically Black colleges or universities.

(D) The president of the United Negro College Fund, Inc., or the president's designee.

(E) The president of the National Association for Equal Opportunity in Higher Education, or the designee of the Association.

(F) The executive director of the White House Initiative on historically Black colleges and universities.

(2) Terms

The term of office of each member appointed under paragraphs (1)(B) and (1)(C) shall be 3 years, except that—

(A) of the members first appointed pursuant to paragraphs (1)(B) and (1)(C), 2 shall be appointed for terms of 1 year, and 3 shall be appointed for terms of 2 years;

(B) members appointed to fill a vacancy occurring before the expiration of a term of a member shall be appointed to serve the remainder of that term; and

(C) a member may continue to serve after the expiration of a term until a successor is appointed.

(Pub. L. 89–329, title III, § 347, formerly title VII, § 727, as added Pub. L. 102–325, title VII, § 704,

July 23, 1992, 106 Stat. 746; renumbered title III, §347, and amended Pub. L. 105–244, title III, §§301(a)(3), (4), 306(e), Oct. 7, 1998, 112 Stat. 1636, 1647.)

CODIFICATION

Section was formerly classified to section 1132c–6 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 347 of Pub. L. 89–329 was classified to section 1069c of this title prior to the general amendment of this subchapter by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b)(1)(D). Pub. L. 105–244, §306(e)(1)(A), inserted ", or the president's designee." after "Fund, Inc."

Subsec. (b)(1)(E). Pub. L. 105–244, §306(e)(1)(B), inserted ", or the designee of the Association" before the period.

Subsec. (c). Pub. L. 105–244, §306(e)(2), struck out heading and text of subsec. (c). Text read as follows: "There are authorized to be appropriated $50,000 for fiscal year 1993 and each of the 4 succeeding fiscal years to carry out this section."

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1066g. Minority business enterprise utilization

In the performance of and with respect to the Secretary's effectuation of his responsibilities under section 1066d(1) of this title and to the maximum extent feasible in the implementation of the purposes of this part, minority business persons, including bond underwriters and credit enhancers, bond counsel, marketers, accountants, advisors, construction contractors, and managers should be utilized.

(Pub. L. 89–329, title III, §348, formerly title VII, §728, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 747; renumbered title III, §348, and amended Pub. L. 105–244, title III, §301(a)(3), (4), (c)(7), Oct. 7, 1998, 112 Stat. 1636, 1637.)

CODIFICATION

Section was formerly classified to section 1132c–7 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Pub. L. 105–244, §301(c)(7), substituted "section 1066d(1)" for "section 1132c–4(1)".

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

PART E—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

SUBPART 1—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM

CODIFICATION

Pub. L. 105–244, title III, §§301(a)(5), 307(d), Oct. 7, 1998, 112 Stat. 1636, 1648, redesignated subpart 1 (§1135b et seq.) of part B of subchapter X of this chapter as subpart 1 of part E of subchapter III of this chapter and inserted "AND ENGINEERING" before "IMPROVEMENT PROGRAM" in heading.

§ 1067. Findings

Congress makes the following findings:

(1) It is incumbent on the Federal Government to support the technological and economic competitiveness of the United States by improving and expanding the scientific and technological capacity of the United States. More and better prepared scientists, engineers, and technical experts are needed to improve and expand such capacity.

(2) As the Nation's population becomes more diverse, it is important that the educational and training needs of all Americans are met. Underrepresentation of minorities in science and technological fields diminishes our Nation's competitiveness by impairing the quantity of well prepared scientists, engineers, and technical experts in these fields.

(3) Despite significant limitations in resources, minority institutions provide an important educational opportunity for minority students, particularly in science and engineering fields. Aid to minority institutions is a good way to address the underrepresentation of minorities in science and technological fields.

(4) There is a strong Federal interest in improving science and engineering programs at minority institutions as such programs lag behind in program offerings and in student enrollment compared to such programs at other institutions of higher education.

(Pub. L. 89–329, title III, §350, as added Pub. L. 105–244, title III, §307(a), Oct. 7, 1998, 112 Stat. 1647.)

PRIOR PROVISIONS

A prior section 1067, Pub. L. 89–329, title III, §352, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1304, and amended, which related to waiver authority and reporting requirement, was renumbered section 392 of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068a of this title.

Another prior section 1067, Pub. L. 89–329, title III, §342, as added Pub. L. 96–374, title III, §301, Oct. 3, 1980, 94 Stat. 1398, set waiver authority and reporting requirements for this part, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1067, Pub. L. 89–329, title IV, §407, Nov. 8, 1965, 79 Stat. 1234; Pub. L. 90–575, title I, §§101(b)(2), 103, 104, Oct. 16, 1968, 82 Stat. 1017, 1018, related to agreements with institutions, required provisions and use of funds as additional Federal capital contribution for student loan fund, prior to the general amendment of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, §131(b)(1), June 23, 1972, 86 Stat. 247.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1067a. Purpose; authority

(a) Congressional declaration of purpose

It is the purpose of this subpart to continue the authority of the Department to operate the Minority Institutions Science Improvement Program created under section 1862(a)(1) of title 42 and transferred to the Department by section 3444(a)(1)[1] of this title.

(b) Grant authority

The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities, particularly minority women, in scientific and technological careers.

(Pub. L. 89–329, title III, § 351, formerly title X, § 1021, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1561; amended Pub. L. 102–325, title X, § 1002(a), July 23, 1992, 106 Stat. 780; renumbered title III, § 351, Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636.)

REFERENCES IN TEXT

Section 3444(a)(1) of this title, referred to in subsec. (a), was in the original a reference to section 304(a)(1) of the Department of Education Organization Act of 1979. Sections 304 and 305 of that Act were renumbered as sections 303 and 304, respectively, by Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929, and are classified to sections 3444 and 3445, respectively, of this title.

CODIFICATION

Section was formerly classified to section 1135b of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 351 of Pub. L. 89–329 was renumbered section 391 and is classified to section 1068 of this title.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–325 inserted ‘‘, particularly minority women,’’ after ‘‘ethnic minorities’’.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1067b. Grant recipient selection

(a) Establishment of criteria

Grants under this subpart shall be awarded on the basis of criteria established by the Secretary by regulations.

(b) Priorities to be given in criteria

In establishing criteria under subsection (a) of this section, the Secretary shall give priority to applicants which have not previously received funding from the Minority Institutions Science Improvement Program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among projects with respect to geographic region, academic discipline, and project type.

(c) Required criteria

In establishing criteria under subsection (a) of this section, the Secretary may consider the following selection criteria in making grants:

(1) plan of operation;
(2) quality of key personnel;
(3) budget and cost effectiveness;
(4) evaluation plan;
(5) adequacy of resources;
(6) identification of need for the project;
(7) potential institutional impact of the project;
(8) institutional commitment to the project;
(9) expected outcomes; and
(10) scientific and educational value of the proposed project.

(Pub. L. 89–329, title III, § 352, formerly title X, § 1022, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1561; renumbered title III, § 352, Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1135b–1 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 352 of Pub. L. 89–329 was renumbered section 392 and is classified to section 1068a of this title.

§ 1067c. Use of funds

(a) Types of grants

Funds appropriated to carry out this subpart may be made available as—

(1) institutional grants (as defined in section 1067k(6) of this title);
(2) cooperative grants (as defined in section 1067k(7) of this title);
(3) design projects (as defined in section 1067k(8) of this title); or
(4) special projects (as defined in section 1067k(9) of this title).

(b) Authorized uses for each type of grant

(1) The authorized uses of funds made available as institutional grants include (but are not limited to)—

(A) faculty development programs; or
(B) development of curriculum materials.

(2) The authorized uses of funds made available as cooperative grants include (but are not limited to)—

(A) assisting institutions in sharing facilities and personnel;
(B) disseminating information about established programs in science and engineering;
(C) supporting cooperative efforts to strengthen the institutions’ science and engineering programs; or
(D) carrying out a combination of any of the activities in subparagraphs (A) through (C).

(3) The authorized uses of funds made available as design projects include (but are not limited to)—

[1] See References in Text note below.

(A) developing planning, management, and evaluation systems; or

(B) developing plans for initiating scientific research and for improving institutions' capabilities for such activities.

Funds used for design project grants may not be used to pay more than 50 percent of the salaries during any academic year of faculty members involved in the project.

(4) The authorized uses of funds made available as special projects include (but are not limited to)—

(A) advanced science seminars;

(B) science faculty workshops and conferences;

(C) faculty training to develop specific science research or education skills;

(D) research in science education;

(E) programs for visiting scientists;

(F) preparation of films or audio-visual materials in science;

(G) development of learning experiences in science beyond those normally available to minority undergraduate students;

(H) development of pre-college enrichment activities in science; or

(I) any other activities designed to address specific barriers to the entry of minorities into science.

(Pub. L. 89–329, title III, §353, formerly title X, §1023, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1562; renumbered title III, §353, and amended Pub. L. 105–244, title III, §301(a)(5), (7), (c)(8), Oct. 7, 1998, 112 Stat. 1636, 1637.)

CODIFICATION

Section was formerly classified to section 1135b–2 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 353 of Pub. L. 89–329 was renumbered section 393 and is classified to section 1068b of this title.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, §301(c)(8)(A), substituted ''section 1067k(6)'' for ''section 1135d–5(6)''.

Subsec. (a)(2). Pub. L. 105–244, §301(c)(8)(B), substituted ''section 1067k(7)'' for ''section 1135d–5(7)''.

Subsec. (a)(3). Pub. L. 105–244, §301(c)(8)(C), substituted ''section 1067k(8)'' for ''section 1135d–5(8)''.

Subsec. (a)(4). Pub. L. 105–244, §301(c)(8)(D), substituted ''section 1067k(9)'' for ''section 1135d–5(9)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1067d. Omitted

CODIFICATION

Section, Pub. L. 89–329, title III, formerly title X, §1024, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1562; amended Pub. L. 102–325, title X, §1002(b), July 23, 1992, 106 Stat. 780; renumbered title III, Pub. L. 105–244, title III, §301(a)(5), Oct. 7, 1998, 112 Stat. 1636, required Secretary to submit to President and Congress a report by Jan. 1, 1996, summarizing and evaluating Federal programs which seek to increase minority participation and representation in scientific fields.

Section was formerly classified to section 1135b–3 of this title prior to renumbering by Pub. L. 105–244.

SUBPART 2—ADMINISTRATIVE AND GENERAL PROVISIONS

CODIFICATION

Pub. L. 105–244, title III, §301(a)(5), Oct. 7, 1998, 112 Stat. 1636, redesignated subpart 3 (§1135d et seq.) of part B of subchapter X of this chapter as subpart 2 of part E of subchapter III of this chapter.

§ 1067g. Eligibility for grants

Eligibility to receive grants under this part is limited to—

(1) public and private nonprofit institutions of higher education that—

(A) award baccalaureate degrees; and

(B) are minority institutions;

(2) public or private nonprofit institutions of higher education that—

(A) award associate degrees; and

(B) are minority institutions that—

(i) have a curriculum that includes science or engineering subjects; and

(ii) enter into a partnership with public or private nonprofit institutions of higher education that award baccalaureate degrees in science and engineering;

(3) nonprofit science-oriented organizations, professional scientific societies, and institutions of higher education that award baccalaureate degrees, that—

(A) provide a needed service to a group of minority institutions; or

(B) provide in-service training for project directors, scientists, and engineers from minority institutions; or

(4) consortia of organizations, that provide needed services to one or more minority institutions, the membership of which may include—

(A) institutions of higher education which have a curriculum in science or engineering;

(B) institutions of higher education that have a graduate or professional program in science or engineering;

(C) research laboratories of, or under contract with, the Department of Energy;

(D) private organizations that have science or engineering facilities; or

(E) quasi-governmental entities that have a significant scientific or engineering mission.

(Pub. L. 89–329, title III, §361, formerly title X, §1041, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1564; renumbered title III, §361, and amended Pub. L. 105–244, title III, §§301(a)(5), (7), (b), (c)(9), 307(b), Oct. 7, 1998, 112 Stat. 1636, 1637, 1648.)

CODIFICATION

Section was formerly classified to section 1135d of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Pub. L. 105–244, §307(b), amended section catchline and text generally. Prior to amendment, text read as follows: ''Eligibility to receive grants under this part is limited to—

''(1) public and private nonprofit institutions that are minority institutions (as defined in section 1067k(3) of this title); and

''(2) nonprofit science-oriented organizations, professional scientific societies, and all nonprofit, accredited colleges and universities which provide a needed service to a group of eligible minority institutions or which provide in-service training for project directors, scientists, and engineers from eligible minority institutions.''

Par. (1). Pub. L. 105–244, § 301(c)(9), substituted ''section 1067k(3)'' for ''section 1135d–5(3)''.

Pub. L. 105–244, § 301(b)(1), inserted ''and'' after the semicolon.

Par. (2). Pub. L. 105–244, § 301(b)(2), substituted a period for ''; and''.

Par. (3). Pub. L. 105–244, § 301(b)(3), struck out par. (3) which read as follows: ''for the purposes of section 1135c–1 of this title, public and private nonprofit institutions that have at least 10 percent minority enrollment.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1067h. Grant application

(a) Submission and contents of applications

An eligible applicant (as determined under section 1067g of this title) that desires to receive a grant under this part shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth—

(1) a program of activities for carrying out one or more of the purposes described in section 1067a(b) of this title in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes; and

(2) such other policies, procedures, and assurances as the Secretary may require by regulation.

(b) Approval based on likelihood of progress

The Secretary shall approve an application only if the Secretary determines that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part.

(Pub. L. 89–329, title III, § 362, formerly title X, § 1042, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564; renumbered title III, § 362, and amended Pub. L. 105–244, title III, § 301(a)(5), (7), (c)(10), Oct. 7, 1998, 112 Stat. 1636, 1637.)

CODIFICATION

Section was formerly classified to section 1135d–1 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 301(c)(10), substituted ''section 1067g'' for ''section 1135d'' in introductory provisions and ''section 1067a(b)'' for ''section 1135b(b)'' in par. (1).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1067i. Cross program and cross agency cooperation

The Minority Science and Engineering Improvement Programs shall cooperate and consult with other programs within the Department and within Federal, State, and private agencies which carry out programs to improve the quality of science, mathematics, and engineering education.

(Pub. L. 89–329, title III, § 363, formerly title X, § 1043, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564; amended Pub. L. 102–325, title X, § 1002(d), July 23, 1992, 106 Stat. 780; renumbered title III, § 363, Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1135d–2 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1992—Pub. L. 102–325 inserted ''and consult'' after ''cooperate''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1067j. Administrative provisions

(a) Technical staff

The Secretary shall appoint, without regard to the provisions of title 5 governing appointments in the competitive service, not less than 2 technical employees with appropriate scientific and educational background to administer the programs under this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Procedures for grant review

The Secretary shall establish procedures for reviewing and evaluating grants and contracts made or entered into under such programs. Procedures for reviewing grant applications, based on the peer review system, or contracts for financial assistance under this subchapter may not be subject to any review outside of officials responsible for the administration of the Minority Science and Engineering Improvement Programs.

(Pub. L. 89–329, title III, § 364, formerly title X, § 1044, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564; renumbered title III, § 364, Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 1135d–3 of this title prior to renumbering by Pub. L. 105–244.

§ 1067k. Definitions

For the purpose of this part—

(1) The term ''accredited'' means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

(2) The term ''minority'' means American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other ethnic group underrepresented in science and engineering.

(3) The term ''minority institution'' means an institution of higher education whose enrollment of a single minority or a combination of minorities (as defined in paragraph (2)) exceeds 50 percent of the total enrollment. The Secretary shall verify this information from the data on enrollments in the higher education general information surveys (HEGIS) furnished by the institution to the Office for Civil Rights, Department of Education.

(4) The term ''science'' means, for the purpose of this program, the biological, engineering, mathematical, physical, behavioral, and social sciences, and history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

(5) The term ''underrepresented in science and engineering'' means a minority group whose number of scientists and engineers per 10,000 population of that group is substantially below the comparable figure for scientists and engineers who are white and not of Hispanic origin.

(6) The term ''institutional grant'' means a grant that supports the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

(7) The term ''cooperative grant'' means a grant that assists groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

(8) The term ''design projects'' means projects that assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

(9) The term ''special projects'' means—

(A) a special project grant to a minority institution which support activities that—

(i) improve the quality of training in science and engineering at minority institutions; or

(ii) enhance the minority institutions' general scientific research capabilities; or

(B) a special project grant to any eligible applicant which supports activities that—

(i) provide a needed service to a group of eligible minority institutions; or

(ii) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

(Pub. L. 89–329, title III, §365, formerly title X, §1046, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1566; renumbered title III, §365, and amended Pub. L. 105–244, title III, §§301(a)(5), (7), 307(c), Oct. 7, 1998, 112 Stat. 1636, 1648.)

CODIFICATION

Section was formerly classified to section 1135d–5 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Par. (4). Pub. L. 105–244, §307(c), inserted ''behavioral,'' after ''physical,''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1067*l*. Repealed. Pub. L. 105–244, title III, §301(a)(8), Oct. 7, 1998, 112 Stat. 1636

Section, Pub. L. 89–329, title III, §366, formerly title X, §1047, as added Pub. L. 99–498, title X, §1002, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 100–418, title VI, §6221, Aug. 23, 1988, 102 Stat. 1518; Pub. L. 102–325, title X, §1002(f), July 23, 1992, 106 Stat. 780; renumbered title III, §366, Pub. L. 105–244, title III, §301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, authorized appropriations to carry out Fund for Improvement of Postsecondary Education program.

CODIFICATION

Section was formerly classified to section 1135d–6 of this title prior to renumbering by Pub. L. 105–244.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

PART F—GENERAL PROVISIONS

CODIFICATION

Pub. L. 105–244, title III, §301(a)(1), Oct. 7, 1998, 112 Stat. 1636, redesignated part D (§1066 et seq.) of this subchapter as part F of this subchapter.

§ 1068. Applications for assistance

(a) Applications

(1) Applications required

Any institution which is eligible for assistance under this subchapter shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the institution's need for the assistance. Subject to the availability of appropriations to carry out this subchapter, the Secretary may approve an application for assistance under this subchapter only if the Secretary determines that—

(A) the application meets the requirements of subsection (b) of this section;

(B) the applicant is eligible for assistance in accordance with the part of this subchapter under which the assistance is sought; and

(C) the applicant's performance goals are sufficiently rigorous as to meet the purposes of this subchapter and the performance objectives and indicators for this subchapter established by the Secretary pursuant to the Government Performance and Results Act of 1993 and the amendments made by such Act.

(2) Preliminary applications

In carrying out paragraph (1), the Secretary may develop a preliminary application for use

by eligible institutions applying under part A of this subchapter prior to the submission of the principal application.

(b) Contents

An institution, in its application for a grant, shall—

(1) set forth, or describe how the institution (other than an institution applying under part C, D or E of this subchapter) will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this subchapter);

(2) set forth policies and procedures to ensure that Federal funds made available under this subchapter for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 1057(b) or 1062 of this title, and in no case supplant those funds;

(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this subchapter;

(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this subchapter;

(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this subchapter, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

(6) provide that the institution will comply with the limitations set forth in section 1068e of this title, except that for purposes of section 1059c of this title, paragraphs (2) and (3) of section 1068e of this title shall not apply;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this subchapter in conjunction with other parts of the development project (as specified by the applicant);

(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this subchapter, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

(D) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

(E) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (E); and

(8) include such other information as the Secretary may prescribe.

(c) Priority criteria publication required

The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, all policies and procedures required to exercise the authority set forth in subsection (a) of this section. No other criteria, policies, or procedures shall apply.

(d) Eligibility data

The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in making eligibility determinations under section 1058 of this title and shall advance the base-year forward following each annual grant cycle.

(Pub. L. 89–329, title III, § 391, formerly § 351, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1302; amended Pub. L. 100–50, § 2(a)(13), June 3, 1987, 101 Stat. 336; Pub. L. 102–325, title III, § 305(a), July 23, 1992, 106 Stat. 478; renumbered § 391 and amended Pub. L. 105–244, title III, §§ 301(a)(2), (c)(11), 308(a)–(c), Oct. 7, 1998, 112 Stat. 1636, 1637, 1648, 1649.)

REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (a)(1)(C), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

CODIFICATION

Section was formerly classified to section 1066 of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 1068, Pub. L. 89–329, title III, § 353, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1305, which related to application review process, was renumbered section 393 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068b of this title.

Another prior section 1068, Pub. L. 89–329, title III, § 343, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1398, related to application review process and provided for reader panels, recommendation of such panels, and notification to institutions, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1068, Pub. L. 89–329, title IV, § 408, Nov. 8, 1965, 79 Stat. 1235; Pub. L. 90–575, title I, § 105(a), Oct. 16, 1968, 82 Stat. 1018; Pub. L. 91–230, title VIII, § 801, Apr. 13, 1970, 84 Stat. 190; Pub. L. 92–318, title I, § 131(a)(1)(B), June 23, 1972, 86 Stat. 247, related to programs for identifying qualified low-income students and preparing them for post secondary education, grants or contracts for planning, developing or carrying out programs, ''Talent Search'' program, ''Upward Bound'' program, ''Special Services for Disadvantaged Students'' program, nature of programs, waiver of matching requirement in the ''Upward Bound'' program and authorization of appropriations, prior to the general amendment of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 308(a), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''Any institution which is eligible for assistance under this subchapter shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this subchapter, the Secretary may approve an application for a grant under this subchapter if the application meets the requirements of subsection (b) of this section and shows that the applicant is eligible for assistance in accordance with the part of this subchapter under which the assistance is sought.''

Subsec. (b)(1). Pub. L. 105–244, § 308(b), inserted '', D or E'' after ''part C''.

Subsec. (b)(6). Pub. L. 105–244, §§ 301(c)(11), 308(c), substituted ''section 1068e'' for ''section 1069c'' and inserted '', except that for purposes of section 1059c of this title, paragraphs (2) and (3) of section 1068e of this title shall not apply'' before semicolon.

1992—Subsec. (b)(7)(D) to (F). Pub. L. 102–325 redesignated subpars. (E) and (F) as (D) and (E), respectively, and struck out former subpar. (D) which read as follows: ''information explaining the manner in which the proposed project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, and other problems;''.

1987—Subsec. (b)(6). Pub. L. 100–50 substituted ''section 1069c of this title'' for ''section 1069b of this title''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1068a. Waiver authority and reporting requirement

(a) Waiver requirements; need-based assistance students

The Secretary may waive the requirements set forth in section 1058(b)(1)(A) of this title in the case of an institution—

(1) which is extensively subsidized by the State in which it is located and charges low or no tuition;

(2) which serves a substantial number of low-income students as a percentage of its total student population;

(3) which is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions;

(5) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians;

(6) that is a tribally controlled college or university as defined in section 1801 of title 25; or

(7) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Black Americans, Hispanic Americans, Native Americans, Asian Americans, or Pacific Islanders, including Native Hawaiians.

(b) Waiver determinations; expenditures

(1) The Secretary may waive the requirements set forth in section 1058(b)(1)(B) of this title if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A of this subchapter is otherwise consistent with the purposes of such parts.[1]

(2) Omitted.

(3) The Secretary may waive the requirement set forth in section 1058(b)(1)(E)[2] of this title in the case of an institution located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians.

(Pub. L. 89–329, title III, § 392, formerly § 352, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1304; amended Pub. L. 100–50, § 2(a)(14), (15), June 3, 1987, 101 Stat. 336; Pub. L. 102–325, title III, § 305(b), July 23, 1992, 106 Stat. 478; renumbered § 392 and amended Pub. L. 105–244, title III, §§ 301(a)(2), 308(d), Oct. 7, 1998, 112 Stat. 1636, 1649.)

REFERENCES IN TEXT

Section 1058(b)(1)(E) of this title, referred to in subsec. (b)(3), was repealed and section 1058(b)(1)(F) was redesignated section 1058(b)(1)(E) by Pub. L. 102–325, title III, § 302(a)(1)(B), (C), July 23, 1992, 106 Stat. 472.

CODIFICATION

Subsec. (b)(2) of this section, which required the Secretary to submit a report to Congress every other year on institutions which, although not satisfying the cri-

[1] So in original. Probably should be ''part.''

[2] See References in Text note below.

terion contained in section 1058(b)(1)(B) of this title, have been determined to be eligible institutions under part A of this subchapter, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 79 of House Document No. 103–7.

Section was formerly classified to section 1067 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Subsec. (a)(5) to (7). Pub. L. 105–244 struck out ''or'' at end of par. (5), added par. (6), and redesignated former par. (6) as (7).

1992—Subsec. (a). Pub. L. 102–325 substituted ''Secretary may waive'' for ''Secretary shall waive''.

1987—Subsec. (a)(2). Pub. L. 100–50, §2(a)(14), substituted ''low-income'' for ''low- and middle-income''.

Subsec. (b)(3). Pub. L. 100–50, §2(a)(15), added par. (3).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1068b. Application review process

(a) Review panel

(1) All applications submitted under this subchapter by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

(2) The Secretary shall take care to assure that representatives of historically and predominantly Black colleges, Hispanic institutions, Tribal Colleges and Universities, and institutions with substantial numbers of Hispanics, Native Americans, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians) are included as readers.

(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this subchapter and consistent with the provisions of this subchapter, including—

(A) explanations and examples of the types of activities referred to in section 1057(b) of this title that should receive special consideration for grants awarded under part A of this subchapter and of the types of activities referred to in section 1062 of this title that should receive special consideration for grants awarded under part B of this subchapter;

(B) an enumeration of the factors to be used to determine the quality of applications submitted under this subchapter; and

(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this subchapter, the amount of any such grant, and the duration of any such grant.

(b) Recommendations of panel

In awarding grants under this subchapter, the Secretary shall take into consideration the recommendations of the panel made under subsection (a) of this section.

(c) Notification

Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this subchapter of—

(1) the scores given the applicant by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this subchapter, and any modifications, if any, in the recommendations of the panel made by the Secretary.

(d) Exclusion

The provisions of this section shall not apply to applications submitted under part D of this subchapter.

(Pub. L. 89–329, title III, §393, formerly §353, as added Pub. L. 99–498, title III, §301(a), Oct. 17, 1986, 100 Stat. 1305; renumbered §393 and amended Pub. L. 105–244, title III, §§301(a)(2), 308(e), Oct. 7, 1998, 112 Stat. 1636, 1649.)

CODIFICATION

Section was formerly classified to section 1068 of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–244, §308(e)(1), substituted ''Tribal Colleges and Universities'' for ''Native American colleges and universities''.

Subsec. (d). Pub. L. 105–244, §308(e)(2), added subsec. (d).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1068c. Cooperative arrangements

(a) General authority

The Secretary may make grants to encourage cooperative arrangements—

(1) with funds available to carry out part A of this subchapter, between institutions eligible for assistance under part A of this subchapter and between such institutions and institutions not receiving assistance under this subchapter; or

(2) with funds available to carry out part B of this subchapter, between institutions eligible for assistance under part B of this subchapter and institutions not receiving assistance under this subchapter;

for the activities described in section 1057(b) of this title or section 1062 of this title, as the case may be, so that the resources of the cooperating

institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

(b) Priority

The Secretary shall give priority to grants for the purposes described under subsection (a) of this section whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

(c) Duration

Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 1059 of this title or section 1062 of this title.

(Pub. L. 89–329, title III, § 394, formerly § 354, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1305; renumbered § 394, Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1069 of this title prior to renumbering by Pub. L. 105–244.

§ 1068d. Assistance to institutions under other programs

(a) Assistance eligibility

Each institution which the Secretary determines to be an institution eligible under part A of this subchapter or an institution eligible under part B of this subchapter may be eligible for waivers in accordance with subsection (b) of this section.

(b) Waiver applicability

(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) of this section for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

(2) The provisions of this section shall apply to any program authorized by part D of this subchapter or subchapter IV of this chapter or part C of subchapter I of chapter 34 of title 42.

(c) Limitation

The Secretary shall not waive, under subsection (b) of this section, the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

(Pub. L. 89–329, title III, § 395, formerly § 356, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1306; amended Pub. L. 102–325, title III, § 305(d), July 23, 1992, 106 Stat. 478; Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–314; renumbered § 395 and amended Pub. L. 105–244, title III, §§ 301(a)(2), 308(f), Oct. 7, 1998, 112 Stat. 1636, 1649.)

CODIFICATION

Section was formerly classified to section 1069b of this title prior to renumbering by Pub. L. 105–244.

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105–244, § 308(f), substituted ''part D of this subchapter or subchapter IV of this chapter'' for ''subchapter IV, VII, or VIII of this chapter''.

1996—Subsec. (b)(2). Pub. L. 104–208 struck out ''II,'' after ''authorized by subchapter''.

1992—Subsec. (a). Pub. L. 102–325 substituted ''may be eligible'' for ''shall be eligible''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1068e. Limitations

The funds appropriated under section 1069f[1] of this title may not be used—

(1) for a school or department of divinity or any religious worship or sectarian activity;

(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to the institution.

(Pub. L. 89–329, title III, § 396, formerly § 357, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307; renumbered § 396, Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636.)

REFERENCES IN TEXT

Section 1069f of this title, referred to in text, was in the original a reference to section 360 of Pub. L. 89–329. Section 360 of Pub. L. 89–329 was renumbered section 399 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and was transferred to section 1068h of this title.

§ 1068f. Penalties

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this subchapter embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

(Pub. L. 89–329, title III, § 397, formerly § 358, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307; renumbered § 397, Pub. L.

[1] See References in Text note below.

105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636.)

CODIFICATION

Section was formerly classified to section 1069d of this title prior to renumbering by Pub. L. 105–244.

§ 1068g. Continuation awards

The Secretary shall make continuation awards under this subchapter for the second and succeeding years of a grant only after determining that the recipient is making satisfactory progress in carrying out the grant.

(Pub. L. 89–329, title III, § 398, as added Pub. L. 105–244, title III, § 308(g), Oct. 7, 1998, 112 Stat. 1649.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1068h. Authorization of appropriations

(a) Authorizations

(1) Part A

(A) There are authorized to be appropriated to carry out part A of this subchapter, $135,000,000 (other than section 1059c of this title) for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 1059c of this title, $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(C) There are authorized to be appropriated to carry out section 1059d of this title, $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) Part B

(A) There are authorized to be appropriated to carry out part B of this subchapter (other than section 1063b of this title), $135,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 1063b of this title, $35,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(3) Part C

There are authorized to be appropriated to carry out part C of this subchapter, $10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(4) Part D

(A) There are authorized to be appropriated to carry out part D of this subchapter (other than section 1066d(7) of this title, but including section 1066f of this title), $110,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 1066d(7) of this title, such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

(5) Part E

There are authorized to be appropriated to carry out part E of this subchapter, $10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Use of multiple year awards

In the event of a multiple year award to any institution under this subchapter, the Secretary shall make funds available for such award from funds appropriated for this subchapter for the fiscal year in which such funds are to be used by the recipient.

(Pub. L. 89–329, title III, § 399, formerly § 360, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307; amended Pub. L. 102–325, title III, § 305(e)–(g), July 23, 1992, 106 Stat. 479; renumbered § 399, and amended Pub. L. 105–244, title III, §§ 301(a)(2), 308(h), Oct. 7, 1998, 112 Stat. 1636, 1649.)

CODIFICATION

Section was formerly classified to section 1069f of this title prior to renumbering by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 1069, Pub. L. 89–329, title III, § 354, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1305, which related to cooperative arrangements, was renumbered section 394 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068c of this title.

Another prior section 1069, Pub. L. 89–329, title III, § 344, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1399, provided for a program of grants to encourage cooperative arrangements between institutions, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1069, Pub. L. 89–329, title IV, § 409, Nov. 8, 1965, 79 Stat. 1236, related to definition of academic year, prior to the general amendment of part A of subchapter IV of this chapter by Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 247.

A prior section 1069a, Pub. L. 89–329, title III, § 355, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1306; amended Pub. L. 100–50, § 2(a)(16), (17), June 3, 1987, 101 Stat. 336, related to special payments rules, prior to repeal by Pub. L. 102–325, § 2, title III, § 305(c), July 23, 1992, 106 Stat. 458, 478, effective Oct. 1, 1992.

Another prior section 1069a, Pub. L. 89–329, title III, § 345, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1399, related to assistance to institutions under other programs, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1069b, Pub. L. 89–329, title III, § 356, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1306, and amended, which related to assistance to institutions under other programs, was renumbered section 395 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068d of this title.

Another prior section 1069b, Pub. L. 89–329, title III, § 346, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1400, limited activities for which funds appropriated to carry out this subchapter could be expended, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1069c, Pub. L. 89–329, title III, § 357, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307, which related to limitations on use of funds, was renumbered section 396 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068e of this title.

Another prior section 1069c, Pub. L. 89–329, title III, § 347, as added Pub. L. 96–374, title III, § 301, Oct. 3, 1980, 94 Stat. 1400, and Pub. L. 98–95, § 3, Sept. 26, 1983, 97 Stat. 711; Pub. L. 98–312, § 1, June 12, 1984, 98 Stat. 233, authorized appropriations to carry out parts A to C of this subchapter, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1069d, Pub. L. 89–329, title III, § 358, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307, which related to penalties, was renumbered section 397 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1068f of this title.

A prior section 1069e, Pub. L. 89–329, title III, § 359, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307, required application for challenge grant, prior to repeal by Pub. L. 102–325, § 2, title III, § 305(c), July 23, 1992, 106 Stat. 458, 478, effective Oct. 1, 1992.

A prior section 1069f, Pub. L. 89–329, title III, § 360, as added Pub. L. 99–498, title III, § 301(a), Oct. 17, 1986, 100 Stat. 1307, and amended, which authorized appropriations, was renumbered section 399 of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(2), Oct. 7, 1998, 112 Stat. 1636, and transferred to this section.

AMENDMENTS

1998—Subsec. (a)(1)(A). Pub. L. 105–244, § 308(h)(1)(A), substituted ''1999'' for ''1993''.

Subsec. (a)(1)(B). Pub. L. 105–244, § 308(h)(1)(B), redesignated cl. (i) as entire subpar., substituted ''$10,000,000 for fiscal year 1999'' for ''$45,000,000 for fiscal year 1993'', and struck out cl. (ii) which read as follows: ''No funds are authorized to be appropriated pursuant to clause (i) for any fiscal year unless the amount appropriated pursuant to paragraph (1)(A) for such fiscal year equals or exceeds $80,000,000.''

Subsec. (a)(1)(C). Pub. L. 105–244, § 308(h)(1)(C), added subpar. (C).

Subsec. (a)(2)(A). Pub. L. 105–244, § 308(h)(2)(A), substituted ''1999'' for ''1993''.

Subsec. (a)(2)(B). Pub. L. 105–244, § 308(h)(2)(B), substituted ''$35,000,000 for fiscal year 1999'' for ''$20,000,000 for fiscal year 1993''.

Subsec. (a)(3). Pub. L. 105–244, § 308(h)(3), substituted ''$10,000,000 for fiscal year 1999'' for ''$50,000,000 for fiscal year 1993''.

Subsec. (a)(4), (5). Pub. L. 105–244, § 308(h)(4), added pars. (4) and (5).

Subsec. (c). Pub. L. 105–244, § 308(h)(5), struck out heading and text of subsec. (c). Text read as follows: ''If the amount appropriated under subsection (a)(1) of this section for part A of this subchapter for any fiscal year beginning after September 30, 1986, equals or exceeds the amount appropriated for such part for fiscal year 1986, the Secretary shall, for such fiscal year—

''(1) allocate 25 percent of the excess (above the amount appropriated for part A of this subchapter for fiscal year 1986) among eligible institutions at which at least 60 percent of the students are African Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

''(2) allocate 75 percent of such excess among other eligible institutions.''

Subsec. (d). Pub. L. 105–244, § 308(h)(5), struck out heading and text of subsec. (d). Text read as follows: ''In any fiscal year in which the sums appropriated for part A of this subchapter are insufficient to make the reservations required by subsection (c) of this section, the Secretary shall ratably reduce the amount of the reservation.''

Subsec. (e). Pub. L. 105–244, § 308(h)(5), struck out heading and text of subsec. (e). Text read as follows: ''In any fiscal year beginning after September 30, 1992, the Secretary shall award at least 25 percent of the amount appropriated pursuant to the authority of paragraph (3) of subsection (a) of this section in each fiscal year to historically black colleges and universities that meet the requirements of part C of this subchapter, unless there are an insufficient number of quality applications or an insufficient number of applications due to the provisions in subsection (b)(2)(C) or subsection (b)(4)(B) of section 1065 of this title.''

1992—Subsec. (a). Pub. L. 102–325, § 305(e), amended subsec. (a) generally, substituting present provisions for provisions authorizing appropriations for fiscal year 1987 and the four succeeding fiscal years.

Subsec. (c). Pub. L. 102–325, § 305(f), substituted ''1986, the Secretary shall, for such fiscal year—'' for ''1986—'' in introductory provisions, added pars. (1) and (2), and struck out former pars. (1) and (2) which read as follows:

''(1) the Secretary shall, for such fiscal year, make available for use for the purposes of part A of this subchapter to institutions that are junior or community colleges not less than $51,400,000; and

''(2) the Secretary shall, for such fiscal year—

''(A) allocate 25 percent of the excess (above the amount appropriated for part A of this subchapter for fiscal year 1986) among eligible institutions with the highest percentages of students who are Black Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

''(B) allocate 75 percent of such excess among other eligible institutions.''

Subsec. (e). Pub. L. 102–325, § 305(g), added subsec. (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

SUBCHAPTER IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

CODIFICATION

Part A of title IV of the Higher Education Act of 1965, comprising this part, was originally enacted by Pub. L. 89–329, title IV, Nov. 8, 1965, 79 Stat. 1232, and amended by Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–328, June 30, 1976, 90 Stat. 727; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–336, Aug. 4, 1978, 92 Stat. 451; Pub. L. 95–566, Nov. 1, 1978, 92 Stat. 2402; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322; Pub. L. 97–301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98–558, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 99–145, Nov. 8, 1985, 99 Stat. 583. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1308, without reference to such intervening amendments because of the extensive revision of part A by Pub. L. 99–498.

§ 1070. Statement of purpose; program authorization

(a) Purpose

It is the purpose of this part, to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 1091 of this title) in institutions of higher education by—

(1) providing Federal Pell Grants to all eligible students;

(2) providing supplemental educational opportunity grants to those students who demonstrate financial need;

(3) providing for payments to the States to assist them in making financial aid available to such students;

(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

(5) providing assistance to institutions of higher education.

(b) Secretary required to carry out purposes

The Secretary shall, in accordance with subparts 1 through 8 of this part, carry out programs to achieve the purposes of this part.

(Pub. L. 89–329, title IV, § 400, formerly § 401, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1308; renumbered § 400, Pub. L. 102–325, title IV, § 402(a)(3), July 23, 1992, 106 Stat. 482; amended Pub. L. 105–244, title IV, § 401(g)(1), Oct. 7, 1998, 112 Stat. 1652.)

PRIOR PROVISIONS

A prior section 1070, Pub. L. 89–329, title IV, § 401, as added and amended Pub. L. 92–318, title I, § 131(b)(1), title X, § 1001(c)(1), (2), June 23, 1972, 86 Stat. 247, 381; Pub. L. 94–482, title I, § 125, Oct. 12, 1976, 90 Stat. 2096; Pub. L. 96–374, title IV, § 401, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1401, 1503, stated purpose of program of grants to students in attendance at institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244 substituted ''Federal Pell Grants'' for ''basic educational opportunity grants''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

HIGHER EDUCATION RELIEF OPPORTUNITIES FOR STUDENTS

Pub. L. 108–76, Aug. 18, 2003, 117 Stat. 904, as amended by Pub. L. 109–78, § 1, Sept. 30, 2005, 119 Stat. 2043, provided that:

''SECTION 1. SHORT TITLE; FINDINGS; REFERENCE.

''(a) SHORT TITLE.—This Act may be cited as the 'Higher Education Relief Opportunities for Students Act of 2003'.

''(b) FINDINGS.—The Congress finds the following:

''(1) There is no more important cause than that of our nation's defense.

''(2) The United States will protect the freedom and secure the safety of its citizens.

''(3) The United States military is the finest in the world and its personnel are determined to lead the world in pursuit of peace.

''(4) Hundreds of thousands of Army, Air Force, Marine Corps, Navy, and Coast Guard reservists and members of the National Guard have been called to active duty or active service.

''(5) The men and women of the United States military put their lives on hold, leave their families, jobs, and postsecondary education in order to serve their country and do so with distinction.

''(6) There is no more important cause for this Congress than to support the members of the United States military and provide assistance with their transition into and out of active duty and active service.

''(c) REFERENCE.—References in this Act to 'the Act' are references to the Higher Education Act of 1965 (20 U.S.C. 1001 et seq. [and 42 U.S.C. 2751 et seq.]).

''SEC. 2. WAIVER AUTHORITY FOR RESPONSE TO MILITARY CONTINGENCIES AND NATIONAL EMERGENCIES.

''(a) WAIVERS AND MODIFICATIONS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education (referred to in this Act as the 'Secretary') may waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV of the Act [20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.] as the Secretary deems necessary in connection with a war or other military operation or national emergency to provide the waivers or modifications authorized by paragraph (2).

''(2) ACTIONS AUTHORIZED.—The Secretary is authorized to waive or modify any provision described in paragraph (1) as may be necessary to ensure that—

''(A) recipients of student financial assistance under title IV of the Act who are affected individuals are not placed in a worse position financially in relation to that financial assistance because of their status as affected individuals;

''(B) administrative requirements placed on affected individuals who are recipients of student financial assistance are minimized, to the extent possible without impairing the integrity of the student financial assistance programs, to ease the burden on such students and avoid inadvertent, technical violations or defaults;

''(C) the calculation of 'annual adjusted family income' and 'available income', as used in the determination of need for student financial assistance under title IV of the Act for any such affected individual (and the determination of such need for his or her spouse and dependents, if applicable), may be modified to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such affected individual and his or her family;

''(D) the calculation under section 484B(b)(2) of the Act (20 U.S.C. 1091b(b)(2)) of the amount a student is required to return in the case of an affected individual may be modified so that no overpayment will be required to be returned or repaid if the institution has documented (i) the student's status as an affected individual in the student's file, and (ii) the amount of any overpayment discharged; and

''(E) institutions of higher education, eligible lenders, guaranty agencies, and other entities participating in the student assistance programs under title IV of the Act that are located in areas that are declared disaster areas by any Federal, State or local official in connection with a national emergency, or whose operations are significantly affected by such a disaster, may be granted temporary relief from requirements that are rendered infeasible or unreasonable by a national emergency, including due diligence requirements and reporting deadlines.

''(b) NOTICE OF WAIVERS OR MODIFICATIONS.—

''(1) IN GENERAL.—Notwithstanding section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions the Secretary deems necessary to achieve the purposes of this section.

''(2) TERMS AND CONDITIONS.—The notice under paragraph (1) shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions.

''(3) CASE-BY-CASE BASIS.—The Secretary is not required to exercise the waiver or modification authority under this section on a case-by-case basis.

''(c) IMPACT REPORT.—The Secretary shall, not later than 15 months after first exercising any authority to issue a waiver or modification under subsection (a), report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate on the impact of any waivers or modifications issued pursuant to subsection (a) on affected individuals and the programs under title IV of the Act [20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.], and the basis for such determination, and include in such report the Secretary's recommendations for changes to the statutory or regulatory provisions that were the subject of such waiver or modification.

''(d) NO DELAY IN WAIVERS AND MODIFICATIONS.—Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the waivers and modifications authorized or required by this Act.

''SEC. 3. TUITION REFUNDS OR CREDITS FOR MEMBERS OF ARMED FORCES.

''(a) SENSE OF CONGRESS.—It is the sense of Congress that—

''(1) all institutions offering postsecondary education should provide a full refund to students who are affected individuals for that portion of a period of instruction such student was unable to complete, or for which such individual did not receive academic credit, because he or she was called up for active duty or active service; and

''(2) if affected individuals withdraw from a course of study as a result of such active duty or active service, such institutions should make every effort to minimize deferral of enrollment or reapplication requirements and should provide the greatest flexibility possible with administrative deadlines related to those applications.

''(b) DEFINITION OF FULL REFUND.—For purposes of this section, a full refund includes a refund of required tuition and fees, or a credit in a comparable amount against future tuition and fees.

''SEC. 4. USE OF PROFESSIONAL JUDGMENT.

''A financial aid administrator shall be considered to be making a necessary adjustment in accordance with section 479A(a) of the Act [20 U.S.C. 1087tt(a)] if the administrator makes adjustments with respect to the calculation of the expected student or parent contribution (or both) of an affected individual, and adequately documents the need for the adjustment.

''SEC. 5. DEFINITIONS.

''In this Act:

''(1) ACTIVE DUTY.—The term 'active duty' has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

''(2) AFFECTED INDIVIDUAL.—The term 'affected individual' means an individual who—

''(A) is serving on active duty during a war or other military operation or national emergency;

''(B) is performing qualifying National Guard duty during a war or other military operation or national emergency;

''(C) resides or is employed in an area that is declared a disaster area by any Federal, State, or local official in connection with a national emergency; or

''(D) suffered direct economic hardship as a direct result of a war or other military operation or national emergency, as determined by the Secretary.

''(3) MILITARY OPERATION.—The term 'military operation' means a contingency operation as such term is defined in section 101(a)(13) of title 10, United States Code.

''(4) NATIONAL EMERGENCY.—The term 'national emergency' means a national emergency declared by the President of the United States.

''(5) SERVING ON ACTIVE DUTY.—The term 'serving on active duty during a war or other military operation or national emergency' shall include service by an individual who is—

''(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; and

''(B) any other member of an Armed Force on active duty in connection with such war, operation, or emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

''(6) QUALIFYING NATIONAL GUARD DUTY.—The term 'qualifying National Guard duty during a war or other military operation or national emergency' means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, in connection with a war, another military operation, or a national emergency declared by the President and supported by Federal funds.

''SEC. 6. TERMINATION OF AUTHORITY.

''The provisions of this Act shall cease to be effective at the close of September 30, 2007.''

Pub. L. 107–122, Jan. 15, 2002, 115 Stat. 2386, known as the Higher Education Relief Opportunities for Students Act of 2001, authorized the Secretary of Education to waive or modify statutory or regulatory provisions applicable to the student financial aid programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq., 42 U.S.C. 2751 et seq.) as deemed necessary because of a national emergency, provided sense of Congress as to tuition refunds from institutions of postsecondary education, and provided that the Act ceased to be effective Sept. 30, 2003.

COMMUNITY SCHOLARSHIP MOBILIZATION

Pub. L. 105–244, title VIII, part C, Oct. 7, 1998, 112 Stat. 1810, provided that:

''SEC. 811. SHORT TITLE.

''This part may be cited as the 'Community Scholarship Mobilization Act'.

''SEC. 812. FINDINGS.

''Congress finds that—

''(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation toward achievement, and financial resources for aspiring postsecondary students;

''(2) local communities, working to complement or augment services currently offered by area schools and colleges, can raise the educational expectations and increase the rate of postsecondary attendance of their youth by forming locally-based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized, financial assistance;

''(3) proven methods of stimulating these community efforts can be promoted through Federal support for the establishment of regional, State, or community program centers to organize and challenge community efforts to develop educational incentives and support for local students; and

''(4) using Federal funds to leverage private contributions to help students from low-income families attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

''SEC. 813. DEFINITIONS.

''In this part:

''(1) REGIONAL, STATE, OR COMMUNITY PROGRAM CENTER.—The term 'regional, State, or community program center' means an organization that—

''(A) is a division or member of, responsible to, and overseen by, a national organization; and

''(B) is staffed by professionals trained to create, develop, and sustain local entities in towns, cities, and neighborhoods.

''(2) LOCAL ENTITY.—The term 'local entity' means an organization that—

''(A) is a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)], and exempt from taxation under section 501(a) of such Code (or shall meet this criteria through affiliation with the national organization);

''(B) is formed for the purpose of providing educational scholarships and academic support for residents of the local community served by such organization;

''(C) solicits broad-based community support in its academic support and fund-raising activities;

''(D) is broadly representative of the local community in the structures of its volunteer-operated organization and has a board of directors that includes leaders from local neighborhood organizations and neighborhood residents, such as school or college personnel, parents, students, community agency representatives, retirees, and representatives of the business community;

''(E) awards scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin, or disability; and

''(F) gives priority to awarding scholarships for postsecondary education to deserving students from low-income families in the local community.

''(3) NATIONAL ORGANIZATION.—The term 'national organization' means an organization that—

''(A) has the capacity to create, develop and sustain local entities and affiliated regional, State, or community program centers;

''(B) has the capacity to sustain newly created local entities in towns, cities, and neighborhoods through ongoing training support programs;

''(C) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code;

''(D) is a publicly supported organization within the meaning of section 170(b)(1)(A)(iv) of such Code [26 U.S.C. 170(b)(1)(A)(iv)];

''(E) ensures that each of the organization's local entities meet the criteria described in subparagraphs (C) and (D); and

''(F) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out the organization's scholarship and academic support activities.

''(4) HIGH POVERTY AREA.—The term 'high poverty area' means a community with a higher percentage of children from low-income families than the national average of such percentage and a lower percentage of children pursuing postsecondary education than the national average of such percentage.

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Education.

''(6) STUDENTS FROM LOW-INCOME FAMILIES.—The term 'students from low-income families' means students determined, pursuant to part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.), to be eligible for a Federal Pell Grant under subpart 1 of part A of title IV of such Act (20 U.S.C. 1070a).

''SEC. 814. PURPOSE; ENDOWMENT GRANT AUTHORITY.

''(a) PURPOSE.—It is the purpose of this part to establish and support regional, State or community program centers to enable such centers to foster the development of local entities in high poverty areas that promote higher education goals for students from low-income families by—

''(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

''(2) providing scholarship assistance for the cost of postsecondary education.

''(b) ENDOWMENT GRANT AUTHORITY.—From the funds appropriated pursuant to the authority of section 816, the Secretary shall award an endowment grant, on a competitive basis, to a national organization to enable such organization to support the establishment or ongoing work of regional, State or community program centers that foster the development of local entities in high poverty areas to improve secondary school graduation rates and postsecondary attendance through the provision of academic support services and scholarship assistance for the cost of postsecondary education.

''SEC. 815. GRANT AGREEMENT AND REQUIREMENTS.

''(a) IN GENERAL.—The Secretary shall award one or more endowment grants described in section 814(b) pursuant to an agreement between the Secretary and a national organization. Such agreement shall—

''(1) require a national organization to establish an endowment fund in the amount of the grant, the corpus of which shall remain intact and the interest income from which shall be used to support the activities described in paragraphs (2) and (3);

''(2) require a national organization to use 70 percent of the interest income from the endowment fund in any fiscal year to support the establishment or ongoing work of regional, State or community program centers to enable such centers to work with local communities to establish local entities in high poverty areas and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of the local entities;

''(3) require a national organization to use 30 percent of the interest income from the endowment fund in any fiscal year to provide scholarships for postsecondary education to students from low-income families, which scholarships shall be matched on a dollar-for-dollar basis from funds raised by the local entities;

''(4) require that at least 50 percent of all the interest income from the endowment [fund] be allocated to establish new local entities or support regional, State or community program centers in high poverty areas;

''(5) require a national organization to submit, for each fiscal year in which such organization uses the interest from the endowment fund, a report to the Secretary that contains—

''(A) a description of the programs and activities supported by the interest on the endowment fund;

''(B) the audited financial statement of the national organization for the preceding fiscal year;

''(C) a plan for the programs and activities to be supported by the interest on the endowment fund as the Secretary may require;

''(D) an evaluation of the programs and activities supported by the interest on the endowment fund as the Secretary may require; and

''(E) data indicating the number of students from low-income families who receive scholarships from local entities, and the amounts of such scholarships;

''(6) contain such assurances as the Secretary may require with respect to the management and operation of the endowment fund; and

''(7) contain an assurance that if the Secretary determines that such organization is not in substantial compliance with the provisions of this part, then the national organization shall pay to the Secretary an amount equal to the corpus of the endowment fund plus any accrued interest on such fund that is available to the national organization on the date of such determination.

''(b) RETURNED FUNDS.—All funds returned to the Secretary pursuant to subsection (a)(7) shall be available to the Secretary to carry out any scholarship or grant program assisted under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq. [42 U.S.C. 2751 et seq.]).

''SEC. 816. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $10,000,000 for fiscal year 2000.''

COMMUNITY SCHOOL PARTNERSHIPS

Pub. L. 103–382, title V, part B, Oct. 20, 1994, 108 Stat. 4045, which provided for grants to establish community centers giving academic support and postsecondary scholarships to poor students, was repealed by Pub. L. 105–277, div. A, §101(f) [title VIII, §301(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410.

STUDY OF FEDERAL BENEFIT COORDINATION

Section 1405 of Pub. L. 102–325 directed Secretary of Education to conduct a study to evaluate the coordination of Federal student financial assistance programs under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] with other programs funded in whole or in part with Federal funds, with Secretary to prepare and submit to appropriate committees of Congress a report on the study not later than 3 years after July 23, 1992, together with such recommendations as the Secretary deemed appropriate, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

OLYMPIC SCHOLARSHIPS

Pub. L. 102–325, title XV, §1543, July 23, 1992, 106 Stat. 836, as amended by Pub. L. 105–244, title VIII, §836, Oct. 7, 1998, 112 Stat. 1820; Pub. L. 106–554, §1(a)(1) [title III, §319], Dec. 21, 2000, 114 Stat. 2763, 2763A–49; Pub. L. 107–116, title III, §305(a), Jan. 10, 2002, 115 Stat. 2208, provided that:

''(a) SCHOLARSHIPS AUTHORIZED.—

''(1) IN GENERAL.—The Secretary of Education is authorized to provide financial assistance to the United States Olympic Education Center or the United States Olympic Training Center to enable such centers to provide financial assistance to athletes who are training at such centers and are pursuing postsecondary education at institutions of higher education (as such term is defined in section 481(a) of the Higher Education Act of 1965 [20 U.S.C. 1088(a)]).

''(2) AWARD DETERMINATION.—The amount of the financial assistance provided to an athlete described in paragraph (1) shall be determined in accordance with criteria, and in amounts, specified in the application of the center under subsection (c). Such assistance shall not exceed the athlete's cost of attendance as determined under section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087*ll*).

''(3) INFORMATION ON DISTRIBUTION OF ASSISTANCE.—Each center providing such assistance shall annually report to the Secretary such information as the Secretary may reasonably require on the distribution of such assistance among athletes and institutions of higher education. The Secretary shall compile such reports and submit them to the Committees on Education and the Workforce and Appropriations of the House of Representatives and the Committees on Health, Education, Labor, and Pensions and Appropriations of the Senate.

''(b) ELIGIBILITY.—The Secretary of Education shall ensure that financial assistance provided under this part [part E (§1543) of Pub. L. 102–325] is available to both full-time and part-time students who are athletes at centers described in subsection (a).

''(c) APPLICATION.—Each center desiring financial assistance under this section shall submit an application to the Secretary of Education at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

''(e) DESIGNATION.—Scholarships awarded under this section shall be known as 'B.J. Stupak Olympic Scholarships'.''

[Pub. L. 107–116, title III, §305(b), Jan. 10, 2002, 115 Stat. 2208, provided that: ''The amendments made by subsection (a) [amending section 1543 of Pub. L. 102–325, set out above] shall apply with respect to any funds appropriated pursuant to section 1543(d) of the Higher Education Amendments of 1992 [section 1543(d) of Pub. L. 102–325, set out above], including funds appropriated pursuant to that section in fiscal years 2000 and 2001, that are available for financial assistance under section 1543 on or after the date of enactment of this Act [Jan. 10, 2002].'']

PERSIAN GULF CONFLICT HIGHER EDUCATION ASSISTANCE

Pub. L. 102–26, §§4–6, Apr. 9, 1991, 105 Stat. 125–127, provided that:

''SEC. 4. OPERATION DESERT SHIELD/DESERT STORM WAIVER AUTHORITY.

''(a) PURPOSE.—It is the purpose of this section to ensure that—

''(1) the men and women serving on active duty in connection with Operation Desert Shield or Operation Desert Storm who are borrowers of Stafford Loans or Perkins Loans are not placed in a worse position financially in relation to those loans because of such service;

''(2) the administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Act [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] who are engaged in such military service are minimized to the extent possible without impairing the integrity of the student loan programs, in order to ease the burden on such borrowers, and to avoid inadvertent, technical defaults; and

''(3) the future eligibility of such an individual for Pell Grants is not reduced by the amount of such assistance awarded for a period of instruction that such individual was unable to complete, or for which the individual did not receive academic credit, because he or she was called up for such service.

''(b) WAIVER REQUIREMENT.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education shall waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of the Act that the Secretary deems necessary to achieve the purposes stated in subsection (a), including—

''(1) the length of, and eligibility requirements for, the military deferments authorized under sections 427(a)(2)(C)(ii), 428(b)(1)(M)(ii), and 464(c)(2)(A)(ii) of the Act [20 U.S.C. 1077(a)(2)(C)(ii), 1078(b)(1)(M)(ii), 1087dd(c)(2)(A)(ii)], in order to enable the borrower of a Stafford Loan or a Perkins Loan who is or was serving on active duty in connection with Operation Desert Shield or Operation Desert Storm to obtain a military deferment, under which interest shall accrue and shall, if otherwise payable by the Secretary, be paid by the Secretary of Education, for the duration of such service;

''(2) administrative requirements placed on all borrowers of student loans made in accordance with title IV of the Act who are or were engaged in such military service;

''(3) the number of years for which individuals who are engaged in such military service may be eligible for Pell Grants under subpart 1 of part A of title IV of the Act [20 U.S.C. 1070a et seq.];

''(4) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a

period of deferment under section 427(a)(2)(C)(ii) or 428(b)(1)(M)(ii) of the Act;

''(5) the point at which the borrower of a Stafford Loan who is or was engaged in such military service is required to resume repayment of principal and interest on such loan after the borrower completes a single period of deferment under section 427(a)(2)(C)(i) or 428(b)(1)(M)(i) of the Act subsequent to such service; and

''(6) the modification of the terms 'annual adjusted family income' and 'available income,' as used in the determination of need for student financial assistance under title IV of the Act for such individual (and the determination of such need for his or her spouse and dependents, if applicable), to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such individual and his or her family.

''(c) NOTICE OF WAIVER.—Notwithstanding section 431 [now 437] of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, publish the waivers or modifications of statutory and regulatory provisions the Secretary deems necessary to achieve the purposes of this section. Such notice shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions. The Secretary is not required to exercise the waiver or modification authority under this section on a case-by-case basis.

''(d) DEFINITIONS.—For purposes of this Act [probably should be ''section'']—

''(1) Individuals 'serving on active duty in connection with Operation Desert Shield or Operation Desert Storm' shall include—

''(A) any Reserve of an Armed Force called to active duty under section 672(a) [now 12301(a)], 672(g) [now 12301(g)], 673 [now 12302], 673b [now 12304], 674 [now 12306], or 688 of title 10, United States Code, for service in connection with Operation Desert Shield or Operation Desert Storm, regardless of the location at which such active duty service is performed; and

''(B) for purposes of waivers of administrative requirements under subsection (b)(2) only, any other member of an Armed Force on active duty in connection with Operation Desert Shield or Operation Desert Storm, who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

''(2) The term 'active duty' has the meaning given such term in section 101(22) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

''SEC. 5. TUITION REFUNDS OR CREDITS.

''(a) SENSE OF CONGRESS.—It is the sense of the Congress that all institutions offering postsecondary education should provide a full refund to any member or Reserve of an Armed Force on active duty service in connection with Operation Desert Shield or Operation Desert Storm for that portion of a period of instruction such individual was unable to complete, or for which such individual did not receive academic credit, because he or she was called up for such service. For purposes of this section, a full refund includes a refund of required tuition and fees, or a credit in a comparable amount against future tuition and fees.

''(b) ENCOURAGEMENT AND REPORT.—The Secretary of Education shall encourage institutions to provide such refunds or credits, and shall report to the appropriate committees of Congress on the actions taken in accordance with this subsection as well as information he receives regarding any institutions that are not providing such refunds or credits.

''SEC. 6. TERMINATION OF AUTHORITY.

''The provisions of sections 4 and 5 shall cease to be effective on September 30, 1997.''

Pub. L. 102–25, title III, part E (§§ 371–376), Apr. 6, 1991, 105 Stat. 93, provided that:

''SEC. 371. SHORT TITLE

''This part may be cited as the 'Persian Gulf Conflict Higher Education Assistance Act'.

''SEC. 372. [Superseded by section 4 of Pub. L. 102–26, set out above.]

''SEC. 373. [Superseded by section 5 of Pub. L. 102–26, set out above.]

''SEC. 374. [Amended section 294d of Title 42, The Public Health and Welfare.]

''SEC. 375. [Superseded by section 6 of Pub. L. 102–26, set out above.]

''SEC. 376. COORDINATION WITH OTHER LAW

''If the Higher Education Technical Amendments of 1991 [Pub. L. 102–26, see Short Title of 1991 Amendment note set out under section 1001 of this title] is enacted, the provisions of sections 4, 5, and 6 of that Act shall supersede sections 372, 373, and 375.''

SUBPART 1—FEDERAL PELL GRANTS

CODIFICATION

Pub. L. 105–244, title IV, § 401(g)(2), Oct. 7, 1998, 112 Stat. 1652, amended subpart heading generally.

§ 1070a. Federal Pell Grants: amount and determinations; applications

(a) Program authority and method of distribution

(1) For each fiscal year through fiscal year 2004, the Secretary shall pay to each eligible institution such sums as may be necessary to pay to each eligible student (defined in accordance with section 1091 of this title) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a Federal Pell Grant in the amount for which that student is eligible, as determined pursuant to subsection (b) of this section. Not less than 85 percent of such sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay eligible students until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner,,[1] except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment.

(2) Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which they are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

(3) Grants made under this subpart shall be known as ''Federal Pell Grants''.

(b) Purpose and amount of grants

(1) The purpose of this subpart is to provide a Federal Pell Grant that in combination with reasonable family and student contribution and supplemented by the programs authorized under subparts 3 and 4 of this part, will meet at least 75 percent of a student's cost of attendance (as defined in section 1087*ll* of this title), unless the institution determines that a greater amount of

[1] So in original.

assistance would better serve the purposes of section 1070[2] of this title.

(2)(A) The amount of the Federal Pell Grant for a student eligible under this part shall be—

(i) $4,500 for academic year 1999–2000;

(ii) $4,800 for academic year 2000–2001;

(iii) $5,100 for academic year 2001–2002;

(iv) $5,400 for academic year 2002–2003; and

(v) $5,800 for academic year 2003–2004,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.

(B) In any case where a student attends an institution of higher education on less than a full-time basis (including a student who attends an institution of higher education on less than a half-time basis) during any academic year, the amount of the Federal Pell Grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this division, computed in accordance with this subpart. Such schedule of reductions shall be established by regulation and published in the Federal Register in accordance with section 1089 of this title.

(3)(A) For any academic year for which an appropriation Act provides a maximum basic grant in an amount in excess of $2,700, the amount of a student's basic grant shall equal $2,700 plus—

(i) one-half of the amount by which such maximum basic grant exceeds $2,700; plus

(ii) the lesser of—

(I) the remaining one-half of such excess; or

(II) the sum of the student's tuition and, if the student has dependent care expenses (as described in section 1087*ll*(8) of this title) or disability-related expenses (as described in section 1087*ll*(9) of this title), an allowance determined by the institution for such expenses.

(B) An institution that charged only fees in lieu of tuition as of October 1, 1998, may include in the institution's determination of tuition charged, fees that would normally constitute tuition.

(4) No Federal Pell Grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance (as defined in section 1087*ll* of this title) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a Federal Pell Grant plus the amount of the expected family contribution for that student exceeds the cost of attendance for that year, the amount of the Federal Pell Grant shall be reduced until the combination of expected family contribution and the amount of the Federal Pell Grant does not exceed the cost of attendance at such institution.

(5) No Federal Pell Grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this subsection for any academic year is less than $400, except that a student who is eligible for a Federal Pell Grant that is equal to or greater than $200 but less than $400 shall be awarded a Federal Pell Grant of $400.

(6)(A) The Secretary may allow, on a case-by-case basis, a student to receive 2 Pell grants during a single award year, if—

(i) the student is enrolled full-time in an associate or baccalaureate degree program of study that is 2 years or longer at an eligible institution that is computed in credit hours; and

(ii) the student completes course work toward completion of an associate or baccalaureate degree that exceeds the requirements for a full academic year as defined by the institution.

(B) The Secretary shall promulgate regulations implementing this paragraph.

(7) Notwithstanding any other provision of this subpart, the Secretary shall allow the amount of the Federal Pell Grant to be exceeded for students participating in a program of study abroad approved for credit by the institution at which the student is enrolled when the reasonable costs of such program are greater than the cost of attendance at the student's home institution, except that the amount of such Federal Pell Grant in any fiscal year shall not exceed the grant level specified in the appropriate Appropriation Act for this subpart for such year. If the preceding sentence applies, the financial aid administrator at the home institution may use the cost of the study abroad program, rather than the home institution's cost, to determine the cost of attendance of the student.

(8) No Federal Pell Grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.

(c) Period of eligibility for grants

(1) The period during which a student may receive Federal Pell Grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance except that any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph.

(2) Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language instruction) which are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills. Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.

(3) No student is entitled to receive Pell Grant payments concurrently from more than one institution or from the Secretary and an institution.

(4) Notwithstanding paragraph (1), the Secretary may allow, on a case-by-case basis, a student to receive a Federal Pell Grant if the student—

[2] See References in Text note below.

(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education; and

(B) is enrolled or accepted for enrollment in a postbaccalaureate program that does not lead to a graduate degree, and in courses required by a State in order for the student to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State,

except that this paragraph shall not apply to a student who is enrolled in an institution of higher education that offers a baccalaureate degree in education.

(d) Applications for grants

(1) The Secretary shall from time to time set dates by which students shall file applications for Federal Pell Grants under this subpart.

(2) Each student desiring a Federal Pell Grant for any year shall file an application therefor containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

(e) Distribution of grants to students

Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

(f) Calculation of eligibility

(1) Each contractor processing applications for awards under this subpart (including a central processor, if any, designated by the Secretary) shall, in a timely manner, furnish to the student financial aid administrator (at each institution of higher education which a student awarded a Federal Pell Grant under this subpart is attending), as a part of its regular output document, the expected family contribution for each such student. Each such student financial aid administrator shall—

(A) examine and assess the data used to calculate the expected family contribution of the student furnished pursuant to this subsection;

(B) recalculate the expected family contribution of the student if there has been a change in circumstances of the student or in the data submitted;

(C) make the award to the student in the correct amount; and

(D) after making such award report the corrected data to such contractor and to a central processor (if any) designated by the Secretary for a confirmation of the correct computation of amount of the expected family contribution for each such student.

(2) Whenever a student receives an award under this subpart that, due to recalculation errors by the institution of higher education, is in excess of the amount which the student is entitled to receive under this subpart, such institution of higher education shall pay to the Secretary the amount of such excess unless such excess can be resolved in a subsequent disbursement to the institution.

(3) Each contractor processing applications for awards under this subpart shall for each academic year after academic year 1986–1987 prepare and submit a report to the Secretary on the correctness of the computations of amount of the expected family contribution, and on the accuracy of the questions on the application form under this subpart for the previous academic year for which the contractor is responsible. The Secretary shall transmit the report, together with the comments and recommendations of the Secretary, to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Education and the Workforce of the House of Representatives.

(g) Insufficient appropriations

If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) of this section (but at the maximum grant level specified in such appropriation), the Secretary shall promptly transmit a notice of such insufficiency to each House of the Congress, and identify in such notice the additional amount that would be required to be appropriated to satisfy fully all entitlements (as so calculated at such maximum grant level).

(h) Use of excess funds

(1) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 percent or less, then all of the excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

(2) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 percent, then all of such funds shall remain available for making such payments but payments may be made under this paragraph only with respect to entitlements for that fiscal year.

(i) Treatment of institutions and students under other laws

Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary. Recipients of Pell Grants shall not be considered to be individual grantees for purposes of subtitle D of title V of Public Law 100–690 [41 U.S.C. 701 et seq.].

(j) Institutional ineligibility based on default rates

(1) In general

No institution of higher education shall be an eligible institution for purposes of this subpart if such institution of higher education is ineligible to participate in a loan program under part B or C of this subchapter as a result of a final default rate determination made by the Secretary under part B or C of this subchapter after the final publication of cohort default rates for fiscal year 1996 or a succeeding fiscal year.

(2) Sanctions subject to appeal opportunity

No institution may be subject to the terms of this subsection unless the institution has had the opportunity to appeal the institution's default rate determination under regulations issued by the Secretary for the loan program authorized under part B or C of this subchapter, as applicable. This subsection shall not apply to an institution that was not participating in the loan program authorized under part B or C of this subchapter on October 7, 1998, unless the institution subsequently participates in the loan programs.

(Pub. L. 89–329, title IV, § 401, formerly § 411, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1309; amended Pub. L. 100–50, § 3(a), June 3, 1987, 101 Stat. 337; renumbered § 401 and amended Pub. L. 102–325, title IV, §§ 401(a)–(h), 402(a)(3), July 23, 1992, 106 Stat. 479–482; Pub. L. 103–208, § 2(b)(1)–(5), (k)(1), Dec. 20, 1993, 107 Stat. 2458, 2485; Pub. L. 103–322, title II, § 20411(a), Sept. 13, 1994, 108 Stat. 1828; Pub. L. 105–244, title IV, § 401(a)–(f), (g)(3), (4), Oct. 7, 1998, 112 Stat. 1650–1652.)

REFERENCES IN TEXT

Section 1070 of this title, referred to in subsec. (b)(1), was in the original a reference to section 401, meaning section 401 of the Higher Education Act of 1965, Pub. L. 89–329. Sections 401 and 411 of that Act were renumbered as sections 400 and 401, respectively, by Pub. L. 102–325, title IV, § 402(a)(3), July 23, 1992, 106 Stat. 482, and are classified to sections 1070 and 1070a of this title, respectively.

Subtitle D of title V of Public Law 100–690, referred to in subsec. (i), is subtitle D (§§ 5151–5160) of title V of Pub. L. 100–690, Nov. 18, 1988, 102 Stat. 4304, commonly known as the Drug-Free Workplace Act of 1988, which is classified generally to chapter 10 (§ 701 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 41 and Tables.

PRIOR PROVISIONS

A prior section 1070a, Pub. L. 89–329, title IV, § 411, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 248; amended Pub. L. 94–328, § 2(f), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, § 121(a), (b)(1), (c)–(i), Oct. 12, 1976, 90 Stat. 2091–2093; Pub. L. 95–43, § 1(a)(5), June 15, 1977, 91 Stat. 213; Pub. L. 95–566, § 2, Nov. 1, 1978, 92 Stat. 2402; Pub. L. 96–49, § 5(a)(1), (2)(A), Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, title IV, § 402, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1401, 1503; Pub. L. 97–301, § 8(a), Oct. 13, 1982, 96 Stat. 1402, related to basic educational opportunity grants, amount and determinations, and applications, prior to the general revision of this part by Pub. L. 99–498.

A prior section 401 of Pub. L. 89–329 was renumbered section 400 by section 402(a)(3) of Pub. L. 102–325 and is classified to section 1070 of this title.

Another prior section 401 of Pub. L. 89–329, title IV, as added and amended Pub. L. 92–318, title I, § 131(b)(1), title X, § 1001(c)(1), (2), June 23, 1972, 86 Stat. 247, 381; Pub. L. 94–482, title I, § 125, Oct. 12, 1976, 90 Stat. 2096; Pub. L. 96–374, title IV, § 401, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1401, 1503, which stated purpose of program of grants to students in attendance at institutions of higher education, was classified to section 1070 of this title, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Pub. L. 105–244, § 401(g)(3)(A), substituted ''Federal Pell'' for ''Basic educational opportunity'' in section catchline.

Subsec. (a)(1). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant''.

Pub. L. 105–244, § 401(a), substituted ''For each fiscal year through fiscal year 2004, the Secretary shall'' for ''The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1998,'' and inserted ''until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner,'' after ''pay eligible students''.

Subsec. (a)(3). Pub. L. 105–244, § 401(g)(3)(B), substituted ''Grants made'' for ''Basic grants made''.

Subsec. (b)(1). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant''.

Subsec. (b)(2)(A). Pub. L. 105–244, § 401(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''The amount of the basic grant for a student eligible under this part shall be—

''(i) $3,700 for academic year 1993–1994,

''(ii) $3,900 for academic year 1994–1995,

''(iii) $4,100 for academic year 1995–1996,

''(iv) $4,300 for academic year 1996–1997, and

''(v) $4,500 for academic year 1997–1998,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.''

Subsec. (b)(2)(B). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant''.

Subsec. (b)(3). Pub. L. 105–244, § 401(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows:

''(3)(A) For any academic year for which an appropriation Act provides a maximum basic grant in an amount in excess of $2,400, the amount of a student's basic grant shall equal $2,400 plus—

''(i) one-half of the amount by which such maximum basic grant exceeds $2,400; plus

''(ii) the lesser of—

''(I) the remaining one-half of such excess; or

''(II) the sum of the student's tuition and the student's allowance determined under subparagraph (B), if applicable.

''(B) For purposes of subparagraph (A)(ii)(II), a student's allowance is $750 if the student has dependent care expenses (as defined in section 1087*ll*(8) of this title) or disability related expenses (as defined in section 1087*ll*(9) of this title).''

Subsec. (b)(4), (5). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant'' wherever appearing.

Subsec. (b)(6). Pub. L. 105–244, § 401(d), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, and added subpar. (B).

Subsec. (b)(7), (8). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant'' wherever appearing.

Subsec. (c)(1). Pub. L. 105–244, § 401(g)(3)(D), substituted ''Federal Pell Grants'' for ''basic grants''.

Subsec. (c)(4). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant'' in introductory provisions.

Pub. L. 105–244, § 401(e), added par. (4).

Subsec. (d)(1). Pub. L. 105–244, § 401(g)(3)(D), substituted ''Federal Pell Grants'' for ''basic grants''.

Subsecs. (d)(2), (f)(1). Pub. L. 105–244, § 401(g)(3)(C), substituted ''Federal Pell Grant'' for ''basic grant''.

Subsec. (f)(3). Pub. L. 105–244, § 401(g)(4), substituted ''Education and the Workforce'' for ''Education and Labor''.

Subsec. (j). Pub. L. 105–244, § 401(f), added subsec. (j).

1994—Subsec. (b)(8). Pub. L. 103–322 amended par. (8) generally. Prior to amendment, par. (8) read as follows:

''(8)(A) No basic grant shall be awarded to an incarcerated student under this subpart that exceeds the sum of the amount of tuition and fees normally assessed by the institution of higher education for the course of study such student is pursuing plus an allowance (determined in accordance with regulations issued by the Secretary) for books and supplies associated with such course of study, except that no basic grant shall be awarded to any incarcerated student serving under sentence of death or any life sentence without eligibility for parole or release.

''(B) Basic grants under this subpart shall only be awarded to incarcerated individuals in a State if such grants are used to supplement and not supplant the level of postsecondary education assistance provided by such State to incarcerated individuals in fiscal year 1988.''

1993—Subsec. (a)(1). Pub. L. 103–208, § 2(b)(1), inserted before period at end of second sentence '', except that this sentence shall not be construed to limit the authority of the Secretary to place an institution on a reimbursement system of payment''.

Subsec. (b)(2)(B). Pub. L. 103–208, § 2(k)(1), amended directory language of Pub. L. 102–325, § 401(d)(2)(A). See 1992 Amendment note below.

Subsec. (b)(6). Pub. L. 103–208, § 2(b)(2)–(4), substituted ''single award year'' for ''single 12-month period'' in introductory provisions, ''an associate or baccalaureate'' for ''a baccalaureate'' in subpar. (A), and ''an associate or baccalaureate'' for ''a bachelor's'' in subpar. (B).

Subsec. (i). Pub. L. 103–208, § 2(b)(5), substituted ''subtitle D of title V'' for ''part D of title V''.

1992—Subsec. (a)(1). Pub. L. 102–325, § 401(a), substituted ''September 30, 1998'' for ''September 30, 1992'' and ''subsection (b) of this section'' for ''paragraph (2)''.

Subsec. (a)(3). Pub. L. 102–325, § 401(b), substituted ''Federal Pell Grants'' for ''Pell Grants''.

Subsec. (b)(1). Pub. L. 102–325, § 401(c), struck out ''(A) as determined under paragraph (2), will meet 60 percent of a student's cost of attendance (as defined in section 1070a–6 of this title); and (B)'' after ''basic grant that'' and substituted ''family and student'' for ''parental or independent student'', ''subparts 3 and 4'' for ''subparts 2 and 3'', and ''will meet at least 75 percent'' for ''will meet 75 percent''.

Subsec. (b)(2)(A)(i) to (v). Pub. L. 102–325, § 401(d)(1), added cls. (i) to (v) and struck out former cls. (i) to (v) which read as follows:

''(i) $2,300 for academic year 1987–1988,

''(ii) $2,500 for academic year 1988–1989,

''(iii) $2,700 for academic year 1989–1990,

''(iv) $2,900 for academic year 1990–1991, and

''(v) $3,100 for academic year 1991–1992,''.

Subsec. (b)(2)(B). Pub. L. 102–325, § 401(d)(2)(A), as amended by Pub. L. 103–208, § 2(k)(1), inserted ''(including a student who attends an institution of higher education on less than a half-time basis)'' in first sentence after ''full-time basis'' the first time appearing.

Pub. L. 102–325, § 401(d)(2)(B), inserted '', computed in accordance with this subpart'' before period at end of first sentence.

Subsec. (b)(3). Pub. L. 102–325, § 401(d)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 60 percent of the cost of attendance (as defined in section 1070a–6 of this title) at the institution at which the student is in attendance for that year.''

Subsec. (b)(4). Pub. L. 102–325, § 401(d)(4), substituted ''section 1087*ll*'' for ''section 1070a–6''.

Subsec. (b)(5). Pub. L. 102–325, § 401(d)(5), substituted ''$400, except that a student who is eligible for a basic grant that is equal to or greater than $200 but less than $400 shall be awarded a basic grant of $400'' for ''$200''.

Subsec. (b)(6) to (8). Pub. L. 102–325, § 401(d)(6), added pars. (6) to (8) and struck out former pars. (6) and (7) which limited or prohibited basic grants from funds appropriated for fiscal years prior to 1992 to students attending on a less than half-time basis.

Subsec. (c)(1). Pub. L. 102–325, § 401(e)(1), substituted ''any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph.'' for ''—

''(A) such period may not exceed the full-time equivalent of—

''(i) 5 academic years in the case of an undergraduate degree or certificate program normally requiring 4 years or less;

''(ii) 6 academic years in the case of an undergraduate degree or certificate program normally requiring more than 4 years;

''(B) any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of subparagraph (A); and

''(C) an institution of higher education at which the student is in attendance may waive subparagraph (A) for undue hardship based on—

''(i) the death of a relative of the student;

''(ii) the personal injury or illness of the student; or

''(iii) special circumstances as determined by the institution.''

Subsec. (c)(2). Pub. L. 102–325, § 401(e)(2), inserted at end ''Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.''

Subsec. (f)(1). Pub. L. 102–325, § 401(f)(1), substituted '', as a part of its regular output document, the expected family contribution'' for ''an estimate of the eligibility index'' in introductory provisions and ''expected family contribution'' for ''eligibility index'' in subpars. (A), (B), and (D).

Subsec. (f)(3). Pub. L. 102–325, § 401(f)(2), substituted ''expected family contribution'' for ''eligibility index''.

Subsec. (g). Pub. L. 102–325, § 401(g), struck out ''Adjustments for'' before ''insufficient appropriations'' in heading and amended text generally. Prior to amendment, text read as follows:

''(1) If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) of this section, the amount paid with respect to each entitlement shall be—

''(A) the full amount for any student whose expected family contribution is $200 or less, or

''(B) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

''(2) Any schedule established by the Secretary for the purpose of paragraph (1)(B) of this subsection shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.''

Subsec. (i). Pub. L. 102–325, § 401(h), substituted ''Treatment of institutions and students under other laws'' for ''Noncontractor status of institutions'' in heading and inserted at end of text ''Recipients of Pell Grants shall not be considered to be individual grantees for purposes of part D of title V of Public Law 100–690.''

1987—Subsec. (g)(2). Pub. L. 100–50 substituted ''paragraph (1)(B)'' for ''paragraph (1)''.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor,

and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 20411(b) of Pub. L. 103–322 provided that: ''The amendment made by this section [amending this section] shall apply with respect to periods of enrollment beginning on or after the date of enactment of this Act [Sept. 13, 1994].''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(b)(1), (3)–(5), (k)(1) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, and amendment by section 2(b)(2) of Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(a), (b)(2) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 410 of Pub. L. 102–325 provided that: ''The changes made in part A of title IV of the Act [20 U.S.C. 1070 et seq.] by the amendments made by this part [part A (§§ 401–410) of title IV of Pub. L. 102–325, see Tables for classification] shall take effect on the date of enactment of this Act [July 23, 1992], except—

''(1) as otherwise provided in such part A;

''(2) that the changes made in section 411 [this section], relating to Pell Grants, shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1993; and

''(3) that the changes in section 413C(a)(2) [20 U.S.C. 1070b–2(a)(2)], relating to the Federal share for the supplemental educational opportunity grant program, shall apply to funds provided for such program for the award years beginning on or after July 1, 1993.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Section 401(b)(3), (4) of Pub. L. 99–498 provided that:

''(3) Section 411(c) of the Act [20 U.S.C. 1070a(c)] as amended by this section shall apply only to individuals who receive a Pell Grant for the first time for a period of enrollment beginning on or after July 1, 1987.

''(4) Section 411(f) of the Act [20 U.S.C. 1070a(f)] as amended by this section shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1987.''

STUDY OF PELL GRANT ELIGIBILITY FOR LESS THAN HALF-TIME STUDENTS

Section 1306 of Pub. L. 99–498 directed Secretary to conduct a study and report to Congress not later than Sept. 30, 1988, on the number of less than half-time students who would be eligible for Pell grants by reason of having an expected family contribution of $0 and of $0–$200 for the appropriate academic years, prior to repeal by Pub. L. 105–332, §6(a), Oct. 31, 1998, 112 Stat. 3127.

MAXIMUM PELL GRANTS

Provisions limiting the maximum Pell grant that a student may receive were contained in the following appropriation acts:

Pub. L. 109–149, title III, Dec. 30, 2005, 119 Stat. 2868.

Pub. L. 108–447, div. F, title III, Dec. 8, 2004, 118 Stat. 3148.

Pub. L. 108–199, div. E, title III, Jan. 23, 2004, 118 Stat. 261.

Pub. L. 108–7, div. G, title III, Feb. 20, 2003, 117 Stat. 330.

Pub. L. 107–116, title III, Jan. 10, 2002, 115 Stat. 2205.

Pub. L. 106–554, §1(a)(1) [title III], Dec. 21, 2000, 114 Stat. 2763, 2763A–37.

Pub. L. 106–113, div. B, §1000(a)(4) [title III], Nov. 29, 1999, 113 Stat. 1535, 1501A–251.

Pub. L. 105–277, div. A, §101(f) [title III], Oct. 21, 1998, 112 Stat. 2681–337, 2681–369.

Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1501.

Pub. L. 104–208, div. A, title I, §101(e) [title III], Sept. 30, 1996, 110 Stat. 3009–233, 3009–257.

Pub. L. 104–134, title I, §101(d) [title III], Apr. 26, 1996, 110 Stat. 1321–211, 1321–232; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 104–99, title I, §119, Jan. 26, 1996, 110 Stat. 30, prior to repeal by Pub. L. 104–134, title I, §101(d) [title V, §518], Apr. 26, 1996, 110 Stat. 1321–211, 1321–248; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 103–333, title III, Sept. 30, 1994, 108 Stat. 2564.

Pub. L. 103–112, title III, Oct. 21, 1993, 107 Stat. 1104.

Pub. L. 102–394, title III, Oct. 6, 1992, 106 Stat. 1816.

Pub. L. 102–170, title III, Nov. 26, 1991, 105 Stat. 1131.

Pub. L. 101–517, title III, Nov. 5, 1990, 104 Stat. 2212.

Pub. L. 101–166, title III, Nov. 21, 1989, 103 Stat. 1182.

Pub. L. 100–436, title III, Sept. 20, 1988, 102 Stat. 1704.

Pub. L. 100–202, §101(h) [title III], Dec. 22, 1987, 101 Stat. 1329–256, 1329–279.

§§ 1070a–1 to 1070a–6. Repealed. Pub. L. 102–325, title IV, § 401(i), July 23, 1992, 106 Stat. 482

Section 1070a–1, Pub. L. 89–329, title IV, §411A, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1312; amended Pub. L. 100–50, §3(b)(1), June 3, 1987, 101 Stat. 337; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837, related to family contribution schedule for Pell Grants and data elements.

Section 1070a–2, Pub. L. 89–329, title IV, §411B, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1313; amended Pub. L. 100–50, §3(b)(2), (c)–(f)(1), (4), (5), (g), June 3, 1987, 101 Stat. 337, 338; Pub. L. 102–54, §13(g)(1)(B), June 13, 1991, 105 Stat. 275, related to eligibility determination for dependent students.

Section 1070a–3, Pub. L. 89–329, title IV, §411C, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1316; amended Pub. L. 100–50, §3(b)(3), (c)(1), (f)(2), (4), (5), (g), (h)(2), June 3, 1987, 101 Stat. 337, 338; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–54, §13(g)(1)(C), June 13, 1991, 105 Stat. 275, related to eligibility determination for independent students with dependents other than a spouse.

Section 1070a–4, Pub. L. 89–329, title IV, §411D, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1319; amended Pub. L. 100–50, §3(b)(4), (c)(1), (f)(3), (4), (g), June 3, 1987, 101 Stat. 337, 338; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–54, §13(g)(1)(D), June 13, 1991, 105 Stat. 275, related to eligibility determination for single independent students or for married independent students without other dependents.

Section 1070a–5, Pub. L. 89–329, title IV, §411E, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1322, related to regulations and updated tables.

Section 1070a–6, Pub. L. 89–329, title IV, §411F, as added Pub. L. 99–498, title IV, §401(a), Oct. 17, 1986, 100 Stat. 1323; amended Pub. L. 100–50, §3(h)(1), (i)–(m), June 3, 1987, 101 Stat. 338, 339; Pub. L. 100–369, §7(a), (c), July 18, 1988, 102 Stat. 836, 837; Pub. L. 101–610, title I, §185(1), (2), Nov. 16, 1990, 104 Stat. 3167, related to definitions and determinations.

SUBPART 2—FEDERAL EARLY OUTREACH AND STUDENT SERVICES PROGRAMS

CODIFICATION

Pub. L. 102–325, title IV, § 402(a)(2), (4), July 23, 1992, 106 Stat. 482, added subpart 2 and redesignated former subpart 2 comprising sections 1070b to 1070b–3 of this title as subpart 3.

Division 1—Federal TRIO Programs

§ 1070a–11. Program authority; authorization of appropriations

(a) Grants and contracts authorized

The Secretary shall, in accordance with the provisions of this division, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide support services for such students who are pursuing programs of postsecondary education, to motivate and prepare students for doctoral programs, and to train individuals serving or preparing for service in programs and projects so designed.

(b) Recipients, duration, and size

(1) Recipients

For the purposes described in subsection (a) of this section, the Secretary is authorized, without regard to section 5 of title 41, to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, combinations of such institutions, agencies and organizations, and in exceptional circumstances, secondary schools, for planning, developing, or carrying out one or more of the services assisted under this division.

(2) Duration

Grants or contracts made under this division shall be awarded for a period of 4 years, except that—

(A) the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year;

(B) grants made under section 1070a–17 of this title shall be awarded for a period of 2 years; and

(C) grants under section 1070a–18 of this title shall be awarded for a period determined by the Secretary.

(3) Minimum grants

Unless the institution or agency requests a smaller amount, individual grants under this division shall be no less than—

(A) $170,000 for programs authorized by sections 1070a–14 and 1070a–17 of this title;

(B) $180,000 for programs authorized by sections 1070a–12 and 1070a–16 of this title; and

(C) $190,000 for programs authorized by sections 1070a–13 and 1070a–15 of this title.

(c) Procedures for awarding grants and contracts

(1) Application requirements

An eligible entity that desires to receive a grant or contract under this division shall submit an application to the Secretary in such manner and form, and containing such information and assurances, as the Secretary may reasonably require.

(2) Prior experience

In making grants under this division, the Secretary shall consider each applicant's prior experience of service delivery under the particular program for which funds are sought. The level of consideration given the factor of prior experience shall not vary from the level of consideration given such factor during fiscal years 1994 through 1997, except that grants made under section 1070a–18 of this title shall not be given prior experience consideration.

(3) Order of awards; program fraud

(A) Except with respect to grants made under sections 1070a–17 and 1070a–18 of this title and as provided in subparagraph (B), the Secretary shall award grants and contracts under this division in the order of the scores received by the application for such grant or contract in the peer review process required under paragraph (4) and adjusted for prior experience in accordance with paragraph (2) of this subsection.

(B) The Secretary is not required to provide assistance to a program otherwise eligible for assistance under this division, if the Secretary has determined that such program has involved the fraudulent use of funds under this division.

(4) Peer review process

(A) The Secretary shall ensure that, to the extent practicable, members of groups underrepresented in higher education, including African Americans, Hispanics, Native Americans, Alaska Natives, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians), are represented as readers of applications submitted under this division. The Secretary shall also ensure that persons from urban and rural backgrounds are represented as readers.

(B) The Secretary shall ensure that each application submitted under this division is read by at least three readers who are not employees of the Federal Government (other than as readers of applications).

(5) Number of applications for grants and contracts

The Secretary shall not limit the number of applications submitted by an entity under any program authorized under this division if the additional applications describe programs serving different populations or campuses.

(6) Coordination with other programs for disadvantaged students

The Secretary shall encourage coordination of programs assisted under this division with other programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding source of such programs. The Secretary shall not limit an entity's eligibility to receive funds under this division because such entity sponsors a program similar to the program to be assisted under this division, regardless of the funding source

of such program. The Secretary shall permit the Director of a program receiving funds under this division to administer one or more additional programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding sources of such programs.

(7) Application status

The Secretary shall inform each entity operating programs under this division regarding the status of their application for continued funding at least 8 months prior to the expiration of the grant or contract. The Secretary, in the case of an entity that is continuing to operate a successful program under this division, shall ensure that the start-up date for a new grant or contract for such program immediately follows the termination of the preceding grant or contract so that no interruption of funding occurs for such successful reapplicants. The Secretary shall inform each entity requesting assistance under this division for a new program regarding the status of their application at least 8 months prior to the proposed startup date of such program.

(d) Outreach

(1) In general

The Secretary shall conduct outreach activities to ensure that entities eligible for assistance under this division submit applications proposing programs that serve geographic areas and eligible populations which have been underserved by the programs assisted under this division.

(2) Notice

In carrying out the provisions of paragraph (1), the Secretary shall notify the entities described in subsection (b) of this section of the availability of assistance under this subsection not less than 120 days prior to the deadline for submission of applications under this division and shall consult national, State, and regional organizations about candidates for notification.

(3) Technical assistance

The Secretary shall provide technical training to applicants for projects and programs authorized under this division. The Secretary shall give priority to serving programs and projects that serve geographic areas and eligible populations which have been underserved by the programs assisted under this division. Technical training activities shall include the provision of information on authorizing legislation, goals and objectives of the program, required activities, eligibility requirements, the application process and application deadlines, and assistance in the development of program proposals and the completion of program applications. Such training shall be furnished at conferences, seminars, and workshops to be conducted at not less than 10 sites throughout the United States to ensure that all areas of the United States with large concentrations of eligible participants are served.

(4) Special rule

The Secretary may contract with eligible entities to conduct the outreach activities described in this subsection.

(e) Documentation of status as a low-income individual

(1) Except in the case of an independent student, as defined in section 1087vv(d) of this title, documentation of an individual's status pursuant to subsection (g)(2) of this section shall be made by providing the Secretary with—

(A) a signed statement from the individual's parent or legal guardian;

(B) verification from another governmental source;

(C) a signed financial aid application; or

(D) a signed United States or Puerto Rico income tax return.

(2) In the case of an independent student, as defined in section 1087vv(d) of this title, documentation of an individual's status pursuant to subsection (g)(2) of this section shall be made by providing the Secretary with—

(A) a signed statement from the individual;

(B) verification from another governmental source;

(C) a signed financial aid application; or

(D) a signed United States or Puerto Rico income tax return.

(f) Authorization of appropriations

For the purpose of making grants and contracts under this division, there are authorized to be appropriated $700,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years. Of the amount appropriated under this division, the Secretary may use no more than ½ of 1 percent of such amount to obtain additional qualified readers and additional staff to review applications, to increase the level of oversight monitoring, to support impact studies, program assessments and reviews, and to provide technical assistance to potential applicants and current grantees. In expending these funds, the Secretary shall give priority to the additional administrative requirements provided in the Higher Education Amendments of 1992, to outreach activities, and to obtaining additional readers. The Secretary shall report to Congress by October 1, 1994, on the use of these funds.

(g) Definitions

For the purpose of this division:

(1) First generation college student

The term ''first generation college student'' means—

(A) an individual both of whose parents did not complete a baccalaureate degree; or

(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree.

(2) Low-income individual

The term ''low-income individual'' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(3) Veteran eligibility

No veteran shall be deemed ineligible to participate in any program under this division by reason of such individual's age who—

(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and was discharged or released therefrom under conditions other than dishonorable; or

(B) served on active duty after January 31, 1955, and was discharged or released therefrom because of a service connected disability.

(4) Waiver

The Secretary may waive the service requirements in subparagraph (A) or (B) of paragraph (3) if the Secretary determines the application of the service requirements to a veteran will defeat the purpose of a program under this division.

(Pub. L. 89–329, title IV, § 402A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 482; amended Pub. L. 103–208, § 2(b)(6)–(9), Dec. 20, 1993, 107 Stat. 2458; Pub. L. 105–244, title I, § 102(b)(1), title IV, § 402(a), Oct. 7, 1998, 112 Stat. 1622, 1652.)

REFERENCES IN TEXT

The Higher Education Amendments of 1992, referred to in subsec. (f), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

REFERENCES TO SUBPART 2, 3, OR 4 OF THIS PART DEEMED TO REFER TO SUBPART 3, 4, OR 2 OF THIS PART

Section 402(b) of Pub. L. 102–325 provided that: ''Reference in any provision of law (other than the Act [20 U.S.C. 1001 et seq.]) to subpart 2, 3, or 4 of part A of title IV of the Act shall, after the date of enactment of this Act [July 23, 1992], be deemed to refer to subpart 3 [20 U.S.C. 1070b et seq.], 4 [20 U.S.C. 1070c et seq.], or 2 [20 U.S.C. 1070a–11 et seq.] of such part, respectively.''

AMENDMENTS

1998—Subsec. (b)(2)(C). Pub. L. 105–244, § 402(a)(1), added subpar. (C).

Subsec. (b)(3). Pub. L. 105–244, § 402(a)(2), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: ''In any year in which the appropriations authorized under this division exceed the prior year appropriation as adjusted for inflation, the Secretary shall use 80 percent of the amount appropriated above the current services level to bring each award up to the minimum grant level or the amount requested by the institution or agency, whichever is less. The minimum grant level (A) for programs authorized under section 1070a–14 or 1070a–17 of this title, shall not be less than $170,000 for fiscal year 1993; (B) for programs authorized under section 1070a–12 or 1070a–16 of this title shall not be less than $180,000 for fiscal year 1994; and (C) for programs authorized under section 1070a–13 or 1070a–15 of this title shall not be less than $190,000 for fiscal year 1995.''

Subsec. (c). Pub. L. 105–244, § 402(a)(3), amended subsec. (c) generally, revising and restating former pars. (1) to (6), relating to procedures for awarding grants and contracts, as pars. (1) to (7).

Subsec. (c)(2). Pub. L. 105–244, § 102(b)(1), substituted ''section 1011g'' for ''section 1145d–1''.

Subsec. (f). Pub. L. 105–244, § 402(a)(4), substituted ''$700,000,000 for fiscal year 1999'' for ''$650,000,000 for fiscal year 1993''.

Subsec. (g)(4). Pub. L. 105–244, § 402(a)(5), added par. (4).

1993—Subsec. (b)(2). Pub. L. 103–208, § 2(b)(6), added par. (2) and struck out former par. (2) which read as follows: ''Grants or contracts made under this division shall be awarded for a period of 4 years, except that the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year.''

Subsec. (c)(1). Pub. L. 103–208, § 2(b)(7), inserted before period at end of second sentence '', except that in the case of the programs authorized in sections 1070a–15 and 1070a–17 of this title, the level of consideration given to prior experience shall be the same as the level of consideration given this factor in the other programs authorized in this division''.

Subsec. (c)(2)(A). Pub. L. 103–208, § 2(b)(8), inserted ''with respect to grants made under section 1070a–17 of this title, and'' after ''Except''.

Subsec. (e). Pub. L. 103–208, § 2(b)(9), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Documentation of an individual's status pursuant to subsection (g)(2) of this section shall be made—

''(1) in the case of an individual who is eighteen years of age or younger or a dependent student by providing the Secretary with a signed statement from the parent or legal guardian, verification from another governmental source, a signed financial aid application, or a signed United States or Puerto Rican income tax return; and

''(2) in the case of an individual who is age 18 or older or who is an independent student, by providing the Secretary with a signed statement from the individual, verification from another governmental source, a signed financial aid form, or a signed United States or Puerto Rican income tax return.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(b)(6), (8), (9) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, and amendment by section 2(b)(7) of Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(a), (b)(2) of Pub. L. 103–208 set out as a note under section 1051 of this title.

ADVANCED PLACEMENT FEE PAYMENT PROGRAM

Pub. L. 105–244, title VIII, § 810, Oct. 7, 1998, 112 Stat. 1808, which authorized grants to States to enable States to reimburse low-income individuals to cover part or all of the cost of advanced placement test fees, required dissemination of information regarding availability of payments, set forth requirements for approval of applications and funding rules, authorized regulations, required annual report, defined terms, and authorized appropriations, was repealed by Pub. L. 107–110, title X, § 1011(2), Jan. 8, 2002, 115 Stat. 1986.

Similar provisions were contained in Pub. L. 102–325, title XV, § 1545, July 23, 1992, 106 Stat. 837, which was repealed by Pub. L. 107–110, title X, § 1011(1), Jan. 8, 2002, 115 Stat. 1986.

§ 1070a–12. Talent search

(a) Program authority

The Secretary shall carry out a program to be known as talent search which shall be designed—

(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youths to complete secondary school and to undertake a program of postsecondary education;

(2) to publicize the availability of student financial assistance available to persons who

pursue a program of postsecondary education; and

(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

(b) Permissible services

Any talent search project assisted under this division may provide services such as—

(1) academic advice and assistance in secondary school and college course selection;

(2) assistance in completing college admission and financial aid applications;

(3) assistance in preparing for college entrance examinations;

(4) guidance on and assistance in secondary school reentry, entry to general educational development (GED) programs, other alternative education programs for secondary school dropouts, or postsecondary education;

(5) personal and career counseling, or activities designed to acquaint individuals from disadvantaged backgrounds with careers in which the individuals are particularly underrepresented;

(6) tutorial services;

(7) exposure to college campuses as well as cultural events, academic programs and other sites or activities not usually available to disadvantaged youth;

(8) workshops and counseling for families of students served;

(9) mentoring programs involving elementary or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) Requirements for approval of applications

In approving applications for talent search projects under this division for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who either have completed 5 years of elementary education or are at least 11 years of age but not more than 27 years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 1070a–16 of this title;

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 1070a–16 of this title; and

(4) require an assurance that the project will be located in a setting accessible to the persons proposed to be served by the project.

(Pub. L. 89–329, title IV, § 402B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 486; amended Pub. L. 105–244, title IV, § 402(b), Oct. 7, 1998, 112 Stat. 1654.)

AMENDMENTS

1998—Subsec. (b)(4). Pub. L. 105–244, § 402(b)(1), added par. (4) and struck out former par. (4) which read as follows: ''guidance on secondary school reentry or entry to general educational development (GED) programs or other alternative education programs for secondary school dropouts;''.

Subsec. (b)(5). Pub. L. 105–244, § 402(b)(2), inserted before semicolon '', or activities designed to acquaint individuals from disadvantaged backgrounds with careers in which the individuals are particularly underrepresented''.

Subsec. (b)(8). Pub. L. 105–244, § 402(b)(3), substituted ''families'' for ''parents''.

Subsec. (b)(9). Pub. L. 105–244, § 402(b)(4), inserted ''or counselors'' after ''teachers''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1070a–13. Upward bound

(a) Program authority

The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond secondary school.

(b) Permissible services

Any upward bound project assisted under this division may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond secondary school;

(2) counseling and workshops;

(3) academic advice and assistance in secondary school course selection;

(4) tutorial services;

(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

(8) on-campus residential programs;

(9) mentoring programs involving elementary or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons;

(10) work-study positions where youth participating in the project are exposed to careers requiring a postsecondary degree;

(11) special services to enable veterans to make the transition to postsecondary education; and

(12) programs and activities as described in paragraphs (1) through (11) which are specially designed for students of limited English proficiency.

(c) Required services

Any upward bound project assisted under this division which has received funding for two or

more years shall include, as part of the core curriculum in the next and succeeding years, instruction in mathematics through precalculus, laboratory science, foreign language, composition, and literature.

(d) Requirements for approval of applications

In approving applications for upward bound projects under this division for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or first generation college students;

(3) require that there be a determination by the institution, with respect to each participant in such project that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school; and

(4) require that such participants be persons who have completed 8 years of elementary education and are at least 13 years of age but not more than 19 years of age, unless the imposition of any such limitation would defeat the purposes of this section.

(e) Maximum stipends

Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, except that youth participating in a work-study position under subsection (b)(10) of this section may be paid a stipend of $300 per month during June, July, and August. Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $40 per month during the remaining period of the year.

(Pub. L. 89–329, title IV, § 402C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 487; amended Pub. L. 103–208, § 2(b)(10), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, § 402(c), Oct. 7, 1998, 112 Stat. 1654.)

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105–244, § 402(c)(1)(A), substituted ''counseling and workshops'' for ''personal counseling''.

Subsec. (b)(9). Pub. L. 105–244, § 402(c)(1)(B), inserted ''or counselors'' after ''teachers'' and struck out ''and'' after semicolon.

Subsec. (b)(10), (11). Pub. L. 105–244, § 402(c)(1)(D), added pars. (10) and (11). Former par. (10) redesignated (12).

Subsec. (b)(12). Pub. L. 105–244, § 402(c)(1)(E), substituted ''(11)'' for ''(9)''.

Pub. L. 105–244, § 402(c)(1)(C), redesignated par. (10) as (12).

Subsec. (e). Pub. L. 105–244, § 402(c)(2), substituted ''except that youth participating in a work-study position under subsection (b)(10) of this section may be paid a stipend of $300 per month during June, July, and August. Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $40 per month during the remaining period of the year.'' for ''and not in excess of $40 per month during the remaining period of the year.''

1993—Subsec. (c). Pub. L. 103–208 substituted ''foreign'' for ''and foreign''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§ 1070a–14. Student support services

(a) Program authority

The Secretary shall carry out a program to be known as student support services which shall be designed—

(1) to increase college retention and graduation rates for eligible students;

(2) to increase the transfer rates of eligible students from 2-year to 4-year institutions; and

(3) to foster an institutional climate supportive of the success of low-income and first generation college students and individuals with disabilities.

(b) Permissible services

A student support services project assisted under this division may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond secondary school;

(2) personal counseling;

(3) academic advice and assistance in course selection;

(4) tutorial services and counseling and peer counseling;

(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

(6) activities designed to acquaint students participating in the project with the range of career options available to them;

(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs;

(8) activities designed to assist students currently enrolled in 2-year institutions in securing admission and financial assistance for enrollment in a four-year program of postsecondary education;

(9) mentoring programs involving faculty or upper class students, or a combination thereof; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) Special rule

(1) Use for student aid

A recipient of a grant that undertakes any of the permissible services identified in subsection (b) of this section may, in addition, use such funds to provide grant aid to stu-

dents. A grant provided under this paragraph shall not exceed the maximum appropriated Pell Grant or, be less than the minimum appropriated Pell Grant, for the current academic year. In making grants to students under this subsection, an institution shall ensure that adequate consultation takes place between the student support service program office and the institution's financial aid office.

(2) Eligible students

For purposes of receiving grant aid under this subsection, eligible students shall be current participants in the student support services program offered by the institution and be—

(A) students who are in their first 2 years of postsecondary education and who are receiving Federal Pell Grants under subpart 1 of part A of this subchapter; or

(B) students who have completed their first 2 years of postsecondary education and who are receiving Federal Pell Grants under subpart 1 of part A of this subchapter if the institution demonstrates to the satisfaction of the Secretary that—

(i) these students are at high risk of dropping out; and

(ii) it will first meet the needs of all its eligible first- and second-year students for services under this paragraph.

(3) Determination of need

A grant provided to a student under paragraph (1) shall not be considered in determining that student's need for grant or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, except that in no case shall the total amount of student financial assistance awarded to a student under this subchapter exceed that student's cost of attendance, as defined in section 1087*ll* of this title.

(4) Matching required

A recipient of a grant who uses such funds for the purpose described in paragraph (1) shall match the funds used for such purpose, in cash, from non-Federal funds, in an amount that is not less than 33 percent of the total amount of funds used for that purpose. This paragraph shall not apply to any grant recipient that is an institution of higher education eligible to receive funds under part A or B of subchapter III or subchapter V of this chapter.

(5) Reservation

In no event may a recipient use more than 20 percent of the funds received under this section for grant aid.

(6) Supplement, not supplant

Funds received by a grant recipient that are used under this subsection shall be used to supplement, and not supplant, non-Federal funds expended for student support services programs.

(d) Requirements for approval of applications

In approving applications for student support services projects under this division for any fiscal year, the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

(A) be individuals with disabilities; or

(B) be low-income individuals who are first generation college students;

(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application be low-income individuals, first generation college students, or individuals with disabilities;

(3) require an assurance that not less than one-third of the individuals with disabilities participating in the project be low-income individuals;

(4) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school;

(5) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract; and

(6) consider, in addition to such other criteria as the Secretary may prescribe, the institution's effort, and where applicable past history, in—

(A) providing sufficient financial assistance to meet the full financial need of each student in the project; and

(B) maintaining the loan burden of each such student at a manageable level.

(Pub. L. 89–329, title IV, § 402D, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 488; amended Pub. L. 103–208, § 2(b)(11), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, § 402(d), Oct. 7, 1998, 112 Stat. 1655; Pub. L. 106–554, § 1(a)(1) [title III, § 317(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–48.)

AMENDMENTS

2000—Subsecs. (c), (d). Pub. L. 106–554 added subsec. (c) and redesignated former subsec. (c) as (d).

1998—Subsec. (c)(6). Pub. L. 105–244 amended par. (6) generally. Prior to amendment, par. (6) read as follows: ''require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will be offered sufficient financial assistance to meet that student's full financial need.''

1993—Subsec. (c)(2). Pub. L. 103–208 struck out ''either'' after ''application''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, § 1(a)(1) [title III, § 317(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–49, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to student support services grants awarded on or after the date of enactment of this Act [Dec. 21, 2000].''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§ 1070a–15. Postbaccalaureate achievement program authority

(a) Program authority

The Secretary shall carry out a program to be known as the ''Ronald E. McNair Postbaccalaureate Achievement Program'' that shall be designed to provide disadvantaged college students with effective preparation for doctoral study.

(b) Services

A postbaccalaureate achievement project assisted under this section may provide services such as—

(1) opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

(2) summer internships;

(3) seminars and other educational activities designed to prepare students for doctoral study;

(4) tutoring;

(5) academic counseling;

(6) activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs;

(7) mentoring programs involving faculty members at institutions of higher education, students, or any combination of such persons; and

(8) exposure to cultural events and academic programs not usually available to disadvantaged students.

(c) Requirements

In approving applications for postbaccalaureate achievement projects assisted under this section for any fiscal year, the Secretary shall require—

(1) an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education;

(3) an assurance that participants be enrolled in a degree program at an eligible institution having an agreement with the Secretary in accordance with the provisions of section 1094 of this title; and

(4) an assurance that participants in summer research internships have completed their sophomore year in postsecondary education.

(d) Award considerations

In addition to such other selection criteria as may be prescribed by regulations, the Secretary shall consider in making awards to institutions under this section—

(1) the quality of research and other scholarly activities in which students will be involved;

(2) the level of faculty involvement in the project and the description of the research in which students will be involved; and

(3) the institution's plan for identifying and recruiting participants including students enrolled in projects authorized under this section.

(e) Maximum stipends

Students participating in research under a postbaccalaureate achievement project may receive an award that—

(1) shall include a stipend not to exceed $2,800 per annum; and

(2) may include, in addition, the costs of summer tuition, summer room and board, and transportation to summer programs.

(f) Funding

From amounts appropriated pursuant to the authority of section 1070a–11(f) of this title, the Secretary shall, to the extent practicable, allocate funds for projects authorized by this section in an amount which is not less than $11,000,000 for each of the fiscal years 1993 through 1997.

(Pub. L. 89–329, title IV, § 402E, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 489; amended Pub. L. 105–244, title IV, § 402(e), Oct. 7, 1998, 112 Stat. 1655.)

AMENDMENTS

1998—Subsec. (e)(1). Pub. L. 105–244 substituted ''$2,800'' for ''$2,400''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1070a–16. Educational opportunity centers

(a) Program authority; services provided

The Secretary shall carry out a program to be known as educational opportunity centers which shall be designed—

(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

(b) Permissible services

An educational opportunity center assisted under this section may provide services such as—

(1) public information campaigns designed to inform the community regarding opportunities for postsecondary education and training;

(2) academic advice and assistance in course selection;

(3) assistance in completing college admission and financial aid applications;

(4) assistance in preparing for college entrance examinations;

(5) guidance on secondary school reentry or entry to a general educational development (GED) program or other alternative education programs for secondary school dropouts;

(6) personal counseling;

(7) tutorial services;

(8) career workshops and counseling;

(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

(c) Requirements for approval of applications

In approving applications for educational opportunity centers under this section for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 1070a–12 of this title; and

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 1070a–12 of this title.

(Pub. L. 89–329, title IV, § 402F, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 490.)

§ 1070a–17. Staff development activities

(a) Secretary's authority

For the purpose of improving the operation of the programs and projects authorized by this division, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, participating in, or preparing for employment in, such programs and projects.

(b) Contents of training programs

Such training shall include conferences, internships, seminars, workshops, and the publication of manuals designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Such training shall be offered annually for new directors of projects funded under this division as well as annually on the following topics and other topics chosen by the Secretary:

(1) Legislative and regulatory requirements for the operation of programs funded under this division.

(2) Assisting students in receiving adequate financial aid from programs assisted under this subchapter and part C of subchapter I of chapter 34 of title 42 and other programs.

(3) The design and operation of model programs for projects funded under this division.

(4) The use of appropriate educational technology in the operation of projects assisted under this division.

(c) Consultation

Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

(Pub. L. 89–329, title IV, § 402G, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 491; amended Pub. L. 105–244, title IV, § 402(f), Oct. 7, 1998, 112 Stat. 1655.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 402(f)(1), inserted ''participating in,'' after ''leadership personnel employed in,''.

Subsec. (b)(4). Pub. L. 105–244, § 402(f)(2), added par. (4).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1070a–18. Evaluations and grants for project improvement and dissemination partnership projects

(a) Evaluations

(1) In general

For the purpose of improving the effectiveness of the programs and projects assisted under this division, the Secretary may make grants to or enter into contracts with institutions of higher education and other public and private institutions and organizations to evaluate the effectiveness of the programs and projects assisted under this division.

(2) Practices

The evaluations described in paragraph (1) shall identify institutional, community, and program or project practices that are particularly effective in enhancing the access of low-income individuals and first-generation college students to postsecondary education, the preparation of the individuals and students for postsecondary education, and the success of the individuals and students in postsecondary education. Such evaluations shall also investigate the effectiveness of alternative and innovative methods within Federal TRIO programs of increasing access to, and retention of, students in postsecondary education.

(b) Grants

The Secretary may award grants to institutions of higher education or other private and public institutions and organizations, that are carrying out a program or project assisted under this division prior to October 7, 1998, to enable the institutions and organizations to expand and leverage the success of such programs or projects by working in partnership with other institutions, community-based organizations, or combinations of such institutions and organizations, that are not receiving assistance under this division and are serving low-income students and first generation college students, in order to—

(1) disseminate and replicate best practices of programs or projects assisted under this division; and

(2) provide technical assistance regarding programs and projects assisted under this division.

(c) Results

In order to improve overall program or project effectiveness, the results of evaluations and grants described in this section shall be disseminated by the Secretary to similar programs or projects assisted under this subpart, as well as other individuals concerned with postsecondary access for and retention of low-income individuals and first-generation college students.

(Pub. L. 89–329, title IV, § 402H, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 491; amended Pub. L. 105–244, title IV, § 402(g), Oct. 7, 1998, 112 Stat. 1655.)

AMENDMENTS

1998—Pub. L. 105–244 amended section generally, revising and restating former subsecs. (a) to (c) relating to evaluation for project improvement.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Division 2—Gaining Early Awareness and Readiness for Undergraduate Programs

CODIFICATION

Chapter 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965, comprising this division, was originally added to Pub. L. 89–329, title IV, by Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 492, and amended by Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518; Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2105. Chapter 2 is shown herein, however, as having been added by Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1656, without reference to those intervening amendments because of the extensive revision of chapter 2 by Pub. L. 105–244.

§ 1070a–21. Early intervention and college awareness program authorized

(a) Program authorized

The Secretary is authorized, in accordance with the requirements of this division, to establish a program that—

(1) encourages eligible entities to provide or maintain a guarantee to eligible low-income students who obtain a secondary school diploma (or its recognized equivalent), of the financial assistance necessary to permit the students to attend an institution of higher education; and

(2) supports eligible entities in providing—

(A) additional counseling, mentoring, academic support, outreach, and supportive services to elementary school, middle school, and secondary school students who are at risk of dropping out of school; and

(B) information to students and their parents about the advantages of obtaining a postsecondary education and the college financing options for the students and their parents.

(b) Awards

(1) In general

From funds appropriated under section 1070a–28 of this title for each fiscal year, the Secretary shall make awards to eligible entities described in paragraphs (1) and (2) of subsection (c) of this section to enable the entities to carry out the program authorized under subsection (a) of this section.

(2) Priority

In making awards to eligible entities described in paragraph (c)(1) of this section, the Secretary shall—

(A) give priority to eligible entities that—

(i) on the day before October 7, 1998, carried out successful educational opportunity programs under this division (as this division was in effect on such day); and

(ii) have a prior, demonstrated commitment to early intervention leading to college access through collaboration and replication of successful strategies;

(B) ensure that students served under this division on the day before October 7, 1998, continue to receive assistance through the completion of secondary school.

(c) "Eligible entity" defined

For the purposes of this division, the term ''eligible entity'' means—

(1) a State; or

(2) a partnership consisting of—

(A) one or more local educational agencies acting on behalf of—

(i) one or more elementary schools or secondary schools; and

(ii) the secondary schools that students from the schools described in clause (i) would normally attend;

(B) one or more degree granting institutions of higher education; and

(C) at least two community organizations or entities, such as businesses, professional associations, community-based organizations, philanthropic organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4 of this part, or other public or private agencies or organizations.

(Pub. L. 89–329, title IV, § 404A, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1656.)

PRIOR PROVISIONS

A prior section 1070a–21, Pub. L. 89–329, title IV, § 404A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 492; amended Pub. L. 103–208, § 2(b)(12), Dec. 20, 1993, 107 Stat. 2459, authorized establishment of early intervention program, prior to the general amendment of this division by Pub. L. 105–244.

EFFECTIVE DATE

Division effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

EVALUATION OF TUITION GUARANTY PROGRAMS

Pub. L. 102–325, title XIV, § 1407, July 23, 1992, 106 Stat. 819, directed Secretary of Education to conduct study of effectiveness of programs for disadvantaged children that promise the child financial resources needed to pursue postsecondary education in exchange for child's commitment to achieve satisfactory elementary and secondary education, and to submit reports

regarding study by June 30, 1996, and by Jan. 1, 1997, to committees of Congress, prior to repeal by Pub. L. 105–332, § 6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

§ 1070a–22. Requirements

(a) Funding rules

(1) Continuation awards

From the amount appropriated under section 1070a–28 of this title for a fiscal year, the Secretary shall continue to award grants to States under this division (as this division was in effect on the day before October 7, 1998) in accordance with the terms and conditions of such grants.

(2) Distribution

From the amount appropriated under section 1070a–28 of this title that remains after making continuation awards under paragraph (1) for a fiscal year, the Secretary shall—

(A) make available—

(i) not less than 33 percent of the amount to eligible entities described in section 1070a–21(c)(1) of this title; and

(ii) not less than 33 percent of the amount to eligible entities described in section 1070a–21(c)(2) of this title; and

(B) award the remainder of the amount to eligible entities described in paragraph (1) or (2) of section 1070a–21(c) of this title.

(3) Special rule

The Secretary shall annually reevaluate the distribution of funds described in paragraph (2)(B) based on number, quality, and promise of the applications and adjust the distribution accordingly.

(b) Limitation

Each eligible entity described in section 1070a–21(c)(1) of this title, and each eligible entity described in section 1070a–21(c)(2) of this title that conducts a scholarship component under section 1070a–25 of this title, shall use not less than 25 percent and not more than 50 percent of grant funds received under this division for the early intervention component of an eligible entity's program under this division, except that the Secretary may waive the 50 percent limitation if the eligible entity demonstrates that the eligible entity has another means of providing the students with financial assistance that is described in the plan submitted under section 1070a–23 of this title.

(c) Coordination

Each eligible entity shall ensure that the activities assisted under this division are, to the extent practicable, coordinated with, and complement and enhance—

(1) services under this division provided by other eligible entities serving the same school district or State; and

(2) related services under other Federal or non-Federal programs.

(d) Designation of fiscal agent

An eligible entity described in section 1070a–21(c)(2) of this title shall designate an institution of higher education or a local educational agency as the fiscal agent for the eligible entity.

(e) Coordinators

An eligible entity described in section 1070a–21(c)(2) of this title shall have a full-time program coordinator or a part-time program coordinator, whose primary responsibility is a project under section 1070a–23 of this title.

(f) Displacement

An eligible entity described in[1] 1070a–21(c)(2) of this title shall ensure that the activities assisted under this division will not displace an employee or eliminate a position at a school assisted under this division, including a partial displacement such as a reduction in hours, wages or employment benefits.

(g) Cohort approach

(1) In general

The Secretary shall require that eligible entities described in section 1070a–21(c)(2) of this title—

(A) provide services under this division to at least one grade level of students, beginning not later than 7th grade, in a participating school that has a 7th grade and in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] (or, if an eligible entity determines that it would promote the effectiveness of a program, an entire grade level of students, beginning not later than the 7th grade, who reside in public housing as defined in section 1437a(b)(1) of title 42); and

(B) ensure that the services are provided through the 12th grade to students in the participating grade level.

(2) Coordination requirement

In order for the Secretary to require the cohort approach described in paragraph (1), the Secretary shall, where applicable, ensure that the cohort approach is done in coordination and collaboration with existing early intervention programs and does not duplicate the services already provided to a school or community.

(Pub. L. 89–329, title IV, § 404B, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1657; amended Pub. L. 106–78, title VII, § 752(b)(8), Oct. 22, 1999, 113 Stat. 1169.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (g)(1)(A), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1070a–22, Pub. L. 89–329, title IV, § 404B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 492; amended Pub. L. 103–208, § 2(b)(13), (14), Dec. 20, 1993, 107 Stat. 2459, related to State eligibility and State plan, prior to the general amendment of this division by Pub. L. 105–244.

[1] So in original. Probably should be followed by ''section''.

AMENDMENTS

1999—Subsec. (g)(1)(A). Pub. L. 106–78 substituted ''Richard B. Russell National School Lunch Act'' for ''National School Lunch Act''.

§ 1070a–23. Eligible entity plans

(a) Plan required for eligibility

(1) In general

In order for an eligible entity to qualify for a grant under this division, the eligible entity shall submit to the Secretary a plan for carrying out the program under this division. Such plan shall provide for the conduct of a scholarship component if required or undertaken pursuant to section 1070a–25 of this title and an early intervention component required pursuant to section 1070a–24 of this title.

(2) Contents

Each plan submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require by regulation. Each such plan shall—

(A) describe the activities for which assistance under this division is sought; and

(B) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this division.

(b) Matching requirement

(1) In general

The Secretary shall not approve a plan submitted under subsection (a) of this section unless such plan—

(A) provides that the eligible entity will provide, from State, local, institutional, or private funds, not less than 50 percent of the cost of the program, which matching funds may be provided in cash or in kind;

(B) specifies the methods by which matching funds will be paid; and

(C) includes provisions designed to ensure that funds provided under this division shall supplement and not supplant funds expended for existing programs.

(2) Special rule

Notwithstanding the matching requirement described in paragraph (1)(A), the Secretary may by regulation modify the percentage requirement described in paragraph (1)(A) for eligible entities described in section 1070a–21(c)(2) of this title.

(c) Methods for complying with matching requirement

An eligible entity may count toward the matching requirement described in subsection (b)(1)(A) of this section—

(1) the amount of the financial assistance paid to students from State, local, institutional, or private funds under this division;

(2) the amount of tuition, fees, room or board waived or reduced for recipients of financial assistance under this division; and

(3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of non-school organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations.

(d) Peer review panels

The Secretary shall convene peer review panels to assist in making determinations regarding the awarding of grants under this division.

(Pub. L. 89–329, title IV, § 404C, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1658.)

PRIOR PROVISIONS

A prior section 1070a–23, Pub. L. 89–329, title IV, § 404C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 493; amended Pub. L. 103–208, § 2(b)(15)–(17), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 104–193, title I, § 110(h)(1), Aug. 22, 1996, 110 Stat. 2172, related to early intervention, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–24 of this title.

§ 1070a–24. Early intervention

(a) Services

(1) In general

In order to receive a grant under this division, an eligible entity shall demonstrate to the satisfaction of the Secretary, in the plan submitted under section 1070a–23 of this title, that the eligible entity will provide comprehensive mentoring, counseling, outreach, and supportive services to students participating in programs under this division. Such counseling shall include—

(A) financial aid counseling and information regarding the opportunities for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(B) activities or information regarding—

(i) fostering and improving parent involvement in promoting the advantages of a college education, academic admission requirements, and the need to take college preparation courses;

(ii) college admissions and achievement tests; and

(iii) college application procedures.

(2) Methods

The eligible entity shall demonstrate in such plan, pursuant to regulations of the Secretary, the methods by which the eligible entity will target services on priority students described in subsection (c) of this section, if applicable.

(b) Uses of funds

(1) In general

The Secretary shall, by regulation, establish criteria for determining whether comprehensive mentoring, counseling, outreach, and supportive services programs may be used to meet the requirements of subsection (a) of this section.

(2) Permissible activities

Examples of activities that meet the requirements of subsection (a) of this section include the following:

(A) Providing eligible students in preschool through grade 12 with a continuing system of mentoring and advising that—

(i) is coordinated with the Federal and State community service initiatives; and

(ii) may include such support services as after school and summer tutoring, assistance in obtaining summer jobs, career mentoring, and academic counseling.

(B) Requiring each student to enter into an agreement under which the student agrees to achieve certain academic milestones, such as completing a prescribed set of courses and maintaining satisfactory progress described in section 1091(c) of this title, in exchange for receiving tuition assistance for a period of time to be established by each eligible entity.

(C) Activities designed to ensure secondary school completion and college enrollment of at-risk children, such as identification of at-risk children, after school and summer tutoring, assistance in obtaining summer jobs, academic counseling, volunteer and parent involvement, providing former or current scholarship recipients as mentor or peer counselors, skills assessment, providing access to rigorous core courses that reflect challenging academic standards, personal counseling, family counseling and home visits, staff development, and programs and activities described in this subparagraph that are specially designed for students of limited English proficiency.

(D) Summer programs for individuals who are in their sophomore or junior years of secondary school or are planning to attend an institution of higher education in the succeeding academic year that—

(i) are carried out at an institution of higher education that has programs of academic year supportive services for disadvantaged students through projects authorized under section 1070a–14 of this title or through comparable projects funded by the State or other sources;

(ii) provide for the participation of the individuals who are eligible for assistance under section 1070a–14 of this title or who are eligible for comparable programs funded by the State;

(iii)(I) provide summer instruction in remedial, developmental or supportive courses;

(II) provide such summer services as counseling, tutoring, or orientation; and

(III) provide financial assistance to the individuals to cover the individuals' summer costs for books, supplies, living costs, and personal expenses; and

(iv) provide the individuals with financial assistance during each academic year the individuals are enrolled at the participating institution after the summer program.

(E) Requiring eligible students to meet other standards or requirements as the State determines necessary to meet the purposes of this section.

(c) Priority students

For eligible entities not using a cohort approach, the eligible entity shall treat as priority students any student in preschool through grade 12 who is eligible—

(1) to be counted under section 6333(c) of this title;

(2) for free or reduced price meals under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.]; or

(3) for assistance pursuant to part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.].

(d) Allowable providers

In the case of eligible entities described in section 1070a–21(c)(1) of this title, the activities required by this section may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4 of this part, and other organizations the State deems appropriate.

(Pub. L. 89–329, title IV, § 404D, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1659; amended Pub. L. 106–78, title VII, § 752(b)(8), Oct. 22, 1999, 113 Stat. 1169.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (c)(2), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (c)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1070a–24, Pub. L. 89–329, title IV, § 404D, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 495; amended Pub. L. 103–208, § 2(b)(18), (19), Dec. 20, 1993, 107 Stat. 2459, related to scholarship component, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–25 of this title.

AMENDMENTS

1999—Subsec. (c)(2). Pub. L. 106–78 substituted ''Richard B. Russell National School Lunch Act'' for ''National School Lunch Act''.

§ 1070a–25. Scholarship component

(a) In general

(1) States

In order to receive a grant under this division, an eligible entity described in section 1070a–21(c)(1) of this title shall establish or maintain a financial assistance program that awards scholarships to students in accordance with the requirements of this section. The Secretary shall encourage the eligible entity to ensure that a scholarship provided pursuant to this section is available to an eligible stu-

dent for use at any institution of higher education.

(2) Partnerships

An eligible entity described in section 1070a–21(c)(2) of this title may award scholarships to eligible students in accordance with the requirements of this section.

(b) Grant amounts

The maximum amount of a scholarship that an eligible student shall be eligible to receive under this section shall be established by the eligible entity. The minimum amount of the scholarship for each fiscal year shall not be less than the lesser of—

(1) 75 percent of the average cost of attendance for an in-State student, in a 4-year program of instruction, at public institutions of higher education in such State, as determined in accordance with regulations prescribed by the Secretary; or

(2) the maximum Federal Pell Grant funded under section 1070a of this title for such fiscal year.

(c) Relation to other assistance

Scholarships provided under this section shall not be considered for the purpose of awarding Federal grant assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, except that in no case shall the total amount of student financial assistance awarded to a student under this subchapter and part C of subchapter I of chapter 34 of title 42 exceed such student's total cost of attendance.

(d) Eligible students

A student eligible for assistance under this section is a student who—

(1) is less than 22 years old at time of first scholarship award under this section;

(2) receives a secondary school diploma or its recognized equivalent on or after January 1, 1993;

(3) is enrolled or accepted for enrollment in a program of undergraduate instruction at an institution of higher education that is located within the State's boundaries, except that, at the State's option, an eligible entity may offer scholarship program portability for recipients who attend institutions of higher education outside such State; and

(4) who participated in the early intervention component required under section 1070a–24 of this title.

(e) Priority

The Secretary shall ensure that each eligible entity places a priority on awarding scholarships to students who will receive a Federal Pell Grant for the academic year for which the scholarship is awarded under this section.

(f) Special rule

An eligible entity may consider students who have successfully participated in programs funded under division 1 of this subpart to have met the requirements of subsection (d)(4) of this section.

(Pub. L. 89–329, title IV, § 404E, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1661.)

PRIOR PROVISIONS

A prior section 1070a–25, Pub. L. 89–329, title IV, § 404E, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 495; amended Pub. L. 103–208, § 2(b)(20), Dec. 20, 1993, 107 Stat. 2459, related to distribution of funds, prior to the general amendment of this division by Pub. L. 105–244.

§ 1070a–26. 21st Century Scholar Certificates

(a) Authority

The Secretary, using funds appropriated under section 1070a–28 of this title that do not exceed $200,000 for a fiscal year—

(1) shall ensure that certificates, to be known as 21st Century Scholar Certificates, are provided to all students participating in programs under this division; and

(2) may, as practicable, ensure that such certificates are provided to all students in grades 6 through 12 who attend schools at which at least 50 percent of the students enrolled are eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.].

(b) Information required

A 21st Century Scholar Certificate shall be personalized for each student and indicate the amount of Federal financial aid for college which a student may be eligible to receive.

(Pub. L. 89–329, title IV, § 404F, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1662; amended Pub. L. 106–78, title VII, § 752(b)(8), Oct. 22, 1999, 113 Stat. 1169.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (a)(2), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1070a–26, Pub. L. 89–329, title IV, § 404F, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 496; amended Pub. L. 103–208, § 2(b)(21), (22), Dec. 20, 1993, 107 Stat. 2459, related to evaluation and report, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–27 of this title.

AMENDMENTS

1999—Subsec. (a)(2). Pub. L. 106–78 substituted ''Richard B. Russell National School Lunch Act'' for ''National School Lunch Act''.

§ 1070a–27. Evaluation and report

(a) Evaluation

Each eligible entity receiving a grant under this division shall biennially evaluate the activities assisted under this division in accordance with the standards described in subsection (b) of this section and shall submit to the Secretary a copy of such evaluation. The evaluation shall permit service providers to track eligible student progress during the period such students are participating in the activities and shall be consistent with the standards developed by the Secretary pursuant to subsection (b) of this section.

(b) Evaluation standards

The Secretary shall prescribe standards for the evaluation described in subsection (a) of this section. Such standards shall—

(1) provide for input from eligible entities and service providers; and

(2) ensure that data protocols and procedures are consistent and uniform.

(c) Federal evaluation

In order to evaluate and improve the impact of the activities assisted under this division, the Secretary shall, from not more than 0.75 percent of the funds appropriated under section 1070a–28 of this title for a fiscal year, award one or more grants, contracts, or cooperative agreements to or with public and private institutions and organizations, to enable the institutions and organizations to evaluate the effectiveness of the program and, as appropriate, disseminate the results of the evaluation.

(d) Report

The Secretary shall biennially report to Congress regarding the activities assisted under this division and the evaluations conducted pursuant to this section.

(Pub. L. 89–329, title IV, § 404G, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1662.)

PRIOR PROVISIONS

A prior section 1070a–27, Pub. L. 89–329, title IV, § 404G, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 496; amended Pub. L. 103–208, § 2(b)(23), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 103–382, title III, § 354, Oct. 20, 1994, 108 Stat. 3967, authorized appropriations for grants under this division, prior to the general amendment of this division by Pub. L. 105–244. See section 1070a–28 of this title.

§ 1070a–28. Authorization of appropriations

There are authorized to be appropriated to carry out this division $200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 404H, as added Pub. L. 105–244, title IV, § 403, Oct. 7, 1998, 112 Stat. 1663.)

Division 3—Academic Achievement Incentive Scholarships

CODIFICATION

Chapter 3 of subpart 2 of part A of title IV of the Higher Education Act of 1965, comprising this division, was originally added to Pub. L. 89–329, title IV, by Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 497. Chapter 3 is shown herein, however, as having been added by Pub. L. 105–244, title IV, § 404, Oct. 7, 1998, 112 Stat. 1663, without reference to Pub. L. 102–325 because of the extensive revision of chapter 3 by Pub. L. 105–244.

§ 1070a–31. Scholarships authorized

The Secretary is authorized to award scholarships to students who graduate from secondary school after May 1, 2000, to enable the students to pay the cost of attendance at an institution of higher education during the students first 2 academic years of undergraduate education, if the students—

(1) are eligible to receive Federal Pell Grants for the year in which the scholarships are awarded; and

(2) demonstrate academic achievement by graduating in the top 10 percent of their secondary school graduating class.

(Pub. L. 89–329, title IV, § 406A, as added Pub. L. 105–244, title IV, § 404, Oct. 7, 1998, 112 Stat. 1663.)

PRIOR PROVISIONS

A prior section 1070a–31, Pub. L. 89–329, title IV, § 406A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 497, authorized award of Presidential Access Scholarships, prior to the general amendment of this division by Pub. L. 105–244.

EFFECTIVE DATE

Division effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1070a–32. Scholarship program requirements

(a) Amount of award

(1) In general

Except as provided in paragraph (2), the amount of a scholarship awarded under this division for any academic year shall be equal to 100 percent of the amount of the Federal Pell Grant for which the recipient is eligible for the academic year.

(2) Adjustment for insufficient appropriations

If, after the Secretary determines the total number of eligible applicants for an academic year in accordance with section 1070a–33 of this title, funds available to carry out this division for the academic year are insufficient to fully fund all awards under this division for the academic year, the amount of the scholarship paid to each student under this division shall be reduced proportionately.

(b) Assistance not to exceed cost of attendance

A scholarship awarded under this division to any student, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, may not exceed the student's cost of attendance.

(Pub. L. 89–329, title IV, § 406B, as added Pub. L. 105–244, title IV, § 404, Oct. 7, 1998, 112 Stat. 1663.)

PRIOR PROVISIONS

A prior section 1070a–32, Pub. L. 89–329, title IV, § 406B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 497, related to scholarship program requirements, prior to the general amendment of this division by Pub. L. 105–244.

§ 1070a–33. Eligibility of scholars

(a) Procedures established by regulation

The Secretary shall establish by regulation procedures for the determination of eligibility of students for the scholarships awarded under this division. Such procedures shall include measures to prevent any secondary school from certifying more than 10 percent of the school's students for eligibility under this section.

(b) Coordination

In prescribing procedures under subsection (a) of this section, the Secretary shall ensure that the determination of eligibility and the amount of the scholarship is determined in a timely and

accurate manner consistent with the requirements of section 1089 of this title and the submission of the financial aid form required by section 1090 of this title. For such purposes, the Secretary may provide that, for the first academic year of a student's 2 academic years of eligibility under this division, class rank may be determined prior to graduation from secondary school, at such time and in such manner as the Secretary may specify in regulations prescribed under this division.

(Pub. L. 89–329, title IV, § 406C, as added Pub. L. 105–244, title IV, § 404, Oct. 7, 1998, 112 Stat. 1664.)

PRIOR PROVISIONS

A prior section 1070a–33, Pub. L. 89–329, title IV, § 406C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 497, related to eligibility of scholars, prior to the general amendment of this division by Pub. L. 105–244.

§ 1070a–34. Student requirements

(a) In general

Each eligible student desiring a scholarship under this division shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) Continuing eligibility

In order for a student to continue to be eligible to receive a scholarship under this division for the second year of undergraduate education, the eligible student shall maintain eligibility to receive a Federal Pell Grant for that year, including fulfilling the requirements for satisfactory progress described in section 1091(c) of this title.

(Pub. L. 89–329, title IV, § 406D, as added Pub. L. 105–244, title IV, § 404, Oct. 7, 1998, 112 Stat. 1664.)

PRIOR PROVISIONS

A prior section 1070a–34, Pub. L. 89–329, title IV, § 406D, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 498, related to eligible early intervention programs, prior to the general amendment of this division by Pub. L. 105–244.

§ 1070a–35. Authorization of appropriations

There are authorized to be appropriated to carry out this division $200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 407E [406E], as added Pub. L. 105–244, title IV, § 404, Oct. 7, 1998, 112 Stat. 1664.)

PRIOR PROVISIONS

Prior sections 1070a–35 to 1070a–37 were omitted in the general amendment of this division by Pub. L. 105–244.

Section 1070a–35, Pub. L. 89–329, title IV, § 406E, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 498, related to student eligibility.

Section 1070a–36, Pub. L. 89–329, title IV, § 406F, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 499, related to early intervention scholarship agreement.

Section 1070a–37, Pub. L. 89–329, title IV, § 406G, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 499, authorized appropriations to carry out this division.

Division 4—Model Program Community Partnership and Counseling Grants

§§ 1070a–41 to 1070a–43. Repealed. Pub. L. 105–244, title IV, § 405, Oct. 7, 1998, 112 Stat. 1664

Section 1070a–41, Pub. L. 89–329, title IV, § 408A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 500, authorized grants to develop model programs.

Section 1070a–42, Pub. L. 89–329, title IV, § 408B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 500, related to collection and dissemination of information about programs.

Section 1070a–43, Pub. L. 89–329, title IV, § 408C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 501, authorized appropriations to carry out this division.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

Division 5—Public Information

§§ 1070a–51 to 1070a–53. Repealed. Pub. L. 105–244, title IV, § 405, Oct. 7, 1998, 112 Stat. 1664

Section 1070a–51, Pub. L. 89–329, title IV, § 409A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 501; amended Pub. L. 103–208, § 2(b)(24), Dec. 20, 1993, 107 Stat. 2459, authorized contract to establish and maintain database and information line.

Section 1070a–52, Pub. L. 89–329, title IV, § 409B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 501, related to early awareness information program.

Section 1070a–53, Pub. L. 89–329, title IV, § 409C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 502, authorized appropriations to carry out this division.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

Division 6—National Student Savings Demonstration Program

§ 1070a–61. Repealed. Pub. L. 105–244, title IV, § 405, Oct. 7, 1998, 112 Stat. 1664

Section, Pub. L. 89–329, title IV, § 410A, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 502, related to national student savings demonstration program.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

Division 7—Preeligibility Form

§ 1070a–71. Repealed. Pub. L. 105–244, title IV, § 405, Oct. 7, 1998, 112 Stat. 1664

Section, Pub. L. 89–329, title IV, § 410B, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 503, related to information on eligibility for assistance.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244,

set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

Division 8—Technical Assistance for Teachers and Counselors

§ 1070a–81. Repealed. Pub. L. 105–244, title IV, § 405, Oct. 7, 1998, 112 Stat. 1664

Section, Pub. L. 89–329, title IV, § 410C, as added Pub. L. 102–325, title IV, § 402(a)(4), July 23, 1992, 106 Stat. 504, related to technical assistance grants.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

SUBPART 3—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

CODIFICATION

Pub. L. 102–325, title IV, §§ 402(a)(2), 403(a), July 23, 1992, 106 Stat. 482, 505, redesignated subpart 2 as 3 and inserted ''Federal'' before ''Supplemental'' in heading and redesignated former subpart 3 as 4.

§ 1070b. Purpose; appropriations authorized

(a) Purpose of subpart

It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of part E of this subchapter.

(b) Authorization of appropriations

(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 1070b–2(a) of this title, for use by such institutions for payments to undergraduate students of supplemental grants awarded to them under this subpart, there are authorized to be appropriated $675,000,000 for fiscal year 1999 and such sums as may be necessary for the 4 succeeding fiscal years.

(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which such sums were appropriated.

(Pub. L. 89–329, title IV, § 413A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1328; amended Pub. L. 102–325, title IV, § 403(b), July 23, 1992, 106 Stat. 505; Pub. L. 105–244, title IV, § 406(a), Oct. 7, 1998, 112 Stat. 1664.)

PRIOR PROVISIONS

A prior section 1070b, Pub. L. 89–329, title IV, § 413A, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 251; amended Pub. L. 94–482, title I, § 122(a), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–49, § 5(a)(3), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, § 403(a), (b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1404, 1405, 1503, related to program of supplemental educational opportunity grants purpose, authorization of appropriations, and initial year payment provisions, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–244 substituted ''1999'' for ''1993''.

1992—Subsec. (b). Pub. L. 102–325 amended subsec. (b) generally, substituting present provisions for provisions authorizing appropriation of $490,000,000 for fiscal year 1987 and such sums as necessary for 4 succeeding fiscal years.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1070b–1. Amount and duration of grants

(a) Amount of grant

(1) Except as provided in paragraph (3), from the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall, for each year, pay to that student an amount not to exceed the lesser of (A) the amount determined by the institution, in accordance with the provisions of part E of this subchapter, to be needed by that student to enable the student to pursue a course of study at the institution or in a program of study abroad that is approved for credit by the institution at which the student is enrolled, or (B) $4,000.

(2) If the amount determined under paragraph (1) with respect to a student for any academic year is less than $100, no payment shall be made to that student for that year. For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.

(3) For students participating in study abroad programs, the institution shall consider all reasonable costs associated with such study abroad when determining student eligibility. The amount of grant to be awarded in such cases may exceed the maximum amount of $4,000 by as much as $400 if reasonable study abroad costs exceed the cost of attendance at the home institution.

(b) Period for receipt of grants; continuing eligibility

(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student.

(2) A supplemental grant awarded under this subpart shall entitle the student (to whom it is awarded) to payments pursuant to such grant only if the student meets the requirements of section 1091 of this title, except as provided in section 1070b–2(c) of this title.

(c) Distribution of grant during academic year

Nothing in this section shall be construed to prohibit an institution from making payments of varying amounts from a supplemental grant to a student during an academic year to cover costs for a period which are not applicable to other periods of such academic year.

(Pub. L. 89–329, title IV, § 413B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1328; amended Pub. L. 102–325, title IV, § 403(c), July 23, 1992, 106 Stat. 505.)

PRIOR PROVISIONS

A prior section 1070b–1, Pub. L. 89–329, title IV, § 413B, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972,

86 Stat. 252; amended Pub. L. 96–374, title IV, § 403(c), Oct. 3, 1980, 94 Stat. 1405, related to amount and duration of supplemental educational opportunity grants, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Subsec. (a)(1). Pub. L. 102–325, § 403(c)(1), substituted ''Except as provided in paragraph (3), from'' for ''From'' in introductory provisions and inserted ''or in a program of study abroad that is approved for credit by the institution at which the student is enrolled'' after ''course of study at the institution'' in subpar. (A).

Subsec. (a)(3). Pub. L. 102–325, § 403(c)(2), added par. (3).

§ 1070b–2. Agreements with institutions; selection of recipients

(a) Institutional eligibility

Assistance may be made available under this subpart only to an institution which—

(1) has, in accordance with section 1094 of this title, an agreement with the Secretary applicable to this subpart;

(2) agrees that the Federal share of awards under this subpart will not exceed 75 percent of such awards, except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and

(3) agrees that the non-Federal share of awards made under this subpart shall be made from the institution's own resources, including—

(A) institutional grants and scholarships;

(B) tuition or fee waivers;

(C) State scholarships; and

(D) foundation or other charitable organization funds.

(b) Eligibility for selection

Awards may be made under this subpart only to a student who—

(1) is an eligible student under section 1091 of this title; and

(2) makes application at a time and in a manner consistent with the requirements of the Secretary and that institution.

(c) Selection of individuals and determination of amount of awards

(1) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 1094 of this title, and within the amount allocated to the institution for that purpose for that year under section 1070b–3 of this title, select individuals who are to be awarded such grants and determine, in accordance with section 1070b–1 of this title, the amounts to be paid to them.

(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 1094 of this title, assure that the selection procedures—

(i) will be designed to award supplemental grants under this subpart, first, to students with exceptional need, and

(ii) will give a priority for supplemental grants under this subpart to students who receive Pell Grants and meet the requirements of section 1091 of this title.

(B) For the purpose of subparagraph (A), the term ''students with exceptional need'' means students with the lowest expected family contributions at the institution.

(d) Use of funds for less-than-full-time students

If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students who are independent students or attending the institution on less than a full-time basis, then a reasonable proportion of the allocation shall be made available to such students.

(e) Use and transfer of funds for administrative expenses

An agreement entered into pursuant to this section shall provide that funds granted to an institution of higher education may be used only to make payments to students participating in a grant program authorized under this subpart, except that an institution may use a portion of the sums allocated to it under this subpart to meet administrative expenses in accordance with section 1096 of this title.

(Pub. L. 89–329, title IV, § 413C, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1329; amended Pub. L. 102–325, title IV, § 403(d)–(f), July 23, 1992, 106 Stat. 506; Pub. L. 103–208, § 2(b)(25), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, § 406(b), Oct. 7, 1998, 112 Stat. 1665.)

PRIOR PROVISIONS

A prior section 1070b–2, Pub. L. 89–329, title IV, § 413C, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 253; amended Pub. L. 94–482, title I, § 122(b), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–374, title IV, § 403(d), Oct. 3, 1980, 94 Stat. 1405, related to selection of recipients of supplemental educational opportunity grants and agreements with institutions, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–244 amended heading and text of subsec. (d) generally. Prior to amendment, text read as follows: ''If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students who are independent students or attending the institution less than full time and if the total financial need of all such students attending the institution exceeds 5 percent of the total financial need of all students attending such institution, then at least 5 percent of such allotment shall be made available to such students.''

1993—Subsec. (d). Pub. L. 103–208 substituted ''and'' for '', a reasonable proportion of the institution's allocation shall be made available to such students, except that'' and ''5 percent of the total financial need'' for ''5 percent of the need''.

1992—Subsec. (a)(2). Pub. L. 102–325, § 403(d), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''agrees that the Federal share of awards under this subpart will not exceed—

''(A) 95 percent of such awards in fiscal year 1989,

''(B) 90 percent of such awards in fiscal year 1990, and

''(C) 85 percent of such awards in fiscal year 1991,

except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and''.

Subsec. (d). Pub. L. 102–325, § 403(e), inserted ''who are independent students or'' after ''demonstrated by students'' and inserted before period at end '', except that if the total financial need of all such students attending the institution exceeds 5 percent of the need of all students attending such institution, then at least 5 percent of such allotment shall be made available to such students''.

Subsec. (e). Pub. L. 102–325, § 403(f), struck out before period at end '', and may transfer such funds in accordance with the provisions of section 1095 of this title''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after July 1, 1994, see section 5(b)(6) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes in subsec. (a)(2) of this section, relating to Federal share for supplemental educational opportunity grant program, applicable to funds provided for such program for award years beginning on or after July 1, 1993, see section 410 of Pub. L. 102–325, set out as a note under section 1070a of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Section 401(b)(5) of Pub. L. 99–498 provided that: ''Section 413C(c)(2) of the Act [20 U.S.C. 1070b–2(c)(2)] as amended by this section shall apply to the awarding of grants under subpart 2 of part A of title IV of the Act [this subpart] for periods of enrollment beginning on or after July 1, 1987.''

§ 1070b–3. Allocation of funds

(a) Allocation based on previous allocation

(1) From the amount appropriated pursuant to section 1070b(b) of this title for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to 100 percent of the amount such institution received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year).

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1999 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 90 percent of the amount received and used under this subpart for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1999 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this subpart in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 2000 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate from or transfer to a 4-year institution of higher education.

(b) Allocation of excess based on fair share

(1) From the remainder of the amount appropriated pursuant to section 1070b(b) of this title for each year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) the amount of that institution's need (as determined under subsection (c) of this section), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 1070b(b) of this title of the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a) of this section.

(c) Determination of institution's need

(1) The amount of an institution's need is equal to—

(A) the sum of the need of the institution's eligible undergraduate students; minus

(B) the sum of grant aid received by students under subparts 1 and 3[1] of this part.

(2) To determine the need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 75 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3)(A) For purposes of paragraph (2), the term ''average cost of attendance'' means the average of the attendance costs for undergraduate students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

(d) Reallocation of excess allocations

(1) If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

(2) If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.

(e) Filing deadlines

The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(Pub. L. 89–329, title IV, § 413D, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1330; amended Pub. L. 100–50, § 4, June 3, 1987, 101 Stat. 340; Pub. L. 102–325, title IV, § 403(g), (h), July 23, 1992, 106 Stat. 506; Pub. L. 103–208, § 2(b)(26), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, § 406(c)(1), (2), Oct. 7, 1998, 112 Stat. 1665.)

REFERENCES IN TEXT

Subpart 3 of this part, referred to in subsec. (c)(1)(B), was redesignated subpart 4 by Pub. L. 102–325, title IV, § 402(a)(2), July 23, 1992, 106 Stat. 482, and former subpart 2 [this subpart] was redesignated as subpart 3.

PRIOR PROVISIONS

A prior section 1070b–3, Pub. L. 89–329, title IV, § 413D, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 254; amended Pub. L. 96–374, title IV, § 403(e), (f), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1405, 1406, 1503, related to apportionment and allocation of funds for supplemental educational opportunity grants, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, § 406(c)(1)(A), which directed substitution of ''received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year)'' for ''received and used under this part for fiscal year 1985'', was executed by making the substitution for ''received and used under this subpart for fiscal year 1985'' to reflect the probable intent of Congress.

[1] See References in Text note below.

Subsec. (a)(2)(A), (B). Pub. L. 105–244, § 406(c)(1)(B)(i), substituted ''1999'' for ''1985'' in introductory provisions.

Subsec. (a)(2)(C)(i). Pub. L. 105–244, § 406(c)(1)(B)(ii), substituted ''2000'' for ''1986''.

Subsec. (b). Pub. L. 105–244, § 406(c)(2)(A), (D), redesignated subsec. (c) as (b) and struck out heading and text of former subsec. (b). Text read as follows: ''From one-quarter of the remainder of the amount appropriated pursuant to section 1070b(b) of this title for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as the amount the eligible institution receives for such fiscal year under subsection (a) of this section bears to the amount all such institutions receive under such subsection (a) of this section.''

Subsec. (c). Pub. L. 105–244, § 406(c)(2)(D), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 105–244, § 406(c)(2)(B), substituted ''the remainder'' for ''three-quarters of the remainder''.

Subsec. (c)(2)(A)(i). Pub. L. 105–244, § 406(c)(2)(C), substituted ''subsection (c)'' for ''subsection (d)''.

Subsecs. (d) to (f). Pub. L. 105–244, § 406(c)(2)(D), redesignated subsecs. (e) and (f) as (d) and (e), respectively. Former subsec. (d) redesignated (c).

1993—Subsec. (d)(3)(C). Pub. L. 103–208 substituted ''150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college'' for ''three-fourths in the Pell Grant family size offset''.

1992—Subsec. (a)(4). Pub. L. 102–325, § 403(g), added par. (4).

Subsec. (e). Pub. L. 102–325, § 403(h), designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (d)(2)(D). Pub. L. 100–50, § 4(a)(1), added subpar. (D) and struck out former subpar. (D) which read as follows: ''multiply the number of eligible dependent students in each income category by the lesser of—

''(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

''(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;''.

Subsec. (d)(2)(F). Pub. L. 100–50, § 4(a)(2), added subpar. (F) and struck out former subpar. (F) which read as follows: ''multiply the number of eligible independent students in each income category by the lesser of—

''(i) 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

''(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;''.

Subsec. (d)(3)(A). Pub. L. 100–50, § 4(b)(1), struck out ''and for graduate and professional students'' after ''undergraduate students''.

Subsec. (d)(3)(B). Pub. L. 100–50, § 4(b)(2), struck out ''and graduate and professional'' after ''average undergraduate'' and struck out ''and graduate'' after ''from undergraduate''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, title IV, § 406(c)(3), Oct. 7, 1998, 112 Stat. 1665, provided that: ''The amendments made by this subsection [amending this section] shall apply with respect to allocations of amounts appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 [20 U.S.C. 1070b(b)] for fiscal year 2000 or any succeeding fiscal year.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section 401(b)(6) of Pub. L. 99–498, as added by Pub. L. 100–50, § 22(a)(2), June 3, 1987, 101 Stat. 361, provided that: ''The changes made in section 413D of the Act [this section] shall apply with respect to the allocation of funds for the academic year 1988–1989 and succeeding academic years.''

§ 1070b–4. Carryover and carryback authority

(a) Carryover authority

Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out the program under this subpart.

(b) Carryback authority

(1) In general

Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, be used by the institution for expenditure for the fiscal year preceding the fiscal year for which the sums were appropriated.

(2) Use of carried-back funds

An eligible institution may make grants to students after the end of the academic year, but prior to the beginning of the succeeding fiscal year, from such succeeding fiscal year's appropriations.

(Pub. L. 89–329, title IV, § 413E, as added Pub. L. 105–244, title IV, § 406(d), Oct. 7, 1998, 112 Stat. 1665.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

SUBPART 4—LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM

CODIFICATION

Pub. L. 105–244, title IV, § 407(a)(1), Oct. 7, 1998, 112 Stat. 1666, amended heading generally.

Pub. L. 102–325, title IV, § 402(a)(1), (2), July 23, 1992, 106 Stat. 482, redesignated former subpart 3 as 4 and repealed former subpart 4, comprising sections 1070d to 1070d–1d, which authorized special programs for students from disadvantaged backgrounds.

§ 1070c. Purpose; appropriations authorized

(a) Purpose of subpart

It is the purpose of this subpart to make incentive grants available to States to assist States in—

(1) providing grants to—

(A) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

(B) eligible students for campus-based community service work-study; and

(2) carrying out the activities described in section 1070c–3a of this title.

(b) Authorization of appropriations; availability

(1) In general

There are authorized to be appropriated $105,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) Reservation

For any fiscal year for which the amount appropriated under paragraph (1) exceeds $30,000,000, the excess shall be available to carry out section 1070c–3a of this title.

(3) Availability

Sums appropriated pursuant to the authority of paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

(Pub. L. 89–329, title IV, § 415A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1332; amended Pub. L. 102–325, title IV, § 404(a), July 23, 1992, 106 Stat. 506; Pub. L. 105–244, title IV, § 407(b), (c)(1), Oct. 7, 1998, 112 Stat. 1666, 1667; Pub. L. 106–554, § 1(a)(1) [title III, § 316(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–47.)

PRIOR PROVISIONS

A prior section 1070c, Pub. L. 89–329, title IV, § 415A, as added Pub. L. 92–318, title I § 131(b)(1), June 23, 1972, 86 Stat. 255; amended Pub. L. 94–482, title I, § 123(a), (c)(1), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 95–43, § 1(b)(3), June 15, 1977, 91 Stat. 218; Pub. L. 96–49, § 5(a)(4), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, § 404(a), Oct. 3, 1980, 94 Stat. 1406, related to purpose and authorization of appropriations for grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2000—Subsec. (a)(2). Pub. L. 106–554, which directed amendment of section 415 of the Higher Education Act of 1965 in section 415A(a)(2) by substituting ''section 1070c–3a of this title'' for ''section 1070c–4 of this title'', was executed by making the substitution in subsec. (a)(2) of this section, which is section 415A of the Higher Education Act of 1965, to reflect the probable intent of Congress.

1998—Subsec. (a). Pub. L. 105–244, § 407(c)(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''It is the purpose of this subpart to make incentive grants available to States to assist States in providing grants to—

''(1) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

''(2) eligible students for campus-based community service work-study.''

Subsec. (b)(1). Pub. L. 105–244, § 407(b)(1), substituted ''1999'' for ''1993''.

Subsec. (b)(2), (3). Pub. L. 105–244, § 407(b)(2), (3), added par. (2) and redesignated former par. (2) as (3).

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows:

''(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education and grants to eligible students for campus-based community service work learning study.

''(b) AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY.—(1) There are authorized to be appropriated $85,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

''(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1070c–1. Allotment among States

(a) Allotment based on number of eligible students in attendance

(1) From the sums appropriated pursuant to section 1070c(b)(1) of this title and not reserved under section 1070c(b)(2) of this title for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students who are deemed eligible in such State for participation in the grant program authorized by this subpart bears to the total number of such students in all the States, except that no State shall receive less than the State received for fiscal year 1979.

(2) For the purpose of this subsection, the number of students who are deemed eligible in a State for participation in the grant program authorized by this subpart, and the number of such students in all the States, shall be determined for the most recent year for which satisfactory data are available.

(b) Reallotment

The amount of any State's allotment under subsection (a) of this section for any fiscal year which the Secretary determines will not be required for such fiscal year for the leveraging educational assistance partnership program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 1070c(b)(1) of this title shall be deemed part of its allotment under subsection (a) of this section for such year.

(c) Allotments subject to continuing compliance

The Secretary shall make payments for continuing incentive grants only to States which

continue to meet the requirements of section 1070c–2(b) of this title.

(Pub. L. 89–329, title IV, § 415B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1333; amended Pub. L. 105–244, title IV, § 407(a)(2)(A), (c)(2), Oct. 7, 1998, 112 Stat. 1666, 1667.)

PRIOR PROVISIONS

A prior section 1070c–1, Pub. L. 89–329, title IV, § 415B, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 256; amended Pub. L. 94–482, title I, § 123(c)(2), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–374, title IV, § 404(b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1407, 1503, related to allotment among States of amounts for grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, § 407(c)(2), inserted ''and not reserved under section 1070c(b)(2) of this title'' after ''1070c(b)(1) of this title''.

Subsec. (b). Pub. L. 105–244, § 407(a)(2)(A), substituted ''leveraging educational assistance partnership'' for ''State student grant incentive''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1070c–2. Applications for leveraging educational assistance partnership programs

(a) Submission and contents of applications

A State which desires to obtain a payment under this subpart for any fiscal year shall submit annually an application therefor through the State agency administering its program under this subpart as of July 1, 1985, unless the Governor of that State so designates, in writing, a different agency to administer the program. The application shall contain such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart.

(b) Payment of Federal share of grants made by qualified program

From a State's allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such State for paying up to 50 percent of the amount of student grants pursuant to a State program which—

(1) is administered by a single State agency;

(2) provides that such grants will be in amounts not in excess of $5,000 per academic year (A) for attendance on a full-time basis at an institution of higher education, and (B) for campus-based community service work learning study jobs;

(3) provides that—

(A) not more than 20 percent of the allotment to the State for each fiscal year may be used for the purpose described in paragraph (2)(B);

(B) grants for the campus-based community work learning study jobs may be made only to students who are otherwise eligible for assistance under this subpart; and

(C) grants for such jobs be made in accordance with the provisions of section 2753(b)(1) of title 42;

(4) provides for the selection of recipients of such grants or of such State work-study jobs on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary, except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State;

(5) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

(6) provides for the payment of the non-Federal portion of such grants or of such work-study jobs from funds supplied by such State which represent an additional expenditure for such year by such State for grants or work-study jobs for students attending institutions of higher education over the amount expended by such State for such grants or work-study jobs, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

(7) provides that if the State's allocation under this subpart is based in part on the financial need demonstrated by students who are independent students or attending the institution less than full time, a reasonable proportion of the State's allocation shall be made available to such students;

(8) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years;

(9) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart; and

(10) for any academic year beginning after June 30, 1987, provides the non-Federal share of the amount of student grants or work-study jobs under this subpart through a direct appropriation of State funds for the program under this subpart.

(c) Reservation and disbursement of allotments and reallotments

Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of

the students' incentive grants or work-study jobs covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as the Secretary may determine. The Secretary may amend the reservation of any amount under this section, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants or work-study jobs with respect to which such reservation was made. If the Secretary approves an upward revision of such estimated cost, the Secretary may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

(Pub. L. 89–329, title IV, § 415C, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1333; amended Pub. L. 102–325, title IV, § 404(b)–(d), July 23, 1992, 106 Stat. 507; Pub. L. 103–208, § 2(b)(27), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, § 407(a)(2)(B), Oct. 7, 1998, 112 Stat. 1666.)

PRIOR PROVISIONS

A prior section 1070c–2, Pub. L. 89–329, title IV, § 415C, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 256; amended Pub. L. 94–482, title I, § 123(b), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 95–43, § 1(a)(6), June 15, 1977, 91 Stat. 213; Pub. L. 95–566, § 3, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title IV, § 404(c), title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1407, 1503, related to payment of grants to States for State student incentives, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Pub. L. 105–244 substituted ''leveraging educational assistance partnership'' for ''State student incentive grant'' in section catchline.

1993—Subsec. (b)(7). Pub. L. 103–208 substituted a semicolon for period at end.

1992—Subsec. (b)(2). Pub. L. 102–325, § 404(b), substituted ''$5,000'' for ''$2,500''.

Subsec. (b)(4). Pub. L. 102–325, § 404(c), inserted before semicolon at end '', except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State''.

Subsec. (b)(7). Pub. L. 102–325, § 404(d), amended par. (7) generally. Prior to amendment, par. (7) read as follows: ''provides that, if the institution's allocation under this subpart is based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the institution's allocation shall be made available to such students;''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§ 1070c–3. Administration of State programs; judicial review

(a) Disapproval of applications; suspension of eligibility

(1) The Secretary shall not finally disapprove any application for a State program submitted under section 1070c–2 of this title, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

(b) Review of decisions

(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a) of this section, such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, section 1254.

(Pub. L. 89–329, title IV, § 415D, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1335.)

PRIOR PROVISIONS

A prior section 1070c–3, Pub. L. 89–329, title IV, § 415D, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 257; amended Pub. L. 96–374, title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1503, related to administration of State programs and judicial review, prior to the general revision of this part by Pub. L. 99–498.

§ 1070c–3a. Special leveraging educational assistance partnership program

(a) In general

From amounts reserved under section 1070c(b)(2) of this title for each fiscal year, the Secretary shall—

(1) make allotments among States in the same manner as the Secretary makes allotments among States under section 1070c–1 of this title; and

(2) award grants to States, from allotments under paragraph (1), to enable the States to pay the Federal share of the cost of the authorized activities described in subsection (c) of this section.

(b) Applicability rule

The provisions of this subpart which are not inconsistent with this section shall apply to the program authorized by this section.

(c) Authorized activities

Each State receiving a grant under this section may use the grant funds for—

(1) making awards that—

(A) supplement grants received under section 1070c–2(b)(2) of this title by eligible students who demonstrate financial need; or

(B) provide grants under section 1070c–2(b)(2) of this title to additional eligible students who demonstrate financial need;

(2) providing scholarships for eligible students—

(A) who demonstrate financial need; and

(B) who—

(i) desire to enter a program of study leading to a career in—

(I) information technology;

(II) mathematics, computer science, or engineering;

(III) teaching; or

(IV) another field determined by the State to be critical to the State's workforce needs; or

(ii) demonstrate merit or academic achievement; and

(3) making awards that—

(A) supplement community service work-study awards received under section 1070c–2(b)(2) of this title by eligible students who demonstrate financial need; or

(B) provide community service work-study awards under section 1070c–2(b)(2) of this title to additional eligible students who demonstrate financial need.

(d) Maintenance of effort requirement

Each State receiving a grant under this section for a fiscal year shall provide the Secretary an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (c) of this section for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditures by the State for the activities for the second preceding fiscal year.

(e) Federal share

The Federal share of the cost of the authorized activities described in subsection (c) of this section for any fiscal year shall be not more than 33⅓ percent.

(f) Special rule

Notwithstanding subsection (d) of this section, for purposes of determining a State's share of the cost of the authorized activities described in subsection (c) of this section, the State shall consider only those expenditures from non-Federal sources that exceed its total expenditures for need-based grants, scholarships, and work-study assistance for fiscal year 1999 (including any such assistance provided under this subpart).

(g) Use of funds for administrative costs prohibited

A State receiving a grant under this section shall not use any of the grant funds to pay administrative costs associated with any of the authorized activities described in subsection (c) of this section.

(Pub. L. 89–329, title IV, § 415E, as added Pub. L. 105–244, title IV, § 407(c)(2), Oct. 7, 1998, 112 Stat. 1666; amended Pub. L. 106–554, § 1(a)(1) [title III, § 316(2), (3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–47.)

PRIOR PROVISIONS

A prior section 415E of Pub. L. 89–329 was renumbered section 415F and is classified to section 1070c–4 of this title.

Another prior section 415E of Pub. L. 89–329 was classified to section 1070c–4 of this title prior to repeal by Pub. L. 96–374.

AMENDMENTS

2000—Subsec. (c). Pub. L. 106–554, § 1(a)(1) [title III, § 316(2)], which directed amendment of section 415 of the Higher Education Act of 1965 in section 415E by adding subsec. (c) and striking out former subsec. (c), was executed to this section, which is section 415E of the Higher Education Act of 1965, to reflect the probable intent of Congress. Prior to amendment, subsec. (c) listed the activities for which States receiving a grant under this section were authorized to use the grant funds.

Subsecs. (f), (g). Pub. L. 106–554, § 1(a)(1) [title III, § 316(3)], which directed amendment of section 415 of the Higher Education Act of 1965 in section 415E by adding subsecs. (f) and (g), was executed by adding subsecs. (f) and (g) to this section, which is section 415E of the Higher Education Act of 1965, to reflect the probable intent of Congress.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1070c–4. "Community service" defined

For the purpose of this subpart, the term ''community service'' means services, including direct service, planning, and applied research which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, and which—

(1) are designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to the needs of such residents, including but not limited to, such fields as health care, child care, education, literacy

training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement; and

(2) provide participating students with work-learning opportunities related to their educational or vocational programs or goals.

(Pub. L. 89–329, title IV, § 415F, formerly § 415E, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1336; amended Pub. L. 100–50, § 5, June 3, 1987, 101 Stat. 340; renumbered § 415F, Pub. L. 105–244, title IV, § 407(c)(1), Oct. 7, 1998, 112 Stat. 1666.)

PRIOR PROVISIONS

A prior section 1070c–4, Pub. L. 89–329, title IV, § 415E, as added Pub. L. 94–482, title I, § 123(c)(3), Oct. 12, 1976, 90 Stat. 2094; amended Pub. L. 95–43, § 1(a)(7), June 15, 1977, 91 Stat. 213, related to a program of bonus allotments, prior to repeal by Pub. L. 96–374, title IV, § 404(d), Oct. 3, 1980, 94 Stat. 1407, eff. Oct. 1, 1980.

AMENDMENTS

1987—Par. (1). Pub. L. 100–50 substituted ''literacy'' for ''literary''.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§§ 1070d to 1070d–1d. Repealed. Pub. L. 102–325, title IV, § 402(a)(1), July 23, 1992, 106 Stat. 482

Section 1070d, Pub. L. 89–329, title IV, § 417A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1336, related to program authority and authorization of appropriations.

A prior section 1070d, Pub. L. 89–329, title IV, § 417A, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1407, authorized a program of grants and contracts to assist students from disadvantaged backgrounds, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1070d, Pub. L. 89–329, title IV, § 417A, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 258; amended Pub. L. 94–482, title I, § 124(a), Oct. 12, 1976, 90 Stat. 2094; Pub. L. 96–49, § 5(a)(5), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, authorized the Secretary of Education to carry out special programs for students from disadvantaged backgrounds and authorized appropriations for such programs, prior to the general revision of this subpart by Pub. L. 96–374.

Section 1070d–1, Pub. L. 89–329, title IV, § 417B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1337, authorized a talent search program.

A prior section 1070d–1, Pub. L. 89–329, title IV, § 417B, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1408, authorized a talent search program, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1070d–1, Pub. L. 89–329, title IV, § 417B, as added Pub. L. 92–318, title I, § 131(b)(1), June 23, 1972, 86 Stat. 258; amended Pub. L. 93–380, title VIII, § 833(a), Aug. 21, 1974, 88 Stat. 603; Pub. L. 94–482, title I, § 124(b), (c), Oct. 12, 1976, 90 Stat. 2094, 2095; Pub. L. 95–566, § 4, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, specified the authorized activities of the Secretary of Education in carrying out special programs for students from disadvantaged backgrounds, prior to the general revision of this subpart by Pub. L. 96–374.

Section 1070d–1a, Pub. L. 89–329, title IV, § 417C, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1338, authorized an upward bound program.

A prior section 1070d–1a, Pub. L. 89–329, title IV, § 417C, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1409, authorized an upward bound program, prior to the general revision of this part by Pub. L. 99–498.

Section 1070d–1b, Pub. L. 89–329, title IV, § 417D, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1339; amended Pub. L. 100–50, § 6, June 3, 1987, 101 Stat. 340; Pub. L. 100–418, title VI, § 6271, Aug. 23, 1988, 102 Stat. 1523, related to student support services program.

A prior section 1070d–1b, Pub. L. 89–329, title IV, § 417D, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1410, authorized a special services for disadvantaged students program, prior to the general revision of this part by Pub. L. 99–498.

Section 1070d–1c, Pub. L. 89–329, title IV, § 417E, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1340, authorized an educational opportunity centers program.

A prior section 1070d–1c, Pub. L. 89–329, title IV, § 417E, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1410, authorized an educational opportunity centers program, prior to the general revision of this part by Pub. L. 99–498.

Section 1070d–1d, Pub. L. 89–329, title IV, § 417F, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1341, related to staff development activities.

A prior section 1070d–1d, Pub. L. 89–329, title IV, § 417F, as added Pub. L. 96–374, title IV, § 405, Oct. 3, 1980, 94 Stat. 1411, authorized grants for staff training, prior to the general revision of this part by Pub. L. 99–498.

SUBPART 5—SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK

§ 1070d–2. Maintenance and expansion of existing programs

(a) Program authority

The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects located at institutions of higher education or at private nonprofit organizations working in cooperation with institutions of higher education.

(b) Services provided by high school equivalency program

The services authorized by this subpart for the high school equivalency program include—

(1) recruitment services to reach persons—

(A)(i) who are 16 years of age and over; or

(ii) who are beyond the age of compulsory school attendance in the State in which such persons reside and are not enrolled in school;

(B)(i) who themselves, or whose parents, have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork; or

(ii) who are eligible to participate, or have participated within the preceding 2 years, in programs under part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] or section 2912 of title 29; and

(C) who lack a high school diploma or its equivalent;

(2) educational services which provide instruction designed to help students obtain a general education diploma which meets the guidelines established by the State in which the project is located for high school equivalency;

(3) supportive services which include the following:

(A) personal, vocational, and academic counseling;

(B) placement services designed to place students in a university, college, or junior college program, or in military service or career positions; and

(C) health services;

(4) information concerning, and assistance in obtaining, available student financial aid;

(5) weekly stipends for high school equivalency program participants;

(6) housing for those enrolled in residential programs;

(7) exposure to cultural events, academic programs, and other educational and cultural activities usually not available to migrant youth; and

(8) other essential supportive services, as needed to ensure the success of eligible students.

(c) Services provided by college assistance migrant program

(1) Services authorized by this subpart for the college assistance migrant program include—

(A) outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork or who have participated or are eligible to participate, in programs under part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] (or such part's predecessor authority) or section 2912 of title 29, and who meet the minimum qualifications for attendance at a college or university;

(B) supportive and instructional services which include:

(i) personal, academic, and career counseling as an ongoing part of the program;

(ii) tutoring and academic skill building instruction and assistance;

(iii) assistance with special admissions;

(iv) health services; and

(v) other services as necessary to assist students in completing program requirements;

(C) assistance in obtaining student financial aid which includes, but is not limited to:

(i) stipends;

(ii) scholarships;

(iii) student travel;

(iv) career oriented work study;

(v) books and supplies;

(vi) tuition and fees;

(vii) room and board; and

(viii) other assistance necessary to assist students in completing their first year of college;

(D) housing support for students living in institutional facilities and commuting students;

(E) exposure to cultural events, academic programs, and other activities not usually available to migrant youth; and

(F) other support services as necessary to ensure the success of eligible students.

(2) A recipient of a grant to operate a college assistance migrant program under this subpart shall provide followup services for migrant students after such students have completed their first year of college, and shall not use more than 10 percent of such grant for such followup services. Such followup services may include—

(A) monitoring and reporting the academic progress of students who participated in the project during such student's first year of college and during such student's subsequent years in college; and

(B) referring such students to on- or off-campus providers of counseling services, academic assistance, or financial aid.

(d) Management plan required

Each project application shall include a management plan which contains assurances that the grant recipient will coordinate the project, to the extent feasible, with other local, State, and Federal programs to maximize the resources available for migrant students, and that staff shall have a demonstrated knowledge and be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population, and provisions for:

(1) staff in-service training;

(2) training and technical assistance;

(3) staff travel;

(4) student travel;

(5) interagency coordination; and

(6) an evaluation plan.

(e) Five-year grant period; consideration of prior experience

Except under extraordinary circumstances, the Secretary shall award grants for a 5-year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same level of consideration given this factor for applicants for programs in accordance with section 1070a–11(c)(1) of this title.

(f) Minimum allocations

The Secretary shall not allocate an amount less than—

(1) $150,000 for each project under the high school equivalency program, and

(2) $150,000 for each project under the college assistance migrant program.

(g) Data collection

The National Center for Education Statistics shall collect postsecondary education data on migrant students.

(h) Authorization of appropriations

(1) There are authorized to be appropriated for the high school equivalency program $15,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) There are authorized to be appropriated for the college assistance migrant program $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 418A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1341; amended Pub. L. 100–50, § 7, June 3, 1987, 101 Stat. 340; Pub. L. 102–325, title IV, § 405, July 23,

1992, 106 Stat. 507; Pub. L. 103–382, title III, § 391(e)(1), (2), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 105–244, title IV, § 408, Oct. 7, 1998, 112 Stat. 1667; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(15)(A), (f)(12)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–421, 2681–431.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (b)(1)(B)(ii) and (c)(1)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Part C of title I of the Act is classified generally to part C (§ 6391 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 1070d–2, Pub. L. 89–329, title IV, § 418A, as added Pub. L. 96–374, title IV, § 406, Oct. 3, 1980, 94 Stat. 1411, related to secondary and postsecondary high school equivalency programs and college assistance migrant programs, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1070d–2, Pub. L. 89–329, title IV, § 418A, as added Pub. L. 94–482, title I, § 125, Oct. 12, 1976, 90 Stat. 2096; amended Pub. L. 96–49, § 5(a)(6), Aug. 13, 1979, 93 Stat. 352, provided for the Educational Information Centers program, prior to repeal by Pub. L. 96–374, title I, § 101(b), Oct. 3, 1980, 94 Stat. 1383. See section 1070d–1c of this title.

A prior section 1070d–3, Pub. L. 89–329, title IV, § 418B, as added Pub. L. 94–482, title I, § 125, Oct. 12, 1976, 90 Stat. 2097, related to administration by States of Educational Information Centers program, prior to repeal by Pub. L. 96–374, title I, § 101(b), Oct. 3, 1980, 94 Stat. 1383, eff. Oct. 1, 1980.

AMENDMENTS

1998—Subsecs. (b)(1)(B)(ii), (c)(1)(A). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(12)(A)], struck out ''section 1672 of title 29 or'' before ''section 2912 of title 29''.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(15)(A)], substituted ''section 1672 of title 29 or section 2912 of title 29'' for ''section 1672 of title 29''.

Subsec. (d). Pub. L. 105–244, § 408(a), inserted ''that the grant recipient will coordinate the project, to the extent feasible, with other local, State, and Federal programs to maximize the resources available for migrant students, and'' after ''contains assurances'' in introductory provisions.

Subsec. (e). Pub. L. 105–244, § 408(d), substituted ''in accordance with section 1070a–11(c)(1) of this title'' for ''authorized by subpart 4 of this part in accordance with section 1070d(b)(2) of this title.''

Subsec. (g). Pub. L. 105–244, § 408(c)(2), added subsec. (g). Former subsec. (g) redesignated (h).

Pub. L. 105–244, § 408(b), substituted ''1999'' for ''1993'' in pars. (1) and (2).

Subsec. (h). Pub. L. 105–244, § 408(c)(1), redesignated subsec. (g) as (h).

1994—Subsec. (b)(1)(B)(ii). Pub. L. 103–382, § 391(e)(1), substituted ''part C'' for ''subpart 1 of part D of chapter 1''.

Subsec. (c)(1)(A). Pub. L. 103–382, § 391(e)(2), substituted ''part C'' for ''subpart 1 of part D of chapter 1'' and inserted ''(or such part's predecessor authority)'' after ''1965''.

1992—Subsec. (b)(1). Pub. L. 102–325, § 405(a)(1)(A), added par. (1) and struck out former par. (1) which read as follows: ''recruitment services to reach persons who are 17 years of age and over, who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who lack a high school diploma or its equivalent;''.

Subsec. (b)(4). Pub. L. 102–325, § 405(a)(1)(B), inserted comma after ''concerning'' and after ''obtaining''.

Subsec. (c). Pub. L. 102–325, § 405(a)(2), (b), designated existing provisions as par. (1), redesignated former par. (1) as subpar. (A) and amended it generally, redesignated par. (2) and its subpars. (A) to (E) as subpar. (B) and cls. (i) to (v), respectively, redesignated par. (3) and its subpars. (A) to (H) as subpar. (C) and cls. (i) to (viii), respectively, redesignated pars. (4) to (6) as subpars. (D) to (F), respectively, and added par. (2). Prior to amendment, par. (1) read as follows: ''outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who meet the minimum qualifications for attendance at a college or university;''.

Subsec. (e). Pub. L. 102–325, § 405(c), substituted ''Five-year'' for ''Three-year'' in heading and ''5-year'' for ''3-year'' in text.

Subsec. (g). Pub. L. 102–325, § 405(d), amended subsec. (g) generally, substituting present provisions for former provisions which authorized appropriations for fiscal years 1987 through 1991.

1987—Subsec. (g). Pub. L. 100–50 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: ''There is authorized to be appropriated for this part $9,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.''

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by section 101(f) [title VIII, § 405(d)(15)(A)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(12)(A)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

SUBPART 6—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

§ 1070d–31. Statement of purpose

It is the purpose of this subpart to establish a Robert C. Byrd Honors Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

(Pub. L. 89–329, title IV, § 419A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1343.)

PRIOR PROVISIONS

A prior section 1070d–31, Pub. L. 89–329, title IV, § 419A, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2900; amended Pub. L. 99–145, title XVI, § 1627(a), Nov. 8, 1985, 99 Stat. 779, provided statement of purpose for Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

§ 1070d–32. Repealed. Pub. L. 102–325, title IV, § 406(a), July 23, 1992, 106 Stat. 508

Section, Pub. L. 89–329, title IV, § 419B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1343, defined terms used in this subpart.

A prior section 1070d–32, Pub. L. 89–329, title IV, § 419B, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2900, defined terms used in this subpart, prior to the general revision of this part by Pub. L. 99–498.

§ 1070d–33. Scholarships authorized

(a) Program authority

The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

(b) Period of award

Scholarships under this section shall be awarded for a period of not less than 1 or more than 4 years during the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this subchapter and part C of subchapter I of chapter 34 of title 42. The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 1070d–34(b) of this title that are attributable to such excess;

(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.

(c) Use at any institution permitted

A student awarded a scholarship under this subpart may attend any institution of higher education.

(d) Byrd Scholars

Individuals awarded scholarships under this subpart shall be known as ''Byrd Scholars''.

(Pub. L. 89–329, title IV, § 419C, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102–325, title IV, § 406(b), July 23, 1992, 106 Stat. 508; Pub. L. 103–208, § 2(b)(28), Dec. 20, 1993, 107 Stat. 2459.)

PRIOR PROVISIONS

A prior section 1070d–33, Pub. L. 89–329, title IV, § 419C, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2900; amended Pub. L. 99–145, title XVI, § 1627(b), Nov. 8, 1985, 99 Stat. 779, authorized the award of scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208 substituted ''for a period of not less than 1 or more than 4 years during the first 4 years of study'' for ''for a period of not more than 4 years for the first 4 years of study'' and inserted at end ''The State educational agency administering the program in a State shall have discretion to determine the period of the award (within the limits specified in the preceding sentence), except that—

''(1) if the amount appropriated for this subpart for any fiscal year exceeds the amount appropriated for this subpart for fiscal year 1993, the Secretary shall identify to each State educational agency the number of scholarships available to that State under section 1070d–34(b) of this title that are attributable to such excess;

''(2) the State educational agency shall award not less than that number of scholarships for a period of 4 years.''

1992—Subsec. (b). Pub. L. 102–325 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(b)(2) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§ 1070d–34. Allocation among States

(a) Allocation formula

From the sums appropriated pursuant to the authority of section 1070d–41 of this title for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 1070d–35 of this title an amount equal to $1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b) of this section.

(b) Number of scholarships available

The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

(c) Use of census data

For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the Bureau of the Census.

(d) Consolidation by Insular Areas prohibited

Notwithstanding section 1469a of title 48,[1] funds allocated under this part to an Insular Area described in that section shall be deemed to be direct payments to classes of individuals, and the Insular Area may not consolidate such funds with other funds received by the Insular Area from any department or agency of the United States Government.

(e) FAS eligibility

(1) Fiscal years 2000 through 2004

Notwithstanding any other provision of this subpart, in the case of students from the Freely Associated States who may be selected to receive a scholarship under this subpart for the first time for any of the fiscal years 2000 through 2004—

(A) there shall be 10 scholarships in the aggregate awarded to such students for each of the fiscal years 2000 through 2004; and

(B) the Pacific Regional Educational Laboratory shall administer the program under this subpart in the case of scholarships for students in the Freely Associated States.

(2) Termination of eligibility

A student from the Freely Associated States shall not be eligible to receive a scholarship under this subpart after September 30, 2004.

[1] See References in Text note below.

(Pub. L. 89–329, title IV, § 419D, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102–325, title IV, § 406(c), July 23, 1992, 106 Stat. 509; Pub. L. 103–208, § 2(b)(29), Dec. 20, 1993, 107 Stat. 2459; Pub. L. 105–244, title IV, § 409(a), Oct. 7, 1998, 112 Stat. 1668.)

REFERENCES IN TEXT

Section 1469a of title 48, referred to in text, was in the original ''section 501 of Public Law 95–1134 (48 U.S.C. 1469a)'' and was translated as reading ''section 501 of Public Law 95–134'' to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1070d–34, Pub. L. 89–329, title IV, § 419D, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901, related to allocation among States of amounts for Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–244 added subsec. (e).

1993—Subsec. (d). Pub. L. 103–208 added subsec. (d).

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: ''From the sums appropriated pursuant to section 1070d–41 of this title for any fiscal year, the Secretary shall allocate to each State having an agreement under section 1070d–35 of this title—

''(1) $1,500 multiplied by the number of individuals in the State eligible for scholarships pursuant to section 1070d–37(b) of this title, plus

''(2) $10,000, plus 5 percent of the amount to which a State is eligible under paragraph (1) of this section.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective on and after Oct. 1, 1993, see section 5(b)(1) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§ 1070d–35. Agreements

The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

(1) the State educational agency will administer the scholarship program authorized by this subpart in the State;

(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

(3) the State educational agency will conduct outreach activities to publicize the availability of scholarships under this subpart to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the scholarship program authorized by this subpart; and

(4) the State educational agency will pay to each individual in the State who is awarded a scholarship under this subpart $1,500.

(Pub. L. 89–329, title IV, § 419E, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344; amended Pub. L. 102–325, title IV, § 406(g)(2), (3), July 23, 1992, 106 Stat. 509.)

PRIOR PROVISIONS

A prior section 1070d–35, Pub. L. 89–329, title IV, § 419E, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901; amended Pub. L. 99–145, title XVI, § 1627(c), Nov. 8, 1985, 99 Stat. 779, related to agreements with States for participation in the Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Par. (3). Pub. L. 102–325, § 406(g)(2)(A), inserted ''and'' after semicolon.

Par. (4). Pub. L. 102–325, § 406(g)(2)(B), substituted ''$1,500.'' for ''$1,500 at an awards ceremony in accordance with section 1070d–39 of this title; and''.

Par. (5). Pub. L. 102–325, § 406(g)(3), which directed that par. (5) be struck out without specifying the section to which the amendment applied, was executed by striking out par. (5) of this section to reflect the probable intent of Congress. Prior to amendment, par. (5) read as follows: ''the State educational agency will use the amount of the allocation described in paragraph (2) of section 1070d–34 of this title for administrative expenses, including the conduct of the awards ceremony required by section 1070d–39 of this title.''

§ 1070d–36. Eligibility of scholars

(a) High school graduation or equivalent and admission to institution required

Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

(b) Selection based on promise of academic achievement

Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

(Pub. L. 89–329, title IV, § 419F, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1344.)

PRIOR PROVISIONS

A prior section 1070d–36, Pub. L. 89–329, title IV, § 419F, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901, related to eligibility of students for scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

§ 1070d–37. Selection of scholars

(a) Establishment of criteria

The State educational agency is authorized to establish the criteria for the selection of scholars under this subpart.

(b) Adoption of procedures

The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the Federated States of Micronesia, the Republic of the Marshall Islands, the Virgin Islands, American

Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities).

(c) Consultation requirement

In carrying out its responsibilities under subsections (a) and (b) of this section, the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

(d) Timing of selection

The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.

(Pub. L. 89–329, title IV, § 419G, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1345; amended Pub. L. 102–325, title IV, § 406(d), July 23, 1992, 106 Stat. 509; Pub. L. 103–208, § 2(b)(30), Dec. 20, 1993, 107 Stat. 2460.)

REFERENCES IN TEXT

For ratification of Compact of Free Association with the Republic of Palau, referred to in subsec. (b), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 1070d–37, Pub. L. 89–329, title IV, § 419G, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2901, related to selection of merit scholars under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–208 substituted ''the Federated States of Micronesia, the Republic of the Marshall Islands,'' for ''the District of Columbia, the Commonwealth of Puerto Rico,''.

1992—Subsec. (b). Pub. L. 102–325, § 406(d)(1), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''The State educational agency shall adopt selection procedures which are designed to assure that 10 individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico not to exceed 10 individuals will be selected in such District or Commonwealth).''

Subsec. (d). Pub. L. 102–325, § 406(d)(2), added subsec. (d).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§ 1070d–38. Stipends and scholarship conditions

(a) Amount of award

Each student awarded a scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded, except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance.

(b) Use of award

The State educational agency shall establish procedures to assure that a scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

(Pub. L. 89–329, title IV, § 419H, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1345; amended Pub. L. 102–325, title IV, § 406(e), July 23, 1992, 106 Stat. 509.)

PRIOR PROVISIONS

A prior section 1070d–38, Pub. L. 89–329, title IV, § 419H, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2902, related to stipends and scholarship conditions for students receiving scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325 inserted before period at end '', except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance''.

§ 1070d–39. Repealed. Pub. L. 102–325, title IV, § 406(g)(1), July 23, 1992, 106 Stat. 509

Section, Pub. L. 89–329, title IV, § 419I, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1345, related to awards ceremony.

A prior section 1070d–39, Pub. L. 89–329, title IV, § 419I, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2902, related to ceremony for awarding scholarships under Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

§ 1070d–40. Construction of needs provisions

Except as provided in section 1087kk of this title, nothing in this subpart, or any other Act, shall be construed to permit the receipt of a scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this chapter or any other provision of Federal law relating to educational assistance.

(Pub. L. 89–329, title IV, § 419J, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1345; amended Pub. L. 102–325, title IV, § 406(f), July 23, 1992, 106 Stat. 509.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1070d–40, Pub. L. 89–329, title IV, § 419J, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2902, provided that receipt of scholarship under Robert C. Byrd Honors Scholarship Program not be counted for needs test for education grant or loan, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 substituted ''Except as provided in section 1087kk of this title, nothing'' for ''Nothing''.

§ 1070d–41. Authorization of appropriations

There are authorized to be appropriated for this subpart $45,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 419K, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1346; amended Pub. L. 102–325, title IV, § 406(h), July 23, 1992, 106 Stat. 509; Pub. L. 105–244, title IV, § 409(b), Oct. 7, 1998, 112 Stat. 1668.)

PRIOR PROVISIONS

A prior section 1070d–41, Pub. L. 89–329, title IV, § 419K, as added Pub. L. 98–558, title VIII, § 801(a), Oct. 30, 1984, 98 Stat. 2902, authorized appropriations for fiscal years 1986 to 1988 to carry out Robert C. Byrd Honors Scholarship Program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Pub. L. 105–244 substituted ''$45,000,000 for fiscal year 1999'' for ''$10,000,000 for fiscal year 1993''.

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated for this subpart $8,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

SUBPART 7—CHILD CARE ACCESS MEANS PARENTS IN SCHOOL

PRIOR PROVISIONS

A prior subpart 7, consisted of sections 1070e and 1070e–1 and related to assistance to institutions of higher education, prior to the repeal of sections 1070e and 1070e–1 by Pub. L. 102–325, title IV, §§ 407, 408, July 23, 1992, 106 Stat. 510.

§ 1070e. Child care access means parents in school

(a) Purpose

The purpose of this section is to support the participation of low-income parents in postsecondary education through the provision of campus-based child care services.

(b) Program authorized

(1) Authority

The Secretary may award grants to institutions of higher education to assist the institutions in providing campus-based child care services to low-income students.

(2) Amount of grants

(A) In general

The amount of a grant awarded to an institution of higher education under this section for a fiscal year shall not exceed 1 percent of the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year.

(B) Minimum

A grant under this section shall be awarded in an amount that is not less than $10,000.

(3) Duration; renewal; and payments

(A) Duration

The Secretary shall award a grant under this section for a period of 4 years.

(B) Payments

Subject to subsection (e)(2) of this section, the Secretary shall make annual grant payments under this section.

(4) Eligible institutions

An institution of higher education shall be eligible to receive a grant under this section for a fiscal year if the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year equals or exceeds $350,000.

(5) Use of funds

Grant funds under this section shall be used by an institution of higher education to support or establish a campus-based child care program primarily serving the needs of low-income students enrolled at the institution of higher education. Grant funds under this section may be used to provide before and after school services to the extent necessary to enable low-income students enrolled at the institution of higher education to pursue postsecondary education.

(6) Construction

Nothing in this section shall be construed to prohibit an institution of higher education that receives grant funds under this section from serving the child care needs of the community served by the institution.

(7) Definition of low-income student

For the purpose of this section, the term ''low-income student'' means a student who is eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made.

(c) Applications

An institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall—

(1) demonstrate that the institution is an eligible institution described in subsection (b)(4) of this section;

(2) specify the amount of funds requested;

(3) demonstrate the need of low-income students at the institution for campus-based child care services by including in the application—

(A) information regarding student demographics;

(B) an assessment of child care capacity on or near campus;

(C) information regarding the existence of waiting lists for existing child care;

(D) information regarding additional needs created by concentrations of poverty or by geographic isolation; and

(E) other relevant data;

(4) contain a description of the activities to be assisted, including whether the grant funds will support an existing child care program or a new child care program;

(5) identify the resources, including technical expertise and financial support, the institution will draw upon to support the child care program and the participation of low-income students in the program, such as accessing social services funding, using student activity fees to help pay the costs of child care,

using resources obtained by meeting the needs of parents who are not low-income students, and accessing foundation, corporate or other institutional support, and demonstrate that the use of the resources will not result in increases in student tuition;

(6) contain an assurance that the institution will meet the child care needs of low-income students through the provision of services, or through a contract for the provision of services;

(7) describe the extent to which the child care program will coordinate with the institution's early childhood education curriculum, to the extent the curriculum is available, to meet the needs of the students in the early childhood education program at the institution, and the needs of the parents and children participating in the child care program assisted under this section;

(8) in the case of an institution seeking assistance for a new child care program—

(A) provide a timeline, covering the period from receipt of the grant through the provision of the child care services, delineating the specific steps the institution will take to achieve the goal of providing low-income students with child care services;

(B) specify any measures the institution will take to assist low-income students with child care during the period before the institution provides child care services; and

(C) include a plan for identifying resources needed for the child care services, including space in which to provide child care services, and technical assistance if necessary;

(9) contain an assurance that any child care facility assisted under this section will meet the applicable State or local government licensing, certification, approval, or registration requirements; and

(10) contain a plan for any child care facility assisted under this section to become accredited within 3 years of the date the institution first receives assistance under this section.

(d) Priority

The Secretary shall give priority in awarding grants under this section to institutions of higher education that submit applications describing programs that—

(1) leverage significant local or institutional resources, including in-kind contributions, to support the activities assisted under this section; and

(2) utilize a sliding fee scale for child care services provided under this section in order to support a high number of low-income parents pursuing postsecondary education at the institution.

(e) Reporting requirements; continuing eligibility

(1) Reporting requirements

(A) Reports

Each institution of higher education receiving a grant under this section shall report to the Secretary 18 months, and 36 months, after receiving the first grant payment under this section.

(B) Contents

The report shall include—

(i) data on the population served under this section;

(ii) information on campus and community resources and funding used to help low-income students access child care services;

(iii) information on progress made toward accreditation of any child care facility; and

(iv) information on the impact of the grant on the quality, availability, and affordability of campus-based child care services.

(2) Continuing eligibility

The Secretary shall make the third annual grant payment under this section to an institution of higher education only if the Secretary determines, on the basis of the 18-month report submitted under paragraph (1), that the institution is making a good faith effort to ensure that low-income students at the institution have access to affordable, quality child care services.

(f) Construction

No funds provided under this section shall be used for construction, except for minor renovation or repair to meet applicable State or local health or safety requirements.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section $45,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 419N, as added Pub. L. 105–244, title IV, § 410, Oct. 7, 1998, 112 Stat. 1668.)

PRIOR PROVISIONS

A prior section 1070e, Pub. L. 89–329, title IV, § 420, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1346, related to payments to institutions of higher education, prior to repeal by Pub. L. 102–325, title IV, § 407, July 23, 1992, 106 Stat. 510.

Another prior section 1070e, Pub. L. 89–329, title IV, § 420, formerly § 419, as added Pub. L. 92–318, title X, § 1001(a), June 23, 1972, 86 Stat. 375; amended Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503; renumbered Pub. L. 98–558, title VIII, § 801(b)(1), Oct. 30, 1984, 98 Stat. 2902, related to payments to institutions of higher education, prior to the general amendment of this part by Pub. L. 99–498.

A prior section 1070e–1, Pub. L. 89–329, title IV, § 420A, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1348; amended Pub. L. 100–50, § 8, June 3, 1987, 101 Stat. 341; Pub. L. 102–54, § 13(g)(2), June 13, 1991, 105 Stat. 275; Pub. L. 102–83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406, related to veterans education outreach program, prior to repeal by Pub. L. 102–325, title IV, § 408, July 23, 1992, 106 Stat. 510.

Another prior section 1070e–1, Pub. L. 89–329, title IV, § 420A, formerly § 420, as added Pub. L. 92–318, title X, § 1001(a), June 23, 1972, 86 Stat. 378; amended Pub. L. 93–380, title VIII, § 834(a), Aug. 21, 1974, 88 Stat. 604; Pub. L. 94–482, title I, § 126(a)–(c), Oct. 12, 1976, 90 Stat. 2098; Pub. L. 95–336, § 6(a), Aug. 4, 1978, 92 Stat. 453; Pub. L. 96–49, § 5(a)(7), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, § 407, Oct. 3, 1980, 94 Stat. 1412; Pub. L. 97–300, title I, § 183, Oct. 13, 1982, 96 Stat. 1357; renumbered § 420A, Pub. L. 98–558, title VIII, § 801(b)(2), Oct. 30, 1984, 98 Stat. 2902, related to veterans' cost-of-instruction payments to institutions of higher education, prior to the general amendment of this part by Pub. L. 99–498.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244,

set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

SUBPART 8—LEARNING ANYTIME ANYWHERE PARTNERSHIPS

CODIFICATION

Subpart 8 of part A of title IV of the Higher Education Act of 1965, comprising this subpart, was originally added to Pub. L. 89–329, title IV, by Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1352, and amended by Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 102–325, July 23, 1992, 106 Stat. 448. Subpart 8 is shown herein, however, as having been added by Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1671, without reference to those intervening amendments because of the extensive revision of subpart 8 by Pub. L. 105–244.

§ 1070f. Findings

Congress makes the following findings:

(1) The nature of postsecondary education delivery is changing, and new technology and other related innovations can provide promising education opportunities for individuals who are currently not being served, particularly for individuals without easy access to traditional campus-based postsecondary education or for whom traditional courses are a poor match with education or training needs.

(2) Individuals, including individuals seeking basic or technical skills or their first postsecondary experience, individuals with disabilities, dislocated workers, individuals making the transition from welfare-to-work, and individuals who are limited by time and place constraints can benefit from nontraditional, noncampus-based postsecondary education opportunities and appropriate support services.

(3) The need for high-quality, nontraditional, technology-based education opportunities is great, as is the need for skill competency credentials and other measures of educational progress and attainment that are valid and widely accepted, but neither need is likely to be adequately addressed by the uncoordinated efforts of agencies and institutions acting independently and without assistance.

(4) Partnerships, consisting of institutions of higher education, community organizations, or other public or private agencies or organizations, can coordinate and combine institutional resources—

(A) to provide the needed variety of education options to students; and

(B) to develop new means of ensuring accountability and quality for innovative education methods.

(Pub. L. 89–329, title IV, § 420D, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1671.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

PRIOR PROVISIONS

A prior section 1070f, Pub. L. 89–329, title IV, § 420B, as added Pub. L. 99–498, title IV, § 401(a), Oct. 17, 1986, 100 Stat. 1352; amended Pub. L. 100–50, § 9, June 3, 1987, 101 Stat. 341; Pub. L. 102–325, title IV, § 409, July 23, 1992, 106 Stat. 510, related to special child care services for disadvantaged college students, prior to the general amendment of this subpart by Pub. L. 105–244.

EFFECTIVE DATE

Subpart effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1070f–1. Purpose; program authorized

(a) Purpose

It is the purpose of this subpart to enhance the delivery, quality, and accountability of postsecondary education and career-oriented lifelong learning through technology and related innovations.

(b) Program authorized

(1) Grants

(A) In general

The Secretary may, from funds appropriated under section 1070f–6 of this title make grants to, or enter into contracts or cooperative agreements with, eligible partnerships to carry out the authorized activities described in section 1070f–3 of this title.

(B) Duration

Grants under this subpart shall be awarded for periods that do not exceed 5 years.

(2) Definition of eligible partnership

For purposes of this subpart, the term ''eligible partnership'' means a partnership consisting of 2 or more independent agencies, organizations, or institutions. The agencies, organizations, or institutions may include institutions of higher education, community organizations, and other public and private institutions, agencies, and organizations.

(Pub. L. 89–329, title IV, § 420E, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1672.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

§ 1070f–2. Application

(a) Requirement

An eligible partnership desiring to receive a grant under this subpart shall submit an application to the Secretary, in such form and containing such information, as the Secretary may require.

(b) Contents

Each application shall include—

(1) the name of each partner and a description of the responsibilities of the partner, including the designation of a nonprofit organization as the fiscal agent for the partnership;

(2) a description of the need for the project, including a description of how the project will build on any existing services and activities;

(3) a listing of human, financial (other than funds provided under this subpart), and other resources that each member of the partnership will contribute to the partnership, and a description of the efforts each member of the partnership will make in seeking additional resources; and

(4) a description of how the project will operate, including how funds awarded under this

subpart will be used to meet the purpose of this subpart.

(Pub. L. 89–329, title IV, § 420F, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1672.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

§ 1070f–3. Authorized activities

Funds awarded to an eligible partnership under this subpart shall be used to—

(1) develop and assess model distance learning programs or innovative educational software;

(2) develop methodologies for the identification and measurement of skill competencies;

(3) develop and assess innovative student support services; or

(4) support other activities that are consistent with the purpose of this subpart.

(Pub. L. 89–329, title IV, § 420G, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1672.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

§ 1070f–4. Matching requirement

Federal funds shall provide not more than 50 percent of the cost of a project under this subpart. The non-Federal share of project costs may be in cash or in kind, fairly evaluated, including services, supplies, or equipment.

(Pub. L. 89–329, title IV, § 420H, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1673.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

§ 1070f–5. Peer review

The Secretary shall use a peer review process to review applications under this subpart and to make recommendations for funding under this subpart to the Secretary.

(Pub. L. 89–329, title IV, § 420I, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1673.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

§ 1070f–6. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 420J, as added Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1673.)

CODIFICATION

Another section 411 of Pub. L. 105–244 amended section 1071 of this title.

PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

CODIFICATION

Part B of title IV of the Higher Education Act of 1965, comprising this part, was originally enacted by Pub. L. 89–329, title IV, Nov. 8, 1965, 79 Stat. 1236, and amended by Pub. L. 89–698, Oct. 29, 1966, 80 Stat. 1066; Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 89–794, Nov. 8, 1966, 80 Stat. 1451; Pub. L. 90–460, Aug. 3, 1968, 82 Stat. 634; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–206, Mar. 10, 1970, 84 Stat. 49; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–269, Apr. 18, 1974, 88 Stat. 87; Pub. L. 93–604, Jan. 2, 1975, 88 Stat. 1959; Pub. L. 94–273, Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–328, June 30, 1976, 90 Stat. 727; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; S. Res. 4, Feb. 4, 1977; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 95–566, Nov. 1, 1978, 92 Stat. 2402; Pub. L. 95–598, Nov. 6, 1978, 92 Stat. 2549; Pub. L. 95–630, Nov. 10, 1978, 92 Stat. 3641; S. Res. 30, Mar. 7, 1979; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97–115, Dec. 29, 1981, 95 Stat. 1595; Pub. L. 97–301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98–79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 82; Pub. L. 99–320, May 23, 1986, 100 Stat. 491. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1353, without reference to such intervening amendments because of the extensive revision of part B by Pub. L. 99–498.

§ 1071. Statement of purpose; nondiscrimination; and appropriations authorized

(a) Purpose; discrimination prohibited

(1) Purpose

The purpose of this part is to enable the Secretary—

(A) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 1085 of this title),

(B) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 1078(b) of this title,

(C) to pay a portion of the interest on loans to qualified students which are insured under this part, and

(D) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 1078(a)(1)(B) of this title.

(2) Discrimination by creditors prohibited

No agency, organization, institution, bank, credit union, corporation, or other lender who regularly extends, renews, or continues credit or provides insurance under this part shall exclude from receipt or deny the benefits of, or discriminate against any borrower or applicant in obtaining, such credit or insurance on the basis of race, national origin, religion, sex, marital status, age, or handicapped status.

(b) Authorization of appropriations

For the purpose of carrying out this part—

(1) there are authorized to be appropriated to the student loan insurance fund (established by section 1081 of this title) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

(2) there are authorized to be appropriated, for payments under section 1078 of this title

with respect to interest on student loans and for payments under section 1087 of this title, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 1072 of this title for the reserve funds of State and nonprofit private student loan insurance programs,

(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 1072(a) and (b) of this title, and (B) such sums as may be necessary for making advances pursuant to section 1072(c) of this title, for the reserve funds of State and nonprofit private student loan insurance programs, and

(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 1078(f) of this title to guaranty agencies.

Sums appropriated under paragraphs (1), (2), (4), and (5) of this subsection shall remain available until expended. No additional sums are authorized to be appropriated under paragraph (3) or (4) of this subsection by reason of the reenactment of such paragraphs by the Higher Education Amendments of 1986.

(c) Designation

The program established under this part shall be referred to as the ''Robert T. Stafford Federal Student Loan Program''. Loans made pursuant to sections 1077 and 1078 of this title shall be known as ''Federal Stafford Loans''.

(Pub. L. 89–329, title IV, § 421, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1353; amended Pub. L. 100–297, title II, § 2601(a), Apr. 28, 1988, 102 Stat. 330; Pub. L. 100–369, § 8, July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, § 411(a)(2), (c), July 23, 1992, 106 Stat. 510, 511; Pub. L. 105–244, title IV, § 411, Oct. 7, 1998, 112 Stat. 1673.)

REFERENCES IN TEXT

The Higher Education Amendments of 1986, referred to in subsec. (b), is Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Another section 411 of Pub. L. 105–244 enacted subpart 8 (§ 1070f et seq.) of part A of this subchapter.

PRIOR PROVISIONS

A prior section 1071, Pub. L. 89–329, title IV, § 421, Nov. 8, 1965, 79 Stat. 1236; Pub. L. 90–460, §§ 2(b)(3), 3(a), Aug. 3, 1968, 82 Stat. 635, 636; Pub. L. 90–575, title I, §§ 113(b)(1), 114(a), 119(b), Oct. 16, 1968, 82 Stat. 1021, 1027; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2099; Pub. L. 95–43, § 1(a)(8)–(10), June 15, 1977, 91 Stat. 213; Pub. L. 96–374, title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1503; Pub. L. 98–79, § 6, Aug. 15, 1983, 97 Stat. 482, related to statement of purpose of, appropriations for, and implementation of programs to provide low-interest insured loans to students in institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (d). Pub. L. 105–244 struck out heading and text of subsec. (d). Text read as follows: ''Notwithstanding any other provision of this part, no new loan guarantees shall be issued after June 30, 1994, if the Secretary does not issue final regulations implementing the changes made to this part under the Higher Education Amendments of 1992 prior to that date. The authority to issue new loan guarantees shall resume upon the Secretary's issuance of such regulations. This subsection shall not provide the basis for avoiding any requirements for notice and public hearing on such regulations.''

1992—Subsec. (c). Pub. L. 102–325, § 411(a)(2), added subsec. (c) and struck out former subsec. (c) which read as follows: ''The program established under this part shall be referred to as the 'Robert T. Stafford Student Loan Program'. Loans made under this part shall be known as 'Stafford Loans'.''

Subsec. (d). Pub. L. 102–325, § 411(c), added subsec. (d).

1988—Subsec. (c). Pub. L. 100–369 substituted ''shall be referred'' for ''may be referred'' and inserted provision identifying loans made under this part as ''Stafford Loans''.

Pub. L. 100–297 added subsec. (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, with changes in the designation or names of loans or programs under this part effective with respect to applications or other documents (used in making such loans) that are printed after July 23, 1992, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–297, title VI, § 6303, Apr. 28, 1988, 102 Stat. 431, as amended by Pub. L. 100–351, June 27, 1988, 102 Stat. 661; Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675, provided that:

''(a) GENERAL RULE.—Except as otherwise provided, this Act and the amendments made by this Act [see Tables for classification] shall take effect July 1, 1988.

''(b) SPECIAL RULES.—(1) Any provision of this Act or any amendment made by this Act which authorizes appropriations for fiscal year 1988 shall take effect on the date of the enactment of this Act [Apr. 28, 1988].

''(2) The provisions of section 2402, relating to the National Center for Vocational Research, shall take effect on April 10, 1988.

''(3) The amendments made by section 3403 [amending sections 1221e and 1221e–1 of this title] shall take effect for assessments made after September 30, 1989, with respect to State data.

''(4) Allotments to States made under chapters 1 and 2 of title I of the Elementary and Secondary Education Act of 1965 [formerly 20 U.S.C. 2701 et seq., 2911 et seq.] and under the Adult Education Act [formerly 20 U.S.C. 1201 et seq.] from amounts appropriated by the joint resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes', approved December 22, 1987 (Public Law 100–202), shall be computed in accordance with the provisions of law applicable to allotments to States under chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981 [formerly 20 U.S.C. 3801 et seq., 3811 et seq.] and under the Adult Education Act, respectively, as such Acts were in effect on the day before the date of the enactment of this Act [Apr. 28, 1988].

''(5) Amounts appropriated by the joint resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes', approved December 22, 1987 (Public Law 100–202), for the following programs shall be awarded in accordance with the applicable provisions of law in effect on the day before the date of the enactment of this Act [Apr. 28, 1988]:

''(A) Programs under subchapter D of chapter 2 of the Education Consolidation and Improvement Act of 1981 [formerly 20 U.S.C. 3851 et seq.], except that projects under section 583(c) [formerly 20 U.S.C.

3851(c)] may not be reviewed by a program significance panel.

''(B) National programs under the Adult Education Act [formerly 20 U.S.C. 1201 et seq.].

''(C) Programs under the Indian Education Act [Pub. L. 92–318, title IV, see Tables for classification].

''(D) Programs under title II of the Education for Economic Security Act [formerly 20 U.S.C. 3961 et seq.].

''(E) The program under section 702 of the McKinney-Vento Homeless Assistance Act [formerly 42 U.S.C. 11421].

''(6) The provisions of part A of title II of this Act [§§ 2001 to 2034 of Pub. L. 100–297, amending sections 236 et seq. and 631 et seq. of this title], excluding sections 2014(e) and 2018 [amending section 238 of this title and enacting provisions set out as a note under section 238 of this title], shall apply only with respect to amounts appropriated for fiscal years beginning after September 30, 1988.

''(7) The amendments made by section 6001 [amending section 11421 of Title 42, The Public Health and Welfare], relating to literacy training of homeless adults, shall take effect on October 1, 1988.

''(8) Any election under section 5209(b)(1) [25 U.S.C. 2508(b)(1)] conveyed to the Secretary prior to August 1, 1988, shall take effect for the fiscal year beginning on October 1, 1988, and thereafter.''

EFFECTIVE DATE

Section 402(b)–(d) of Pub. L. 99–498, as amended by Pub. L. 100–50, § 22(b), June 3, 1987, 101 Stat. 361, provided that:

''(b) EFFECTIVE DATES.—The changes made in part B of title IV of the Act [20 U.S.C. 1071 et seq.] by the amendment made by subsection (a) of this section shall take effect on the date of enactment of this Act [Oct. 17, 1986], except—

''(1) as otherwise provided in such part B;

''(2) the changes in sections 427(a)(2)(C) and 428(b)(1)(M) of the Act [20 U.S.C. 1077(a)(2)(C), 1078(b)(1)(M)] (other than clauses (viii), (ix), and (x) of each such section) shall apply only to loans to new borrowers that (A) are made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1987; or (B) are disbursed on or after July 1, 1987;

''(3) the changes made in sections 425(a), 428(b)(1)(A), and 428(b)(1)(B) of the Act [20 U.S.C. 1075(a), 1078(b)(1)(A), (B)] shall apply with respect only to loans disbursed on or after January 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

''(4) the changes made in subsections (a), (b), and (d) of section 433 of the Act [20 U.S.C. 1083(a), (b), (d)] shall apply with respect only to loans disbursed on or after January 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

''(5) the changes in section 428(b)(1)(H) [20 U.S.C. 1078(b)(1)(H)] shall apply with respect only to loans for which the borrower files an application on or after July 1, 1987;

''(6) the changes in sections 435(d)(5) and 438(d) of the Act [20 U.S.C. 1085(d)(5), 1087–1(d)] shall take effect 30 days after the date of enactment of this Act [Oct. 17, 1986]; and

''(7) the changes made in section 438(b) [20 U.S.C. 1087–1(b)] shall take effect with respect to loans disbursed on or after 30 days after the date of enactment of this Act [Oct. 17, 1986] or made to cover the costs of instruction for periods of enrollment beginning on or after 30 days after the date of enactment of this Act.

''(c) CHANGES EFFECTIVE WITHOUT REGARD TO REGULATIONS; REPUBLICATION OF REGULATIONS.—The changes made in part B of title IV of the Act [20 U.S.C. 1071 et seq.] by the amendment made by subsection (a) of this section shall be effective in accordance with subsection (b) of this section without regard to whether such changes are reflected in the regulations prescribed by the Secretary of Education for the purpose of such part.

''(d) NEW BORROWERS.—For the purpose of this section, the term 'new borrower' means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act [20 U.S.C. 1071 et seq.].''

STUDY OF ROLE OF GUARANTY AGENCIES

Section 1401 of Pub. L. 102–325 directed Secretary of Education to review role of guaranty agencies within Federal Family Education Loan Program by examining administrative and financial operations of such agencies and the relationships between guaranty agencies and State governments and report to Congress within 1 year of July 23, 1992, on the review, prior to repeal by Pub. L. 105–332, § 6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

GENERAL ACCOUNTING OFFICE REPORTS

Sections 1311 to 1314 of Pub. L. 99–498, as amended by Pub. L. 100–50, § 23(6), June 3, 1987, 101 Stat. 362, directed Comptroller General to conduct studies on practices of State guaranty agencies and multistate guarantors under the student loan program, on the feasibility and efficiency of permitting students to establish multiple year lines of credit with eligible lenders, on the impact of the multiple disbursement system on the ability of students and institutions of higher education to meet expenses, and on the cost, efficiency, and impact of the consolidation loan program established by Pub. L. 99–498, and directed Comptroller General to make and submit a report to Congress on each study not later than two years after Oct. 17, 1986, prior to repeal by Pub. L. 105–332, § 6(a), Oct. 31, 1998, 112 Stat. 3127.

§ 1072. Advances for reserve funds of State and nonprofit private loan insurance programs

(a) Purpose of and authority for advances to reserve funds

(1) Purpose; eligible recipients

From sums appropriated pursuant to paragraphs (3) and (4)(A) of section 1071(b) of this title, the Secretary is authorized to make advances to any State with which the Secretary has made an agreement pursuant to section 1078(b) of this title for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 1078(b) of this title, and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which the Secretary has made an agreement pursuant to section 1078(b) of this title in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Secretary may make advances under this subsection both to a State program (with which he has such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through

such institution to a student loan insurance program which meets the requirements of section 1078(b)(1) of this title.

(2) Matching requirement

No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term ''unencumbered non-Federal portion'' means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of—

(A) the sum of—

(i) advances made under this section prior to July 1, 1968;

(ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made; and

(iii) the proceeds of earnings on advances made under this section; or

(B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

Except as provided in section 1078(c)(9)(E) or (F) of this title, such unencumbered non-Federal portion shall not be subject to recall, repayment, or recovery by the Secretary.

(3) Terms and conditions; repayment

Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 1078(b) of this title as the Secretary determines will best carry out the purpose of this section. Advances made by the Secretary under this subsection shall be repaid within such period as the Secretary may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

(b) Limitations on total advances

(1) In general

The total of the advances from the sums appropriated pursuant to paragraph (4)(A) of section 1071(b) of this title to nonprofit private institutions and organizations for the benefit of students in any State and to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged 18 to 22, inclusive, bears to the population of all the States aged 18 to 22 inclusive, but such advances may otherwise be in such amounts as the Secretary determines will best achieve the purposes for which they are made. The amount available for advances to any State shall not be less than $25,000 and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

(2) Calculation of population

For the purpose of this subsection, the population aged 18 to 22, inclusive, of each State and of all the States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(c) Advances for insurance obligations

(1) Use for payment of insurance obligations

From sums appropriated pursuant to section 1071(b)(4)(B) of this title, the Secretary shall advance to each State which has an agreement with the Secretary under section 1078(c) of this title with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

(2) Amount of advances

(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 percent of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by—

(i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date; and

(ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a) of this section.

Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

(C) For the purpose of subparagraph (B), the unspent balance of the advances made to a State pursuant to subsection (a) of this section shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a) of this section, bears to the total of all past contributions to such reserve funds from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 1078(b) of this title.

(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) Use of earnings for insurance obligations

The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

(4) Repayment of advances

Advances made by the Secretary under this subsection shall, subject to subsection (d) of this section, be repaid within such period as the Secretary may deem to be appropriate and shall be deposited in the fund established by section 1081 of this title.

(5) Limitation on number of advances

Except as provided in paragraph (7), advances pursuant to this subsection shall be made to a State—

(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 1078(b) of this title which was entered into before October 12, 1976, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 2 succeeding calendar years after the date so requested; and

(B) in the case of a State which enters into an agreement pursuant to section 1078(b) of this title on or after October 12, 1976, or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 4 succeeding calendar years after the date so requested of the advance.

(6) Payment of advances where no State program

(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 1078(b) of this title, and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 1078 of this title and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

(B) The Secretary may enter into an agreement with a private nonprofit institution or organization for the purpose of this paragraph under which such institution or organization—

(i) agrees to establish within such State at least one office with sufficient staff to handle written, electronic, and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State;

(ii) agrees that its insurance will not be denied any student because of his or her choice of eligible institutions; and

(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

(7) Emergency advances

The Secretary is authorized to make advances, on terms and conditions satisfactory to the Secretary, to a guaranty agency—

(A) in accordance with section 1078(j) of this title, in order to ensure that the guaranty agency shall make loans as the lender-of-last-resort; or

(B) if the Secretary is seeking to terminate the guaranty agency's agreement, or assuming the guaranty agency's functions, in accordance with section 1078(c)(9)(F)(v) of this title, in order to assist the agency in meeting its immediate cash needs, ensure the uninterrupted payment of claims, or ensure that the guaranty agency shall make loans as described in subparagraph (A).

(d) Recovery of advances during fiscal years 1988 and 1989

(1) Amount and use of recovered funds

Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this subsection and shall be deposited in the fund established by section 1081 of this title. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $75,000,000 during fiscal year 1988 and an amount equal to $35,000,000 for fiscal year 1989.

(2) Determination of guaranty agency obligations

In determining the amount of advances which shall be repaid by a guaranty agency under paragraph (1), the Secretary—

(A) shall consider the solvency and maturity of the reserve and insurance funds of the guaranty agency assisted by such advances, as determined by the Comptroller General taking into account the requirements of State law as in effect on October 17, 1986;

(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) of this section during any year of its eligibility under such subsection; and

(C) shall not seek repayment of such advances from any State if such repayment encumbers the reserve fund requirement of State law as in effect on October 17, 1986.

(e) Correction for errors under reduction of excess cash reserves

(1) In general

The Secretary shall pay any guaranty agency the amount of reimbursement of claims

under section 1078(c)(1) of this title, filed between September 1, 1988, and December 31, 1989, which were previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986, if such maximum cash reserve was miscalculated because of erroneous financial information provided by such agency to the Secretary and if (A) such erroneous information is verified by an audited financial statement of the reserve fund, signed by a certified public accountant, and (B) such audited financial statement is provided to the Secretary prior to January 1, 1993.

(2) Amount

The amount of reimbursement for claims shall be equal to the amount of reimbursement for claims withheld or canceled in order to be applied to such agency's obligation to eliminate excess cash reserves which exceeds the amount of that which would have been withheld or canceled if the maximum excess cash reserves had been accurately calculated.

(f) Refund of cash reserve payments

The Secretary shall, within 30 days after July 23, 1992, pay the full amount of payments withheld or canceled under paragraph (3) of this subsection to any guaranty agency which—

(1) was required to eliminate excess cash reserves, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986;

(2) appealed the Secretary's demand that such agency should eliminate such excess cash reserves and received a waiver of a portion of the amount of such excess cash reserves to be eliminated;

(3) had payments under section 1078(c)(1) of this title or section 1078(f) of this title previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986; and

(4) according to a Department of Education review that was completed and forwarded to such guaranty agency prior to January 1, 1992, is expected to become insolvent during or before 1996 and the payments withheld or canceled under paragraph (3) of this subsection are a factor in such agency's impending insolvency.

(g) Preservation and recovery of guaranty agency reserves

(1) Authority to recover funds

Notwithstanding any other provision of law, the reserve funds of the guaranty agencies, and any assets purchased with such reserve funds, regardless of who holds or controls the reserves or assets, shall be considered to be the property of the United States to be used in the operation of the program authorized by this part. However, the Secretary may not require the return of all reserve funds of a guaranty agency to the Secretary unless the Secretary determines that such return is in the best interest of the operation of the program authorized by this part, or to ensure the proper maintenance of such agency's funds or assets or the orderly termination of the guaranty agency's operations and the liquidation of its assets. The reserves shall be maintained by each guaranty agency to pay program expenses and contingent liabilities, as authorized by the Secretary, except that—

(A) the Secretary may direct a guaranty agency to return to the Secretary a portion of its reserve fund which the Secretary determines is unnecessary to pay the program expenses and contingent liabilities of the guaranty agency;

(B) the Secretary may direct the guaranty agency to require the return, to the guaranty agency or to the Secretary, of any reserve funds or assets held by, or under the control of, any other entity, which the Secretary determines are necessary to pay the program expenses and contingent liabilities of the guaranty agency, or which are required for the orderly termination of the guaranty agency's operations and the liquidation of its assets;

(C) the Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activities involving expenditure, use or transfer of the guaranty agency's reserve funds or assets which the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets; and

(D) any such determination under subparagraph (A) or (B) shall be based on standards prescribed by regulations that are developed through negotiated rulemaking and that include procedures for administrative due process.

(2) Termination provisions in contracts

(A) To ensure that the funds and assets of the guaranty agency are preserved, any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after August 10, 1993, shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section.

(B) The Secretary may direct a guaranty agency to suspend or cease activities under any contract entered into by or on behalf of such agency after January 1, 1993, if the Secretary determines that the misuse or improper expenditure of such guaranty agency's funds or assets or such contract provides unnecessary or improper benefits to such agency's officers or directors.

(3) Penalties

Violation of any direction issued by the Secretary under this subsection may be subject to the penalties described in section 1097 of this title.

(4) Availability of funds

Any funds that are returned or otherwise recovered by the Secretary pursuant to this subsection shall be available for expenditure for expenses pursuant to section 1087h of this title.

(h) Recall of reserves; limitations on use of reserve funds and assets

(1) In general

Notwithstanding any other provision of law, the Secretary shall, except as otherwise provided in this subsection, recall $1,000,000,000 from the reserve funds held by guaranty agencies on September 1, 2002.

(2) Deposit

Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

(3) Required share

The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) based on the agency's required share of recalled reserve funds held by guaranty agencies as of September 30, 1996. For purposes of this paragraph, a guaranty agency's required share of recalled reserve funds shall be determined as follows:

(A) The Secretary shall compute each guaranty agency's reserve ratio by dividing (i) the amount held in the agency's reserve funds as of September 30, 1996 (but reflecting later accounting or auditing adjustments approved by the Secretary), by (ii) the original principal amount of all loans for which the agency has an outstanding insurance obligation as of such date, including amounts of outstanding loans transferred to the agency from another guaranty agency.

(B) If the reserve ratio of any guaranty agency as computed under subparagraph (A) exceeds 2.0 percent, the agency's required share shall include so much of the amounts held in the agency's reserve funds as exceed a reserve ratio of 2.0 percent.

(C) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraph (B)), such additional amount shall be obtained by imposing on each guaranty agency an equal percentage reduction in the amount of the agency's reserve funds remaining after deduction of the amount recalled under subparagraph (B), except that such percentage reduction under this subparagraph shall not result in the agency's reserve ratio being reduced below 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

(i) the additional amount required to be recalled (after deducting the total of the required shares calculated under subparagraph (B)), by

(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraph).

(D) If any additional amount is required to be recalled under paragraph (1) (after deducting the total of the required shares calculated under subparagraphs (B) and (C)), such additional amount shall be obtained by imposing on each guaranty agency with a reserve ratio (after deducting the required shares calculated under such subparagraphs) in excess of 0.58 percent an equal percentage reduction in the amount of the agency's reserve funds remaining (after such deduction) that exceed a reserve ratio of 0.58 percent. The equal percentage reduction shall be the percentage obtained by dividing—

(i) the additional amount to be recalled under paragraph (1) (after deducting the amount recalled under subparagraphs (B) and (C)), by

(ii) the total amount of all such agencies' reserve funds remaining (after deduction of the required shares calculated under such subparagraphs) that exceed a reserve ratio of 0.58 percent.

(4) Restricted accounts required

(A) In general

Within 90 days after the beginning of each of the fiscal years 1998 through 2002, each guaranty agency shall transfer a portion of the agency's required share determined under paragraph (3) to a restricted account established by the agency that is of a type selected by the agency with the approval of the Secretary. Funds transferred to such restricted accounts shall be invested in obligations issued or guaranteed by the United States or in other similarly low-risk securities.

(B) Requirement

A guaranty agency shall not use the funds in such a restricted account for any purpose without the express written permission of the Secretary, except that a guaranty agency may use the earnings from such restricted account for default reduction activities.

(C) Installments

In each of fiscal years 1998 through 2002, each guaranty agency shall transfer the agency's required share to such restricted account in 5 equal annual installments, except that—

(i) a guaranty agency that has a reserve ratio (as computed under subparagraph (3)(A)) equal to or less than 1.10 percent may transfer the agency's required share to such account in 4 equal installments beginning in fiscal year 1999; and

(ii) a guaranty agency may transfer such required share to such account in accordance with such other payment schedules as are approved by the Secretary.

(5) Shortage

If, on September 1, 2002, the total amount in the restricted accounts described in paragraph (4) is less than the amount the Secretary is required to recall under paragraph (1), the Sec-

retary shall require the return of the amount of the shortage from other reserve funds held by guaranty agencies under procedures established by the Secretary. The Secretary shall first attempt to obtain the amount of such shortage from each guaranty agency that failed to transfer the agency's required share to the agency's restricted account in accordance with paragraph (4).

(6) Enforcement

(A) In general

The Secretary may take such reasonable measures, and require such information, as may be necessary to ensure that guaranty agencies comply with the requirements of this subsection.

(B) Prohibition

If the Secretary determines that a guaranty agency has failed to transfer to a restricted account any portion of the agency's required share under this subsection, the agency may not receive any other funds under this part until the Secretary determines that the agency has so transferred the agency's required share.

(C) Waiver

The Secretary may waive the requirements of subparagraph (B) for a guaranty agency described in such subparagraph if the Secretary determines that there are extenuating circumstances beyond the control of the agency that justify such waiver.

(7) Limitation

(A) Restriction on other authority

The Secretary shall not have any authority to direct a guaranty agency to return reserve funds under subsection (g)(1)(A) of this section during the period from August 5, 1997, through September 30, 2002.

(B) Use of termination collections

Any reserve funds directed by the Secretary to be returned to the Secretary under subsection (g)(1)(B) of this section during such period that do not exceed a guaranty agency's required share of recalled reserve funds under paragraph (3)—

(i) shall be used to satisfy the agency's required share of recalled reserve funds; and

(ii) shall be deposited in the restricted account established by the agency under paragraph (4), without regard to whether such funds exceed the next installment required under such paragraph.

(C) Use of sanctions collections

Any reserve funds directed by the Secretary to be returned to the Secretary under subsection (g)(1)(C) of this section during such period that do not exceed a guaranty agency's next installment under paragraph (4)—

(i) shall be used to satisfy the agency's next installment; and

(ii) shall be deposited in the restricted account established by the agency under paragraph (4).

(D) Balance available to Secretary

Any reserve funds directed by the Secretary to be returned to the Secretary under subparagraph (B) or (C) of subsection (g)(1) of this section that remain after satisfaction of the requirements of subparagraphs (B) and (C) of this paragraph shall be deposited in the Treasury.

(8) Definitions

For the purposes of this subsection:

(A) Default reduction activities

The term ''default reduction activities'' means activities to reduce student loan defaults that improve, strengthen, and expand default prevention activities, such as—

(i) establishing a program of partial loan cancellation to reward disadvantaged borrowers for good repayment histories with their lenders;

(ii) establishing a financial and debt management counseling program for high-risk borrowers that provides long-term training (beginning prior to the first disbursement of the borrower's first student loan and continuing through the completion of the borrower's program of education or training) in budgeting and other aspects of financial management, including debt management;

(iii) establishing a program of placement counseling to assist high-risk borrowers in identifying employment or additional training opportunities; and

(iv) developing public service announcements that would detail consequences of student loan default and provide information regarding a toll-free telephone number established by the guaranty agency for use by borrowers seeking assistance in avoiding default.

(B) Reserve funds

The term ''reserve funds'' when used with respect to a guaranty agency—

(i) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

(ii) does not include buildings, equipment, or other nonliquid assets.

(i) Additional recall of reserves

(1) In general

Notwithstanding any other provision of law and subject to paragraph (4), the Secretary shall recall, from reserve funds held in the Federal Student Loan Reserve Funds established under section 1072a of this title by guaranty agencies—

(A) $85,000,000 in fiscal year 2002;

(B) $82,500,000 in fiscal year 2006; and

(C) $82,500,000 in fiscal year 2007.

(2) Deposit

Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

(3) Required share

The Secretary shall require each guaranty agency to return reserve funds under para-

graph (1) on the basis of the agency's required share. For purposes of this paragraph, a guaranty agency's required share shall be determined as follows:

(A) Equal percentage

The Secretary shall require each guaranty agency to return an amount representing an equal percentage reduction in the amount of reserve funds held by the agency on September 30, 1996.

(B) Calculation

The equal percentage reduction shall be the percentage obtained by dividing—

(i) $250,000,000, by

(ii) the total amount of all guaranty agencies' reserve funds held on September 30, 1996, less any amounts subject to recall under subsection (h) of this section.

(C) Special rule

Notwithstanding subparagraphs (A) and (B), the percentage reduction under subparagraph (B) shall not result in the depletion of the reserve funds of any agency which charges the 1.0 percent insurance premium pursuant to section 1078(b)(1)(H) of this title below an amount equal to the amount of lender claim payments paid during the 90 days prior to the date of the return under this subsection. If any additional amount is required to be returned after deducting the total of the required shares under subparagraph (B) and as a result of the preceding sentence, such additional amount shall be obtained by imposing on each guaranty agency to which the preceding sentence does not apply, an equal percentage reduction in the amount of the agency's remaining reserve funds.

(4) Offset of required shares

If any guaranty agency returns to the Secretary any reserve funds in excess of the amount required under this subsection or subsection (h) of this section, the total amount required to be returned under paragraph (1) shall be reduced by the amount of such excess reserve funds returned.

(5) Definition of reserve funds

The term ''reserve funds'' when used with respect to a guaranty agency—

(A) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

(B) does not include buildings, equipment, or other nonliquid assets.

(Pub. L. 89–329, title IV, § 422, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1354; amended Pub. L. 100–203, title III, §§ 3001(a), 3002(a), Dec. 22, 1987, 101 Stat. 1330–36, 1330–38; Pub. L. 102–325, title IV, §§ 412, 416(p)(8), July 23, 1992, 106 Stat. 511, 527; Pub. L. 103–66, title IV, §§ 4041(a), (2)(A), 4042, Aug. 10, 1993, 107 Stat. 354, 357; Pub. L. 103–208, § 2(c)(1), Dec. 20, 1993, 107 Stat. 2460; Pub. L. 105–33, title VI, § 6101(a), Aug. 5, 1997, 111 Stat. 648; Pub. L. 105–244, title IV, § 412, Oct. 7, 1998, 112 Stat. 1673.)

CODIFICATION

Amendment by Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1072, Pub. L. 89–329, title IV, § 422, Nov. 8, 1965, 79 Stat. 1236; Pub. L. 89–752, § 11, Nov. 3, 1966, 80 Stat. 1243; Pub. L. 90–575, title I, § 114(b), (c), Oct. 16, 1968, 82 Stat. 1021, 1022; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2100; Pub. L. 95–43, § 1(a)(11)–(13), June 15, 1977, 91 Stat. 213, 214; Pub. L. 95–561, title XIII, § 1322(a), Nov. 1, 1978, 92 Stat. 2363; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503; Pub. L. 99–272, title XVI, § 16011, Apr. 7, 1986, 100 Stat. 339, authorized advances to establish or strengthen reserve funds of State and nonprofit private loan insurance programs, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–244, § 412(1), substituted ''section 1078(c)(9)(E)'' for ''section 1078(c)(10)(E)'' in concluding provisions.

Subsec. (c)(6)(B)(i). Pub. L. 105–244, § 412(2)(A), substituted ''written, electronic,'' for ''written''.

Subsec. (c)(7)(A). Pub. L. 105–244, § 412(2)(B), struck out ''during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part C of this subchapter'' after ''lender-of-last-resort''.

Subsec. (c)(7)(B). Pub. L. 105–244, § 412(2)(C), substituted ''section 1078(c)(9)(F)(v)'' for ''section 1078(c)(10)(F)(v)''.

Subsec. (g)(1). Pub. L. 105–244, § 412(3), struck out ''or the program authorized by part C of this subchapter'' after ''program authorized by this part'' in first and second sentences.

Subsec. (i). Pub. L. 105–244, § 412(4), added subsec. (i).

1997—Subsec. (h). Pub. L. 105–33 added subsec. (h).

1993—Subsec. (c)(7). Pub. L. 103–66, § 4041(a)(2)(A), substituted ''to a guaranty agency—'' and subpars. (A) and (B) for ''to a guaranty agency in accordance with section 1078(c)(10)(F)(v) of this title in order to assist the agency in meeting its immediate cash needs and ensure the uninterrupted payment of default claims by lenders.''

Subsec. (c)(7)(B). Pub. L. 103–208 substituted a period for semicolon at end. See Codification note above.

Subsec. (g). Pub. L. 103–66, § 4042, added subsec. (g).

1992—Subsec. (a)(2). Pub. L. 102–325, § 412(1), inserted at end ''Except as provided in section 1078(c)(10)(E) or (F) of this title, such unencumbered non-Federal portion shall not be subject to recall, repayment, or recovery by the Secretary.''

Subsec. (c)(5), (7). Pub. L. 102–325, § 416(p)(8), substituted ''Except as provided in paragraph (7), advances'' for ''Advances'' in par. (5) and added par. (7).

Subsecs. (e), (f). Pub. L. 102–325, § 412(2), added subsecs. (e) and (f).

1987—Subsec. (e). Pub. L. 100–203, § 3002(a), struck out subsec. (e) which related to reduction of excess cash reserves.

Pub. L. 100–203, § 3001(a), added subsec. (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 3002(a) of Pub. L. 100–203 provided that the amendment made by that section 3002(a) is effective Sept. 30, 1989.

§ 1072a. Federal Student Loan Reserve Fund

(a) Establishment

Each guaranty agency shall, not later than 60 days after October 7, 1998, deposit all funds, securities, and other liquid assets contained in the reserve fund established pursuant to section 1072 of this title into a Federal Student Loan Reserve Fund (in this section and section 1072b of this title referred to as the ''Federal Fund''), which shall be an account of a type selected by the agency, with the approval of the Secretary.

(b) Investment of funds

Funds transferred to the Federal Fund shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary. Earnings from the Federal Fund shall be the sole property of the Federal Government.

(c) Additional deposits

After the establishment of the Federal Fund, a guaranty agency shall deposit into the Federal Fund—

(1) all amounts received from the Secretary as payment of reinsurance on loans pursuant to section 1078(c)(1) of this title;

(2) from amounts collected on behalf of the obligation of a defaulted borrower, a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made—

(A) with respect to the defaulted loan pursuant to sections 1078(c)(6)(A) and 1078–6(a)(1)(B) of this title; and

(B) with respect to a loan that the Secretary has repaid or discharged under section 1087 of this title;

(3) insurance premiums collected from borrowers pursuant to sections 1078(b)(1)(H) and 1078–8(h) of this title;

(4) all amounts received from the Secretary as payment for supplemental preclaims activity performed prior to October 7, 1998;

(5) 70 percent of amounts received after October 7, 1998, from the Secretary as payment for administrative cost allowances for loans upon which insurance was issued prior to October 7, 1998; and

(6) other receipts as specified in regulations of the Secretary.

(d) Uses of funds

Subject to subsection (f) of this section, the Federal Fund may only be used by a guaranty agency—

(1) to pay lender claims pursuant to sections 1078(b)(1)(G), 1078(j), 1087, and 1087–2(q) of this title; and

(2) to pay into the Agency Operating Fund established pursuant to section 1072b of this title (in this section and section 1072b of this title referred to as the ''Operating Fund'') a default aversion fee in accordance with section 1078(*l*) of this title.

(e) Ownership of Federal Fund

The Federal Fund, and any nonliquid asset (such as a building or equipment) developed or purchased by the guaranty agency in whole or in part with Federal reserve funds, regardless of who holds or controls the Federal reserve funds or such asset, shall be considered to be the property of the United States, prorated based on the percentage of such asset developed or purchased with Federal reserve funds, which property shall be used in the operation of the program authorized by this part, as provided in subsection (d) of this section. The Secretary may restrict or regulate the use of such asset only to the extent necessary to reasonably protect the Secretary's prorated share of the value of such asset. The Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activity involving expenditures, use, or transfer of the Federal Fund administered by the guaranty agency that the Secretary determines is a misapplication, misuse, or improper expenditure of the Federal Fund or the Secretary's share of such asset.

(f) Transition

(1) In general

In order to establish the Operating Fund, each guaranty agency may transfer not more than 180 days' cash expenses for normal operating expenses (not including claim payments) as a working capital reserve as defined in Office of Management and Budget Circular A–87 (Cost Accounting Standards) from the Federal Fund for deposit into the Operating Fund for use in the performance of the guaranty agency's duties under this part. Such transfers may occur during the first 3 years following the establishment of the Operating Fund. However, no agency may transfer in excess of 45 percent of the balance, as of September 30, 1998, of the agency's Federal Fund to the agency's Operating Fund during such 3-year period. In determining the amount that may be transferred, the agency shall ensure that sufficient funds remain in the Federal Fund to pay lender claims within the required time periods and to meet the reserve recall requirements of this section and subsections (h) and (i) of section 1072 of this title.

(2) Special rule

A limited number of guaranty agencies may transfer interest earned on the Federal Fund to the Operating Fund during the first 3 years after October 7, 1998, if the guaranty agency demonstrates to the Secretary that—

(A) the cash flow in the Operating Fund will be negative without the transfer of such interest; and

(B) the transfer of such interest will substantially improve the financial circumstances of the guaranty agency.

(3) Repayment provisions

Each guaranty agency shall begin repayment of sums transferred pursuant to this subsection not later than the start of the fourth year after the establishment of the Operating Fund, and shall repay all amounts transferred not later than 5 years from the date of the establishment of the Operating Fund. With respect to amounts transferred from the Federal Fund, the guaranty agency shall not be required to repay any interest on the funds

transferred and subsequently repaid. The guaranty agency shall provide to the Secretary a reasonable schedule for repayment of the sums transferred and an annual financial analysis demonstrating the agency's ability to comply with the schedule and repay all outstanding sums transferred.

(4) Prohibition

If a guaranty agency transfers funds from the Federal Fund in accordance with this section, and fails to make scheduled repayments to the Federal Fund, the agency may not receive any other funds under this part until the Secretary determines that the agency has made such repayments. The Secretary shall pay to the guaranty agency any funds withheld in accordance with this paragraph immediately upon making the determination that the guaranty agency has made all such repayments.

(5) Waiver

The Secretary may—

(A) waive the requirements of paragraph (3), but only with respect to repayment of interest that was transferred in accordance with paragraph (2); and

(B) waive paragraph (4);

for a guaranty agency, if the Secretary determines that there are extenuating circumstances (such as State constitutional prohibitions) beyond the control of the agency that justify such a waiver.

(6) Extension of repayment period for interest

(A) Extension permitted

The Secretary shall extend the period for repayment of interest that was transferred in accordance with paragraph (2) from 2 years to 5 years if the Secretary determines that—

(i) the cash flow of the Operating Fund will be negative as a result of repayment as required by paragraph (3);

(ii) the repayment of the interest transferred will substantially diminish the financial circumstances of the guaranty agency; and

(iii) the guaranty agency has demonstrated—

(I) that the agency is able to repay all transferred funds by the end of the 8th year following the date of establishment of the Operating Fund; and

(II) that the agency will be financially sound on the completion of repayment.

(B) Repayment of income on transferred funds

All repayments made to the Federal Fund during the 6th, 7th, and 8th years following the establishment of the Operating Fund of interest that was transferred shall include the sums transferred plus any income earned from the investment of the sums transferred after the 5th year.

(7) Investment of Federal funds

Funds transferred from the Federal Fund to the Operating Fund for operating expenses shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary.

(8) Special rule

In calculating the minimum reserve level required by section 1078(c)(9)(A) of this title, the Secretary shall include all amounts owed to the Federal Fund by the guaranty agency in the calculation.

(Pub. L. 89–329, title IV, § 422A, as added Pub. L. 105–244, title IV, § 413(a), Oct. 7, 1998, 112 Stat. 1674.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1072b. Agency Operating Fund

(a) Establishment

Each guaranty agency shall, not later than 60 days after October 7, 1998, establish a fund designated as the Operating Fund.

(b) Investment of funds

Funds deposited into the Operating Fund shall be invested at the discretion of the guaranty agency in accordance with prudent investor standards.

(c) Additional deposits

After the establishment of the Operating Fund, the guaranty agency shall deposit into the Operating Fund—

(1) the loan processing and issuance fee paid by the Secretary pursuant to section 1078(f) of this title;

(2) 30 percent of amounts received after October 7, 1998, from the Secretary as payment for administrative cost allowances for loans upon which insurance was issued prior to October 7, 1998;

(3) the account maintenance fee paid by the Secretary in accordance with section 1087h of this title;

(4) the default aversion fee paid in accordance with section 1078(*l*) of this title;

(5) amounts remaining pursuant to section 1078(c)(6)(B) of this title from collection on defaulted loans held by the agency, after payment of the Secretary's equitable share, excluding amounts deposited in the Federal Fund pursuant to section 1072a(c)(2) of this title; and

(6) other receipts as specified in regulations of the Secretary.

(d) Uses of funds

(1) In general

Funds in the Operating Fund shall be used for application processing, loan disbursement, enrollment and repayment status management, default aversion activities (including those described in section 1072(h)(8) of this title), default collection activities, school and lender training, financial aid awareness and related outreach activities, compliance monitoring, and other student financial aid related activities, as selected by the guaranty agency.

(2) Special rule

The guaranty agency may, in the agency's discretion, transfer funds from the Operating Fund to the Federal Fund for use pursuant to section 1072a of this title. Such transfer shall be irrevocable, and any funds so transferred shall become the sole property of the United States.

(3) Definitions

For purposes of this subsection:

(A) Default collection activities

The term ''default collection activities'' means activities of a guaranty agency that are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the due diligence activities required pursuant to regulations of the Secretary.

(B) Default aversion activities

The term ''default aversion activities'' means activities of a guaranty agency that are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including due diligence activities required pursuant to regulations of the Secretary.

(C) Enrollment and repayment status management

The term ''enrollment and repayment status management'' means activities of a guaranty agency that are directly related to ascertaining the student's enrollment status, including prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this part.

(e) Ownership and regulation of Operating Fund

(1) Ownership

The Operating Fund, with the exception of funds transferred from the Federal Fund in accordance with section 1072a(f) of this title, shall be considered to be the property of the guaranty agency.

(2) Regulation

Except as provided in paragraph (3), the Secretary may not regulate the uses or expenditure of moneys in the Operating Fund, but the Secretary may require such necessary reports and audits as provided in section 1078(b)(2) of this title.

(3) Exception

Notwithstanding paragraphs (1) and (2), during any period in which funds are owed to the Federal Fund as a result of transfer under section 1072a(f) of this title—

(A) moneys in the Operating Fund may only be used for expenses related to the student loan programs authorized under this part; and

(B) the Secretary may regulate the uses or expenditure of moneys in the Operating Fund.

(Pub. L. 89–329, title IV, § 422B, as added Pub. L. 105–244, title IV, § 413(b), Oct. 7, 1998, 112 Stat. 1677.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1073. Effects of adequate non-Federal programs

(a) Federal insurance barred to lenders with access to State or private insurance

Except as provided in subsection (b) of this section, the Secretary shall not issue certificates of insurance under section 1079 of this title to lenders in a State if the Secretary determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 1078(b) of this title.

(b) Exceptions

The Secretary may issue certificates of insurance under section 1079 of this title to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of the borrower's residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 1072 of this title for the benefit of students in such State);

(2) for insurance of all the loans made to student borrowers by a lender who satisfies the Secretary that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance program which will insure substantially all of the loans such lender intends to make to such student borrowers; or

(3) under such circumstances as may be approved by the guaranty agency in such State, for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

(Pub. L. 89–329, title IV, § 423, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1358.)

PRIOR PROVISIONS

A prior section 1073, Pub. L. 89–329, title IV, § 423, Nov. 8, 1965, 79 Stat. 1237; Pub. L. 90–575, title I, § 119(a), Oct. 16, 1968, 82 Stat. 1026; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2103; Pub. L. 95–43, § 1(a)(14), June 15, 1977, 91 Stat. 214; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, limited participation in Federal loan insurance programs, prior to the general revision of this part by Pub. L. 99–498.

§ 1074. Scope and duration of Federal loan insurance program

(a) Limitations on amounts of loans covered by Federal insurance

The total principal amount of new loans made and installments paid pursuant to lines of credit

(as defined in section 1085 of this title) to students covered by Federal loan insurance under this part shall not exceed $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 2004. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 2008.

(b) Apportionment of amounts

The Secretary may, if he or she finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a) of this section, Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

(Pub. L. 89–329, title IV, § 424, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1358; amended Pub. L. 102–325, title IV, § 411(b)(1), July 23, 1992, 106 Stat. 510; Pub. L. 105–33, title VI, § 6104(1), Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–244, title IV, § 414, Oct. 7, 1998, 112 Stat. 1679.)

PRIOR PROVISIONS

A prior section 1074, Pub. L. 89–329, title IV, § 424, Nov. 8, 1965, 79 Stat. 1237; Pub. L. 90–460, § 1(a)(1), Aug. 3, 1968, 82 Stat. 634; Pub. L. 90–575, title I, § 112(a), Oct. 16, 1968, 82 Stat. 1020; Pub. L. 92–318, title I, § 132(a), June 23, 1972, 86 Stat. 261; Pub. L. 94–328, § 2(a), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2103; Pub. L. 96–374, title IV, § 411(a), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1415, 1503; Pub. L. 99–272, title XVI, § 16018(a)(1), Apr. 7, 1986, 100 Stat. 348, related to new loans under Federal loan insurance program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244 substituted ''October 1, 2004'' for ''October 1, 2002'' and ''September 30, 2008'' for ''September 30, 2006''.

1997—Subsec. (a). Pub. L. 105–33 substituted ''October 1, 2002'' for ''October 1, 1998'' and ''September 30, 2006'' for ''September 30, 2002''.

1992—Subsec. (a). Pub. L. 102–325 substituted ''October 1, 1998'' for ''October 1, 1992'' and ''September 30, 2002'' for ''September 30, 1997''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1075. Limitations on individual federally insured loans and on Federal loan insurance

(a) Annual and aggregate limits

(1) Annual limits

(A) The total of loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this part may not exceed—

(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

(I) $2,625, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title); and

(II) if such student is enrolled in a program of undergraduate education which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to one academic year;

(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

(I) $3,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

(I) $5,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year; and

(iv) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500.

(B) The annual insurable limits contained in subparagraph (A) shall not apply in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education. The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

(C) For the purpose of subparagraph (A), the number of years that a student has completed in a program of undergraduate education shall

include any prior enrollment in an eligible program of undergraduate education for which the student was awarded an associate or baccalaureate degree, if such degree is required by the institution for admission to the program in which the student is enrolled.

(2) Aggregate limits

(A) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed—

(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1[1] or 1078–2 of this title; and

(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary) and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student),[2] but (II) excluding loans made under section 1078–1[1] or 1078–2 of this title,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

(B) The Secretary may increase the aggregate insurable limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

(b) Level of insurance coverage based on default rate

(1) Reduction for defaults in excess of 5 or 9 percent

(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Secretary under this part shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest, except that—

(i) if, for any fiscal year, the total amount of payments under section 1080 of this title by the Secretary to any eligible lender as described in section 1085(d)(1)(D) of this title exceeds 5 percent of the sum of the loans made by such lender which are insured by the Secretary and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 90 percent of the amount of such portion; or

(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 percent of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 80 percent of the amount of such portion.

(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) of such subparagraph shall not apply to an eligible lender as described in section 1085(d)(1)(D) of this title for the fiscal year in which such lender begins to carry on a loan program insured by the Secretary, or for any of the 4 succeeding fiscal years.

(C) The applicable date with respect to a loan made by an eligible lender as described in section 1085(d)(1)(D) of this title shall be—

(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after October 12, 1976, or

(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

(2) Computation of amounts in repayment

For the purpose of this subsection, the sum of the loans made by a lender which are insured by the Secretary and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Secretary reduced by—

(A) the amount the Secretary has been required to pay to discharge his or her insurance obligations under this part;

(B) the original principal amount of loans insured by the Secretary which have been fully repaid;

(C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 1077(a)(2)(B) of this title or such first installment need not be paid pursuant to section 1077(a)(2)(C) of this title; and

(D) the original principal amount of loans repaid by the Secretary under section 1087 of this title.

(3) Payments to assignees

For the purpose of this subsection, payments by the Secretary under section 1080 of this title to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

(4) Pledge of full faith and credit

The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 1080 or 1087 of this title.

(Pub. L. 89–329, title IV, § 425, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1359; amended Pub. L. 100–50, § 10(a), June 3, 1987, 101 Stat. 341; Pub. L. 102–325, title IV, § 413, July 23, 1992, 106 Stat. 512; Pub. L. 103–208, § 2(c)(2), (3), Dec. 20, 1993, 107 Stat. 2460, 2461; Pub. L. 105–244, title IV, § 415, Oct. 7, 1998, 112 Stat. 1679.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (a)(2)(A), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible

[1] See References in Text note below.

[2] So in original. There is no opening parenthesis.

agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

PRIOR PROVISIONS

A prior section 1075, Pub. L. 89–329, title IV, § 425, Nov. 8, 1965, 79 Stat. 1238; Pub. L. 90–575, title I, §§ 116(b)(1), 120(a)(2), Oct. 16, 1968, 82 Stat. 1023, 1027; Pub. L. 92–318, title I, §§ 132A(a), 132B(a), June 23, 1972, 86 Stat. 261, 262; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2104; Pub. L. 95–43, § 1(a)(15)–(17), June 15, 1977, 91 Stat. 214; Pub. L. 95–566, § 5(b)(2), Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title IV, § 412(a), (b), (f), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1416, 1417, 1503; Pub. L. 97–35, title V, § 535(a), (b), Aug. 13, 1981, 95 Stat. 455; Pub. L. 99–272, title XVI, § 16013(e)(1), Apr. 7, 1986, 100 Stat. 341, limited Federal loan insurance, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(1)(A)(i)(I). Pub. L. 105–244, § 415(1)(A), inserted ''and'' after semicolon.

Subsec. (a)(1)(A)(i)(II), (III). Pub. L. 105–244, § 415(1)(B), added subcl. (II) and struck out former subcls. (II) and (III) which read as follows:

''(II) $1,750, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;''.

Subsec. (a)(1)(A)(iii)(II). Pub. L. 105–244, § 415(2), inserted ''and'' after semicolon at end.

1993—Subsec. (a)(1)(A)(ii), (iii). Pub. L. 103–208, § 2(c)(2)(A), added cls. (ii) and (iii) and struck out former cls. (ii) and (iii) which read as follows:

''(ii) the case of a student who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study—

''(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

''(II) $2,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(III) $1,175, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

''(iii) in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

''(I) $5,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

''(II) $3,675, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(III) $1,825, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and''.

Subsec. (a)(1)(A)(iv). Pub. L. 103–208, § 2(c)(2)(B), substituted a period for semicolon at end.

Subsec. (a)(1)(C). Pub. L. 103–208, § 2(c)(3), added subpar. (C).

1992—Subsec. (a)(1)(A). Pub. L. 102–325, § 413(1), added cls. (i) to (iv) and struck out former cls. (i) to (iii) which read as follows:

''(i) $2,625, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

''(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; or

''(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary).''

Subsec. (a)(2)(A). Pub. L. 102–325, § 413(2), added cls. (i) and (ii) and concluding provision and struck out former cls. (i) and (ii) which read as follows:

''(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1 or 1078–2 of this title; and

''(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such person before he or she became a graduate or professional student), excluding loans made under section 1078–1 or 1078–2 of this title.''

1987—Subsec. (a)(2)(A)(i). Pub. L. 100–50, § 10(a)(1), inserted '', excluding loans made under section 1078–1 or 1078–2 of this title'' after ''undergraduate education''.

Subsec. (a)(2)(A)(ii). Pub. L. 100–50, § 10(a)(2), inserted '', excluding loans made under section 1078–1 or 1078–2 of this title'' after ''graduate or professional student)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(c)(2) of Pub. L. 103–208 effective on and after July 1, 1994 and amendment by section 2(c)(3) of Pub. L. 103–208 effective on and after Dec. 20, 1993, see section 5(b)(2), (6) of Pub. L. 103–208 set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, with changes made in subsec. (a), relating to annual and aggregate loan limits, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, except that changes made in subsec. (a)(1)(A)(i) applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, and except that changes made in subsec. (a)(1)(A)(iv) applicable with respect to loans to cover costs of instruction for periods of enrollment beginning on or after Oct. 1, 1993, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except that subsec. (a) of this section applicable only to loans disbursed on or after Jan. 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

§ 1076. Sources of funds

Loans made by eligible lenders in accordance with this part shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

(Pub. L. 89–329, title IV, § 426, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1361.)

PRIOR PROVISIONS

A prior section 1076, Pub. L. 89–329, title IV, § 426, Nov. 8, 1965, 79 Stat. 1238; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2106; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to insurability of loans made from funds owned by lender or

held by lender in trust, prior to the general revision of this part by Pub. L. 99–498.

§ 1077. Eligibility of student borrowers and terms of federally insured student loans

(a) List of requirements

Except as provided in section 1078–3 of this title, a loan by an eligible lender shall be insurable by the Secretary under the provisions of this part only if—

(1) made to a student who (A) is an eligible student under section 1091 of this title, (B) has agreed to notify promptly the holder of the loan concerning any change of address, and (C) is carrying at least one-half the normal full-time academic workload for the course of study the student is pursuing (as determined by the institution); and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement;

(B) provides for repayment (except as provided in subsection (c) of this section) of the principal amount of the loan in installments over a period of not less than 5 years (unless sooner repaid or unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

(i) as provided in subparagraph (C);

(ii) that the note or other written instrument may contain such reasonable provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made; and

(iii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, but in the event a borrower has requested and obtained a repayment period of less than 5 years, the borrower may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than 5 years;

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment; or

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(*o*) of this title, has caused or will cause the borrower to have an economic hardship;

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (B);

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed in section 1077a of this title, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest accrued during that period may be added on that date to the principal;

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Secretary under this part, and that the lender will enter into such agreements with the Secretary as may be necessary for the purpose of section 1087 of this title;

(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan;

(G)(i) contains a notice of the system,[1] of disclosure of information concerning such loan to credit bureau organizations under section 1080a of this title, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations;

(H) provides that, no more than 6 months prior to the date on which the borrower's first payment on a loan is due, the lender shall offer the borrower the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with the regulations of the Secretary; and

(I) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Secretary pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to

[1] So in original. The comma probably should not appear.

the insurance premiums payable by the lender to the Secretary with respect to such loan;

(3) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except—

(A) that nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted—

(i) to allow the Secretary to require checks to be made copayable to the institution and the borrower; or

(ii) to prohibit the disbursement of loan proceeds by means other than by check; and

(B) in the case of any student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney; and

(4) the funds borrowed by a student are disbursed in accordance with section 1078–7 of this title.

(b) Special rules for multiple disbursement

For the purpose of subsection (a)(4) of this section—

(1) all loans issued for the same period of enrollment shall be considered as a single loan; and

(2) the requirements of such subsection shall not apply in the case of a loan made under section 1078–2 or 1078–3 of this title, or made to a student to cover the cost of attendance at an eligible institution outside the United States.

(c) Special repayment rules

Except as provided in subsection (a)(2)(H) of this section, the total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less (but in no instance less than the amount of interest due and payable).

(d) Borrower information

The lender shall obtain the borrower's driver's license number, if any, at the time of application for the loan.

(Pub. L. 89–329, title IV, § 427, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1361; amended Pub. L. 100–50, § 10(b), (c), June 3, 1987, 101 Stat. 341; Pub. L. 100–369, §§ 5(b)(1), 7(c), 11(a), July 18, 1988, 102 Stat. 836–838; Pub. L. 101–239, title II, §§ 2002(a)(1), 2004(b)(2), Dec. 19, 1989, 103 Stat. 2111, 2116; Pub. L. 102–164, title VI, §§ 601(a), 602(a), Nov. 15, 1991, 105 Stat. 1065, 1066; Pub. L. 102–325, title IV, § 414, July 23, 1992, 106 Stat. 513; Pub. L. 103–208, § 2(c)(4), Dec. 20, 1993, 107 Stat. 2461.)

PRIOR PROVISIONS

A prior section 1077, Pub. L. 89–329, title IV, § 427, Nov. 8, 1965, 79 Stat. 1238; Pub. L. 89–794, title XI, § 1101(b)(1), Nov. 8, 1966, 80 Stat. 1476; Pub. L. 90–460, § 2(a)(1), Aug. 3, 1968, 82 Stat. 635; Pub. L. 90–575, title I, §§ 113(b)(2), 116(b)(2), 117(c), 120(c)(2), Oct. 16, 1968, 82 Stat. 1021, 1023, 1026, 1027; Pub. L. 92–318, title I, §§ 132B(b), 132C(c), June 23, 1972, 86 Stat. 262, 263; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2106; Pub. L. 95–43, § 1(a)(9), (18), June 15, 1977, 91 Stat. 213, 214; Pub. L. 95–566, § 5(a)(1), Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–374, title IV, §§ 413(a), (c), 415(a)(2), (b)(1), 416(a)(2), 423(a)(1), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1417–1421, 1432, 1503; Pub. L. 97–35, title V, § 537(b)(1), (d)(2), (e)(1), Aug. 13, 1981, 95 Stat. 456, 457; Pub. L. 98–79, § 10[(a)], Aug. 15, 1983, 97 Stat. 484; Pub. L. 99–272, title XVI, §§ 16012(a), 16013(b), 16017(b)(1), Apr. 7, 1986, 100 Stat. 339, 340, 347, set out conditions for Federal loan insurance, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (a)(2)(C)(i). Pub. L. 103–208 inserted ''section'' before ''1078–2 or 1078–3''.

1992—Subsec. (a)(2)(A). Pub. L. 102–325, § 414(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''is made without security and without endorsement, except that prior to making a loan insurable by the Secretary under this part a lender shall—

''(i) obtain a credit report, from at least one national credit bureau organization, with respect to a loan applicant who will be at least 21 years of age as of July 1 of the award year for which assistance is being sought, for which the lender may charge the applicant an amount not to exceed the lesser of $25 or the actual cost of obtaining the credit report; and

''(ii) require an applicant of the age specified in clause (i) who, in the judgment of the lender in accordance with the regulations of the Secretary, has an adverse credit history, to obtain a credit worthy cosigner in order to obtain the loan, provided that, for purposes of this clause, an insufficient or nonexistent credit history may not be considered to be an adverse credit history;''.

Subsec. (a)(2)(C). Pub. L. 102–325, § 414(b), amended subpar. (C) generally, revising and restating as cls. (i) to (iii) provisions formerly contained in cls. (i) to (xi).

Subsec. (a)(2)(G) to (I). Pub. L. 102–325, § 414(c)(1), struck out ''and'' at end of subpar. (G), added subpar. (H), and redesignated former subpar. (H) as (I).

Subsec. (a)(3). Pub. L. 102–325, § 414(d), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and''.

Subsec. (c). Pub. L. 102–325, § 414(c)(2), (e), substituted ''Special repayment rules'' for ''Minimum repayment rate'' in heading and in text ''Except as provided in subsection (a)(2)(H) of this section, the total'' for ''The total'' and ''(but in no instance less than the amount of interest due and payable)'' for '', except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less''.

1991—Subsec. (a)(2)(A). Pub. L. 102–164, § 601(a), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by the borrower would not, under the applicable law, create a binding obligation, endorsement may be required;''.

Subsec. (d). Pub. L. 102–164, § 602(a), added subsec. (d).

1989—Subsec. (a)(2)(C)(i). Pub. L. 101–239, § 2002(a)(1), inserted before semicolon at end '', except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program''.

Subsec. (a)(4). Pub. L. 101–239, § 2004(b)(2), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''in the case of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of $1,000 or more, the proceeds of the loan will, subject to subsection (b) of this section, be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the second installment being disbursed after not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment).''

1988—Subsec. (a)(2)(C)(v). Pub. L. 100–369, § 7(c), substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (a)(2)(C)(vii). Pub. L. 100–369, § 11(a), inserted ''after January 1, 1986,'' after ''service''.

Subsec. (b)(2). Pub. L. 100–369, § 5(b)(1), substituted ''section 1078–2 or 1078–3'' for ''section 1078–1, 1078–2, or 1078–3''.

1987—Subsec. (a)(2)(C)(vi). Pub. L. 100–50, § 10(b)(1), inserted ''nonprofit'' before ''private''.

Subsec. (a)(2)(C)(vii). Pub. L. 100–50, § 10(b)(2), inserted ''or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training'' before semicolon at end.

Subsec. (a)(4). Pub. L. 100–50, § 10(c), substituted ''$1,000 or more'' for ''more than $1,000''.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1003 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in subsec. (a)(2)(C), relating to deferments, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on date such individual applies for a loan, and except that changes made in subsec. (a)(2)(H), relating to offering graduated or income sensitive repayment options, applicable with respect to loans for which first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on date such individual applies for a loan, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 2002(a)(4) of Pub. L. 101–239 provided that: ''The amendments made by this subsection [amending this section and sections 1078 and 1087dd of this title] shall apply to any loan made, insured, or guaranteed under part B or part E of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq., 1087aa et seq.], including a loan made before the enactment of this Act [Dec. 19, 1989], and shall take effect on January 1, 1990, except that such amendments shall not apply with respect to any portion of a period of deferment granted to a borrower under section 427(a)(2)(C)(i), 428(b)(1)(M)(i), or 464(c)(2)(A)(i) of the Higher Education Act of 1965 [sections 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), 1087dd(c)(2)(A)(i) of this title] for service in a medical internship or residency program that is completed prior to the effective date of this section [Dec. 19, 1989].''

Section 2004(c) of Pub. L. 101–239 provided that: ''The amendments made by this section [enacting section 1078–7 of this title and amending this section and section 1078 of this title] shall apply with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1990.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 11(b) of Pub. L. 100–369 provided that: ''The amendments made by subsection (a) [amending this section and section 1078 of this title] and section 10(b) of the Higher Education Technical Amendments Act of 1987 [section 10(b) of Pub. L. 100–50, amending this section and section 1078 of this title] shall apply with respect to loans made, insured or guaranteed under part B of the Higher Education Act of 1965 [probably means part B of title IV of Pub. L. 89–329 which is classified to this part], on, before, or after the date of enactment of the Higher Education Technical Amendments Act of 1987 [June 3, 1987].''

Amendment by section 5(b)(1) of Pub. L. 100–369 effective with respect to loans made on or after Oct. 1, 1988, and amendment by section 7(c) of Pub. L. 100–369 effective July 18, 1988, see section 13(b) of Pub. L. 100–369, set out as a note under section 1091 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 10(b) of Pub. L. 100–50 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100–369, set out as an Effective Date of 1988 Amendment note above.

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except that subsec. (a)(2)(C) (other than cls. (viii), (ix), and (x) thereof) of this section shall apply only to loans to new borrowers made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, or disbursed on or after July 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

§ 1077a. Applicable interest rates

(a) Rates to be consistent for borrower's entire debt

With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

(1) not exceed 7 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 percent;

(2) except as provided in paragraph (3), be 9 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

(3) be 8 percent per year on the unpaid principal balance of the loan for a loan to cover

the cost of education for any period of enrollment beginning on or after a date which is 3 months after a determination made under subsection (b) of this section in the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

(b) Reduction for new borrowers after decline in Treasury bill rates

If for any 12-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 9 percent, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) of this section for borrowers described in such subsection.

(c) Rates for supplemental loans for students and loans for parents

(1) In general

Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 1078–1[1] or 1078–2 of this title on or after October 1, 1981, shall be 14 percent per year on the unpaid principal balance of the loan.

(2) Reduction of rate after decline in Treasury bill rates

If for any 12-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 14 percent, the applicable rate of interest for loans made pursuant to section 1078–1[1] or 1078–2 of this title on and after the first day of the first month beginning after the date of publication of such determination shall be 12 percent per year on the unpaid principal balance of the loan.

(3) Increase of rate after increase in Treasury bill rates

If for any 12-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period exceeds 14 percent, the applicable rate of interest for loans made pursuant to section 1078–1[1] or 1078–2 of this title on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 percent per year on the unpaid principal balance of the loan.

(4) Availability of variable rates

(A) For any loan made pursuant to section 1078–1[1] or 1078–2 of this title and disbursed on or after July 1, 1987, or any loan made pursuant to such section prior to such date that is refinanced pursuant to section 1078–1(d)[1] or 1078–2(d) of this title, the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined under subparagraph (B), except that such rate shall not exceed 12 percent.

(B)(i) For any 12-month period beginning on July 1 and ending on or before June 30, 2001, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

(I) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

(II) 3.25 percent.

(ii) For any 12-month period beginning on July 1 of 2001 or any succeeding year, the rate determined under this subparagraph is determined on the preceding June 26 and is equal to—

(I) the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before such June 26; plus

(II) 3.25 percent.

(C) The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(D) Notwithstanding subparagraph (A)—

(i) for any loan made pursuant to section 1078–1[1] of this title for which the first disbursement is made on or after October 1, 1992—

(I) subparagraph (B) shall be applied by substituting ''3.1'' for ''3.25''; and

(II) the interest rate shall not exceed 11 percent; and

(ii) for any loan made pursuant to section 1078–2 of this title for which the first disbursement is made on or after October 1, 1992—

(I) subparagraph (B) shall be applied by substituting ''3.1'' for ''3.25''; and

(II) the interest rate shall not exceed 10 percent.

(E) Notwithstanding subparagraphs (A) and (D) for any loan made pursuant to section 1078–2 of this title for which the first disbursement is made on or after July 1, 1994—

(i) subparagraph (B) shall be applied by substituting ''3.1'' for ''3.25''; and

(ii) the interest rate shall not exceed 9 percent.

(d) Interest rates for new borrowers after July 1, 1988

Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to sections 1078–1,[1] 1078–2, and 1078–3 of this title) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1988, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding bal-

[1] See References in Text note below.

ance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

(1) 8 percent per year on the unpaid principal balance of the loan during the period beginning on the date of the disbursement of the loan and ending 4 years after the commencement of repayment; and

(2) 10 percent per year on the unpaid principal balance of the loan during the remainder of the repayment period.

(e) Interest rates for new borrowers after October 1, 1992

(1) In general

Notwithstanding subsections (a), (b), and (d) of this section, with respect to any loan (other than a loan made pursuant to sections 1078–1,[2] 1078–2 and 1078–3 of this title) for which the first disbursement is made on or after October 1, 1992, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under section 1077, 1078, or 1078–8 of this title, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.10 percent,

except that such rate shall not exceed 9 percent.

(2) Consultation

The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(f) Interest rates for new loans after July 1, 1994

(1) In general

Notwithstanding subsections (a), (b), (d), and (e) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.10 percent,

except that such rate shall not exceed 8.25 percent.

(2) Consultation

The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(g) In school and grace period rules

(1) General rule

Notwithstanding the provisions of subsection (f) of this section, but subject to subsection (h) of this section, with respect to any loan under section 1078 or 1078–8 of this title for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall not exceed the rate determined under paragraph (2).

(2) Rate determination

For purposes of paragraph (1), the rate determined under this paragraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

(B) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

(3) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(h) Interest rates for new loans after July 1, 1998

(1) In general

Notwithstanding subsections (a), (b), (d), (e), (f), and (g) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to sections 1078–2 and 1078–3 of this title) for which the first disbursement is made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of the securities with a comparable maturity as established by the Secretary; plus

(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

(2) Interest rates for new plus loans after July 1, 1998

Notwithstanding subsections (a), (b), (d), (e), (f), and (g) of this section, with respect to any loan made under section 1078–2 of this title for which the first disbursement is made on or after July 1, 1998, paragraph (1) shall be applied—

(A) by substituting ''2.1 percent'' for ''1.0 percent'' in subparagraph (B); and

[2] See References in Text note below.

(B) by substituting ''9.0 percent'' for ''8.25 percent'' in the matter following such subparagraph.

(3) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(i) Treatment of excess interest payments on new borrower accounts resulting from decline in Treasury bill rates

(1) Excess interest on 10 percent loans

If, with respect to a loan for which the applicable interest rate is 10 percent under subsection (d) of this section at the close of any calendar quarter, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.25 percent is less than 10 percent, then an adjustment shall be made to a borrower's account—

(A) by calculating excess interest in the amount computed under paragraph (2) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 1078(a) of this title, by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

(2) Amount of adjustment for 10 percent loans

The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) 10 percent minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.25 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(C) four.

(3) Excess interest on loans after 1992 amendments, to borrowers with outstanding balances

If, with respect to a loan made on or after July 23, 1992, to a borrower, who on the date of entering into the note or other written evidence of the loan, has an outstanding balance of principal or interest on any other loan made, insured, or guaranteed under this part, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.1 percent is less than the applicable interest rate, then an adjustment shall be made—

(A) by calculating excess interest in the amount computed under paragraph (4) of this subsection; and

(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 1078(a) of this title, by crediting the excess interest to the Government; or

(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

(4) Amount of adjustment

The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) the applicable interest rate minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.1 percent; multiplied by

(B) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

(C) four.

(5) Annual adjustment of interest and borrower eligibility for credit

Any adjustment amount computed pursuant to paragraphs (2) and (4) of this subsection for any quarter shall be credited, by the holder of the loan on the last day of the calendar year in which such quarter falls, to the loan account of the borrower so as to reduce the principal balance of such account. No such credit shall be made to the loan account of a borrower who on the last day of the calendar year is delinquent for more than 30 days in making a required payment on the loan, but the excess interest shall be calculated and credited to the Secretary. Any credit which is to be made to a borrower's account pursuant to this subsection shall be made effective commencing no later than 30 days following the last day of the calendar year in which the quarter falls for which the credit is being made. Nothing in this subsection shall be construed to require refunding any repayment of a loan. At the option of the lender, the amount of such adjustment may be distributed to the borrower either by reduction in the amount of the periodic payment on loan, by reducing the number of payments that shall be made with respect to the loan, or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 1083(b) of this title.

(6) Publication of Treasury bill rate

For the purpose of enabling holders of loans to make the determinations and adjustments provided for in this subsection, the Secretary shall for each calendar quarter commencing with the quarter beginning on July 1, 1987, publish a notice of the average of the bond equivalent rates of 91-day Treasury bills auctioned for such quarter. Such notice shall be published not later than 7 days after the end of the quarter to which the notice relates.

(7) Conversion to variable rate

(A) Subject to subparagraphs (C) and (D), a lender or holder shall convert the interest rate on a loan that is made pursuant to this part

and is subject to the provisions of this subsection to a variable rate. Such conversion shall occur not later than January 1, 1995, and, commencing on the date of conversion, the applicable interest rate for each 12-month period beginning on July 1 and ending on June 30 shall be determined by the Secretary on the June 1 preceding each such 12-month period and be equal to the sum of (i) the bond equivalent rate of the 91-day Treasury bills auctioned at the final auction prior to such June 1; and (ii) 3.25 percent in the case of loans described in paragraph (1), or 3.10 percent in the case of loans described in paragraph (3).

(B) In connection with the conversion specified in subparagraph (A) for any period prior to such conversion, and subject to paragraphs (C) and (D), a lender or holder shall convert the interest rate to a variable rate on a loan that is made pursuant to this part and is subject to the provisions of this subsection to a variable rate. The interest rates for such period shall be reset on a quarterly basis and the applicable interest rate for any quarter or portion thereof shall equal the sum of (i) the average of the bond equivalent rates of 91-Treasury bills auctioned for the preceding 3-month period, and (ii) 3.25 percent in the case of loans described in paragraph (1) or 3.10 percent in the case of loans described in paragraph (3). The rebate of excess interest derived through this conversion shall be provided to the borrower as specified in paragraph (5) for loans described in paragraph (1) or to the Government and borrower as specified in paragraph (3).

(C) A lender or holder of a loan being converted pursuant to this paragraph shall complete such conversion on or before January 1, 1995. The lender or holder shall notify the borrower that the loan shall be converted to a variable interest rate and provide a description of the rate to the borrower not later than 30 days prior to the conversion. The notice shall advise the borrower that such rate shall be calculated in accordance with the procedures set forth in this paragraph and shall provide the borrower with a substantially equivalent benefit as the adjustment otherwise provided for under this subsection. Such notice may be incorporated into the disclosure required under section 1083(b) of this title if such disclosure has not been previously made.

(D) The interest rate on a loan converted to a variable rate pursuant to this paragraph shall not exceed the maximum interest rate applicable to the loan prior to such conversion.

(E) Loans on which the interest rate is converted in accordance with subparagraph (A) or (B) shall not be subject to any other provisions of this subsection.

(j) Interest rates for new loans between July 1, 1998 and October 1, 1998

(1) In general

Notwithstanding subsection (h) of this section, but subject to paragraph (2), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(2) In school and grace period rules

Notwithstanding subsection (h) of this section, with respect to any loan under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall be determined under paragraph (1) by substituting ''1.7 percent'' for ''2.3 percent''.

(3) PLUS loans

Notwithstanding subsection (h) of this section, with respect to any loan under section 1078–2 of this title for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to the lesser of—

(A)(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 3.1 percent; or

(B) 9.0 percent.

(4) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(k) Interest rates for new loans on or after October 1, 1998, and before July 1, 2006

(1) In general

Notwithstanding subsection (h) of this section and subject to paragraph (2) of this subsection, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(2) In school and grace period rules

Notwithstanding subsection (h) of this section, with respect to any loan under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest for interest which accrues—

(A) prior to the beginning of the repayment period of the loan; or

(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1077(a)(2)(C) or 1078(b)(1)(M) of this title,

shall be determined under paragraph (1) by substituting ''1.7 percent'' for ''2.3 percent''.

(3) PLUS loans

Notwithstanding subsection (h) of this section, with respect to any loan under section 1078–2 of this title for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be determined under paragraph (1)—

(A) by substituting ''3.1 percent'' for ''2.3 percent''; and

(B) by substituting ''9.0 percent'' for ''8.25 percent''.

(4) Consolidation loans

With respect to any consolidation loan under section 1078–3 of this title for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(A) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of 1 percent; or

(B) 8.25 percent.

(5) Consultation

The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(*l*) Interest rates for new loans on or after July 1, 2006

(1) In general

Notwithstanding subsection (h) of this section, with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 1078–2 or 1078–3 of this title) for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

(2) PLUS loans

Notwithstanding subsection (h) of this section, with respect to any loan under section 1078–2 of this title for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 7.9 percent on the unpaid principal balance of the loan.

(3) Consolidation loans

With respect to any consolidation loan under section 1078–3 of this title for which the application is received by an eligible lender on or after July 1, 2006, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(A) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of 1 percent; or

(B) 8.25 percent.

(m) Lesser rates permitted

Nothing in this section or section 1078–3 of this title shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

(n) Definitions

For the purpose of subsections (a) and (d) of this section—

(1) the term ''period of instruction'' shall, at the discretion of the lender, be any academic year, semester, trimester, quarter, or other academic period; or shall be the period for which the loan is made as determined by the institution of higher education; and

(2) the term ''period of enrollment'' shall be the period for which the loan is made as determined by the institution of higher education and shall coincide with academic terms such as academic year, semester, trimester, quarter, or other academic period as defined by such institution.

(Pub. L. 89–329, title IV, § 427A, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1364; amended Pub. L. 100–50, § 10(d)(1), June 3, 1987, 101 Stat. 342; Pub. L. 102–325, title IV, § 415, July 23, 1992, 106 Stat. 514; Pub. L. 103–66, title IV, § 4101, Aug. 10, 1993, 107 Stat. 364; Pub. L. 103–208, § 2(c)(5)–(10), Dec. 20, 1993, 107 Stat. 2461; Pub. L. 105–178, title VIII, § 8301(a)(1), June 9, 1998, 112 Stat. 496; Pub. L. 105–244, title IV, § 416(a)(1), Oct. 7, 1998, 112 Stat. 1679; Pub. L. 106–554, § 1(a)(1) [title III, § 318(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–49; Pub. L. 107–139, § 1(a)(1), (c), Feb. 8, 2002, 116 Stat. 8, 9.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsecs. (c) to (e)(1), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

CODIFICATION

Amendments by section 2(c)(6)–(10) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1077a, Pub. L. 89–329, title IV, § 427A, as added Pub. L. 96–374, title IV, § 415(a)(1), Oct. 3, 1980,

94 Stat. 1419; amended Pub. L. 97–35, title V, § 534(a)(1), Aug. 13, 1981, 95 Stat. 454; Pub. L. 98–79, § 5(a), (b)(1), Aug. 15, 1983, 97 Stat. 481, 482, prescribed applicable interest rates on loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2002—Subsec. (k). Pub. L. 107–139, § 1(c), substituted ''2006'' for ''2003'' in heading and ''July 1, 2006,'' for ''July 1, 2003,'' wherever appearing in text.

Subsecs. (*l*) to (n). Pub. L. 107–139, § 1(a)(1), added subsec. (*l*) and redesignated former subsecs. (*l*) and (m) as (m) and (n), respectively.

2000—Subsec. (c)(4)(B). Pub. L. 106–554 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''For any 12-month period beginning on July 1 and ending on June 30, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

''(i) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

''(ii) 3.25 percent.''

1998—Subsec. (j). Pub. L. 105–178, § 8301(a)(1)(B), added subsec. (j). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 105–244, § 416(a)(1)(B), added subsec. (k). Former subsec. (k) redesignated (*l*).

Pub. L. 105–178, § 8301(a)(1)(A), redesignated subsec. (j) as (k). Former subsec. (k) redesignated (*l*).

Subsec. (*l*). Pub. L. 105–244, § 416(a)(1)(A), redesignated subsec. (k) as (*l*). Former subsec. (*l*) redesignated (m).

Pub. L. 105–178, § 8301(a)(1)(A), redesignated subsec. (k) as (*l*).

Subsec. (m). Pub. L. 105–244, § 416(a)(1)(A), redesignated subsec. (*l*) as (m).

1993—Subsec. (c)(4)(E). Pub. L. 103–66, § 4101(1), added subpar. (E).

Subsec. (e)(1). Pub. L. 103–208, § 2(c)(5), substituted ''under section 1077, 1078, or 1078–8 of this title'' for ''under this part''.

Subsecs. (f) to (h). Pub. L. 103–66, § 4101(3), added subsecs. (f) to (h). Former subsecs. (f) to (h) redesignated (i) to (k), respectively.

Subsec. (i). Pub. L. 103–66, § 4101(2), redesignated subsec. (f) as (i).

Subsec. (i)(1)(B). Pub. L. 103–208, § 2(c)(6), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''by crediting the excess interest to the reduction of principal to the extent provided for under paragraph (5) of this subsection.'' See Codification note above.

Subsec. (i)(2)(B). Pub. L. 103–208, § 2(c)(7), substituted ''average daily principal balance'' for ''outstanding principal balance'' and ''during'' for ''at the end of''. See Codification note above.

Subsec. (i)(4)(B). Pub. L. 103–208, § 2(c)(8), substituted ''average daily principal balance'' for ''outstanding principal balance'' and ''during'' for ''at the end of''. See Codification note above.

Subsec. (i)(5). Pub. L. 103–208, § 2(c)(9)(A)(i), (B), substituted ''paragraphs (2) and (4)'' for ''paragraph (2)'' in first sentence and inserted '', but the excess interest shall be calculated and credited to the Secretary'' after ''required payment on the loan'' in second sentence. See Codification note above.

Pub. L. 103–208, § 2(c)(9)(A)(ii), which directed substitution of ''principal'' for ''principle'' in first sentence, could not be executed because the word ''principle'' does not appear in text.

Subsec. (i)(7). Pub. L. 103–208, § 2(c)(10), added par. (7). See Codification note above.

Subsecs. (j), (k). Pub. L. 103–66, § 4101(2), redesignated subsecs. (g) and (h) as (j) and (k), respectively.

1992—Subsec. (c)(4)(D). Pub. L. 102–325, § 415(a), added subpar. (D).

Subsec. (e). Pub. L. 102–325, § 415(c)(2), added subsec. (e). Former subsec. (e) redesignated (f).

Pub. L. 102–325, § 415(b), amended par. (1) heading and substituted ''paragraph (5)'' for ''paragraph (3)'' in par. (1)(B), amended par. (2) heading, added pars. (3) and (4), redesignated former par. (3) as (5), struck out ''or'' before ''by reducing the number'' and inserted '', or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 1083(b) of this title'' before period at end, redesignated former par. (4) as (6), and struck out former par. (5) which provided for study of treatment of excess interest payments provisions.

Subsecs. (f) to (h). Pub. L. 102–325, § 415(c)(1), redesignated subsecs. (e) to (g) as (f) to (h), respectively.

1987—Subsec. (c)(4)(A). Pub. L. 100–50, § 10(d)(1)(A), (B), substituted ''and disbursed on or after July 1, 1987'' for ''to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1987'' and ''any 12-month period beginning on or after July 1 and ending on June 30'' for ''any calendar year''.

Subsec. (c)(4)(B). Pub. L. 100–50, § 10(d)(1)(C), added subpar. (B) and struck out former subpar. (B) which read as follows: ''For any calendar year, the rate determined under this subparagraph is determined on December 15 preceding such calendar year and is equal to—

''(i) the average of the bond equivalent rates of 91-day Treasury bills auctioned during the 12 months ending on November 30 preceding such calendar year; plus

''(ii) 3.75 percent.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, title IV, § 416(c), Oct. 7, 1998, 112 Stat. 1682, provided that: ''The amendments made by this section [amending this section and sections 1078–2, 1078–3, and 1087–1 of this title] shall apply with respect to any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 [20 U.S.C. 1071 et seq.] for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, except that such amendments shall apply with respect to any loan made under section 428C of such Act [20 U.S.C. 1078–3] for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(c)(5) of Pub. L. 103–208 effective on and after Dec. 20, 1993, and amendment by section 2(c)(6)–(10) of Pub. L. 103–208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, see section 5(a), (b)(2) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1078. Federal payments to reduce student interest costs

(a) Federal interest subsidies

(1) Types of loans that qualify

Each student who has received a loan for study at an eligible institution—

(A) which is insured by the Secretary under this part; or

(B) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph

(E) of subsection (b)(1) of this section and provides that repayment of such loan shall be in installments beginning not earlier than 60 days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1) of this section) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, was made by an eligible lender and is insured under a program covered by an agreement made pursuant to subsection (b) of this section,

shall be entitled to have paid on his or her behalf and for his or her account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

(2) Additional requirements to receive subsidy

(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(I) sets forth the loan amount for which the student shows financial need; and

(II) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title; and

(ii) meet the requirements of subparagraph (B); and

(iii) have provided to the lender at the time of application for a loan made, insured, or guaranteed under this part, the student's driver's number, if any.

(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has determined and documented the student's amount of need for a loan based on the student's estimated cost of attendance, estimated financial assistance, and, for the purpose of an interest payment pursuant to this section, expected family contribution (as determined under part E of this subchapter), subject to the provisions of subparagraph (D).

(C) For the purpose of subparagraph (B) and this paragraph—

(i) a student's cost of attendance shall be determined under section 1087*ll* of this title;

(ii) a student's estimated financial assistance means, for the period for which the loan is sought—

(I) the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42 and part D of this subchapter;

(II) any veterans' education benefits paid because of enrollment in a postsecondary education institution, including veterans' education benefits (as defined in section 1087vv(c) of this title, but excluding benefits described in paragraph (2)(E) of such section); plus

(III) other scholarship, grant, or loan assistance, but excluding any national service education award or post-service benefit under title I of the National and Community Service Act of 1990 [42 U.S.C. 12511 et seq.]; and

(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part E of this subchapter.

(D) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which certifies the eligibility of any student to receive any loan under this part in excess of the maximum amount applicable to such loan.

(E) For the purpose of subparagraphs (B) and (C) of this paragraph, any loan obtained by a student under section 1078–1[1] or 1078–8 of this title or a parent under section 1078–2 of this title or under any State-sponsored or private loan program for an academic year for which the determination is made may be used to offset the expected family contribution of the student for that year.

(3) Amount of interest subsidy

(A)(i) Subject to section 1087–1(c) of this title, the portion of the interest on a loan which a student is entitled to have paid, on behalf of and for the account of the student, to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan—

(I) which accrues prior to the beginning of the repayment period of the loan, or

(II) which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 1077(a)(2)(C) of this title.

(ii) Such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his or her behalf for that period under any State or private loan insurance program.

(iii) The holder of a loan with respect to which payments are required to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest which has been so determined without administrative delay after the receipt by the Secretary of an accurate and complete request for payment pursuant to paragraph (4).

(iv) The Secretary shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered

[1] See References in Text note below.

into pursuant to subsection (b) of this section was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

(v) A lender may not receive interest on a loan for any period that precedes the date that is—

(I) in the case of a loan disbursed by check, 10 days before the first disbursement of the loan; or

(II) in the case of a loan disbursed by electronic funds transfer, 3 days before the first disbursement of the loan.

(B) If—

(i) a State student loan insurance program is covered by an agreement under subsection (b) of this section,

(ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than the applicable interest rate under this part, and

(iii) the Secretary determines that subsection (d) of this section does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purpose of this part,

then the Secretary may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the 60th day after October 16, 1968, and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per year (determined by the Secretary) which shall not exceed 1 percent of the unpaid principal balance of the loan.

(4) Submission of statements by holders on amount of payment

Each holder of a loan with respect to which payments of interest are required to be made by the Secretary shall submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan.

(5) Duration of authority to make interest subsidized loans

The period referred to in subparagraph (B) of paragraph (1) of this subsection shall begin on November 8, 1965, and end at the close of September 30, 2004, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his or her education program, such period shall end at the close of September 30, 2008.

(6) Assessment of borrower's financial condition not prohibited or required

Nothing in this chapter or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

(7) Loans that have not been consummated

Lenders may not charge interest or receive interest subsidies or special allowance payments for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

(b) Insurance program agreements to qualify loans for interest subsidies

(1) Requirements of insurance program

Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) of this section if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance in any academic year, as defined in section 1088(a)(2) of this title, or its equivalent (as determined under regulations of the Secretary) for any student who is carrying at an eligible institution or in a program of study abroad approved for credit by the eligible home institution at which such student is enrolled at least one-half the normal full-time academic workload (as determined by the institution) in any amount up to a maximum of—

(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

(I) $2,625, if such student is enrolled in a program whose length is at least one academic year in length; and

(II) if such student is enrolled in a program of undergraduate education which is less than 1 academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as the length of such program measured in semester, trimester, quarter, or clock hours bears to 1 academic year;

(ii) in the case of a student at an eligible institution who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate education—

(I) $3,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified

in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iii) in the case of a student at an eligible institution who has successfully completed the first and second years of a program of undergraduate education but has not successfully completed the remainder of such program—

(I) $5,500; or

(II) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(iv) in the case of a student who has received an associate or baccalaureate degree and is enrolled in an eligible program for which the institution requires such degree for admission, the number of years that a student has completed in a program of undergraduate education shall, for the purposes of clauses (ii) and (iii), include any prior enrollment in the eligible program of undergraduate education for which the student was awarded such degree;

(v) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500; and

(vi) in the case of a student enrolled in coursework specified in sections 1091(b)(3)(B) and 1091(b)(4)(B) of this title—

(I) $2,625 for coursework necessary for enrollment in an undergraduate degree or certificate program, and, in the case of a student who has obtained a baccalaureate degree, $5,500 for coursework necessary for enrollment in a graduate or professional degree or certification program; and

(II) in the case of a student who has obtained a baccalaureate degree, $5,500 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary school or secondary school;

except in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall be any amount up to a maximum of—

(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1[2] or 1078–2 of this title; and

(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary), and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student, but (II) excluding loans made under section 1078–1[2] or 1078–2 of this title,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;

(C) authorizes the insurance of loans to any individual student for at least 6 academic years of study or their equivalent (as determined under regulations of the Secretary);

(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) the student borrower may annually change the selection of a repayment plan under this part, and (iii) the note, or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed, and shall contain a notice that repayment may, following a default by the borrower, be subject to income contingent repayment in accordance with subsection (m) of this section;

(E) subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 1078–8 of this title, the option of repaying the loan in accordance with a standard, graduated, income-sensitive, or extended repayment schedule (as described in paragraph (9)) established by the lender in accordance with regulations of the Secretary; and

(ii) repayment of loans shall be in installments in accordance with the repayment plan selected under paragraph (9) and commencing at the beginning of the repayment period determined under paragraph (7);

(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess (exclusive of any premium for insurance which may be passed on to the borrower) of the rate required by section 1077a of this title;

(G) insures 98 percent of the unpaid principal of loans insured under the program, except that such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to subsection

[2] See References in Text note below.

(j) of this section or section 1087–2(q) of this title;

(H) provides for collection of a single insurance premium equal to not more than 1.0 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and insures that the proceeds of the premium will not be used for incentive payments to lenders;

(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under subsection (a)(1) and (2) of this section;

(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

(L) provides that the total of the payments by borrower—

(i) except as otherwise provided by a repayment plan selected by the borrower under clause (ii) or (iii) of paragraph (9)(A), during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less (but in no instance less than the amount of interest due and payable, notwithstanding any payment plan under paragraph (9)(A)); and

(ii) for a monthly or other similar payment period with respect to the aggregate of all loans held by the lender may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution, except that no borrower, notwithstanding the provisions of the promissory note, shall be required to borrow an additional loan under this subchapter and part C of subchapter I of chapter 34 of title 42 in order to be eligible to receive a deferment under this clause; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under[3] 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment, except that no borrower who provides evidence of eligibility for unemployment benefits shall be required to provide additional paperwork for a deferment under this clause; or

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(*o*) of this title, has caused or will cause the borrower to have an economic hardship;

(N) provides that funds borrowed by a student—

(i) are disbursed to the institution by check or other means that is payable to, and requires the endorsement or other certification by, such student; or

(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled or at an eligible foreign institution, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer authorized, pursuant to an authorized power-of-attorney;

(O) provides that the proceeds of the loans will be disbursed in accordance with the requirements of section 1078–7 of this title;

(P) requires the borrower to notify the institution concerning any change in local address during enrollment and requires the borrower and the institution at which the borrower is in attendance promptly to notify the holder of the loan, directly or through the guaranty agency, concerning (i) any change of permanent address, (ii) when the student ceases to be enrolled on at least a half-time basis, and (iii) any other change in status, when such change in status affects the student's eligibility for the loan;

(Q) provides for the guarantee of loans made to students and parents under sections 1078–1[4] and 1078–2 of this title;

(R) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such guaranty agency;

(S) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is accepted for enrollment in or is attending an eligible institution within the State, or if such a student is a legal resident of the State and is accepted for enrollment in or is attending an eligible institution outside that State;

[3] So in original. Probably should be followed by ''section''.

[4] See References in Text note below.

(T) authorizes (i) the limitation of the total number of loans or volume of loans, made under this part to students attending a particular eligible institution during any academic year; and (ii) the limitation, suspension, or termination of the eligibility of an eligible institution if—

(I) such institution is ineligible for the emergency action, limitation, suspension, or termination of eligible institutions under regulations issued by the Secretary or is ineligible pursuant to criteria, rules, or regulations issued under the student loan insurance program which are substantially the same as regulations with respect to emergency action, limitation, suspension, or termination of such eligibility issued by the Secretary;

(II) there is a State constitutional prohibition affecting the eligibility of such an institution;

(III) such institution fails to make timely refunds to students as required by regulations issued by the Secretary or has not satisfied within 30 days of issuance a final judgment obtained by a student seeking such a refund;

(IV) such institution or an owner, director, or officer of such institution is found guilty in any criminal, civil, or administrative proceeding, or such institution or an owner, director, or officer of such institution is found liable in any civil or administrative proceeding, regarding the obtaining, maintenance, or disbursement of State or Federal grant, loan, or work assistance funds; or

(V) such institution or an owner, director, or officer of such institution has unpaid financial liabilities involving the improper acquisition, expenditure, or refund of State or Federal financial assistance funds;

except that, if a guaranty agency limits, suspends, or terminates the participation of an eligible institution, the Secretary shall apply that limitation, suspension, or termination to all locations of such institution, unless the Secretary finds, within 30 days of notification of the action by the guaranty agency, that the guaranty agency's action did not comply with the requirements of this section;

(U) provides (i) for the eligibility of all lenders described in section 1085(d)(1) of this title under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the emergency action, limitation, suspension, or termination of a lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, (ii) assurances that the guaranty agency will report to the Secretary concerning changes in such criteria, including any procedures in effect under such program to take emergency action, limit, suspend, or terminate lenders, and (iii) for (I) a compliance audit of each lender that originates or holds more than $5,000,000 in loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 for any lender fiscal year (except that each lender described in section 1085(d)(1)(A)(ii)(III) of this title shall annually submit the results of an audit required by this clause), at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary, or (II) with regard to a lender that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of subclause (I) for the period covered by such audit, except that the Secretary may waive the requirements of this clause (iii) if the lender submits to the Secretary the results of an audit conducted for other purposes that the Secretary determines provides the same information as the audits required by this clause;

(V) provides authority for the guaranty agency to require a participation agreement between the guaranty agency and each eligible institution within the State in which it is designated, as a condition for guaranteeing loans made on behalf of students attending the institution;

(W) provides assurances that the agency will implement all requirements of the Secretary for uniform claims and procedures pursuant to section 1082(*l*) of this title;

(X) provides information to the Secretary in accordance with subsection (c)(9) of this section and maintains reserve funds determined by the Secretary to be sufficient in relation to such agency's guarantee obligations; and

(Y) provides that—

(i) the lender shall determine the eligibility of a borrower for a deferment described in subparagraph (M)(i) based on receipt of—

(I) a request for deferment from the borrower and documentation of the borrower's eligibility for the deferment;

(II) a newly completed loan application that documents the borrower's eligibility for a deferment; or

(III) student status information received by the lender that the borrower is enrolled on at least a half-time basis; and

(ii) the lender will notify the borrower of the granting of any deferment under clause (i)(II) or (III) of this subparagraph and of the option to continue paying on the loan.

(2) Contents of insurance program agreement

Such an agreement shall—

(A) provide that the holder of any such loan will be required to submit to the Sec-

retary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;

(B) include such other provisions as may be necessary to protect the United States from the risk of unreasonable loss and promote the purpose of this part, including such provisions as may be necessary for the purpose of section 1087 of this title, and as are agreed to by the Secretary and the guaranty agency, as the case may be;

(C) provide for making such reports, in such form and containing such information, including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(D) provide for—

(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit;

(E)(i) provide that any guaranty agency may transfer loans which are insured under this part to any other guaranty agency with the approval of the holder of the loan and such other guaranty agency; and

(ii) provide that the lender (or the holder of the loan) shall, not later than 120 days after the borrower has left the eligible institution, notify the borrower of the date on which the repayment period begins; and

(F) provide that, if the sale, other transfer, or assignment of a loan made under this part to another holder will result in a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loans, then—

(i) the transferor and the transferee will be required, not later than 45 days from the date the transferee acquires a legally enforceable right to receive payment from the borrower on such loan, either jointly or separately to provide a notice to the borrower of—

(I) the sale or other transfer;

(II) the identity of the transferee;

(III) the name and address of the party to whom subsequent payments or communications must be sent; and

(IV) the telephone numbers of both the transferor and the transferee; and

(ii) the transferee will be required to notify the guaranty agency, and, upon the request of an institution of higher education, the guaranty agency shall notify the last such institution the student attended prior to the beginning of the repayment period of any loan made under this part, of—

(I) any sale or other transfer of the loan; and

(II) the address and telephone number by which contact may be made with the new holder concerning repayment of the loan,

except that this subparagraph (F) shall only apply if the borrower is in the grace period described in section 1077(a)(2)(B) of this title or subsection (b)(7) of this section or is in repayment status.

(3) Restrictions on inducements, mailings, and advertising

A guaranty agency shall not—

(A) offer, directly or indirectly, premiums, payments, or other inducements to any educational institution or its employees in order to secure applicants for loans under this part;

(B) offer, directly or indirectly, any premium, incentive payment, or other inducement to any lender, or any agent, employee, or independent contractor of any lender or guaranty agency, in order to administer or market loans made under this part (other than a loan made under section 1078–8 of this title or a loan made as part of a guaranty agency's lender-of-last-resort program) for the purpose of securing the designation of that guaranty agency as the insurer of such loans;

(C) conduct unsolicited mailings of student loan application forms to students enrolled in secondary school or a postsecondary institution, or to parents of such students, except that applications may be mailed to borrowers who have previously received loans guaranteed under this part by the guaranty agency; or

(D) conduct fraudulent or misleading advertising concerning loan availability.

It shall not be a violation of this paragraph for a guaranty agency to provide assistance to institutions of higher education comparable to the kinds of assistance provided to institutions of higher education by the Department of Education.

(4) Special rule

For the purpose of paragraph (1)(M)(i)(III) of this subsection, the Secretary shall approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program. Requests for deferment of repayment of loans under this part by students engaged in graduate or post-

graduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.

(5) Guaranty agency information transfers

(A) Until such time as the Secretary has implemented section 1092b of this title and is able to provide to guaranty agencies the information required by such section, any guaranty agency may request information regarding loans made after January 1, 1987, to students who are residents of the State for which the agency is the designated guarantor, from any other guaranty agency insuring loans to such students.

(B) Upon a request pursuant to subparagraph (A), a guaranty agency shall provide—

(i) the name and the social security number of the borrower; and

(ii) the amount borrowed and the cumulative amount borrowed.

(C) Any costs associated with fulfilling the request of a guaranty agency for information on students shall be paid by the guaranty agency requesting the information.

(6) State guaranty agency information request of State licensing boards

Each guaranty agency is authorized to enter into agreements with each appropriate State licensing board under which the State licensing board, upon request, will furnish the guaranty agency with the address of a student borrower in any case in which the location of the student borrower is unknown or unavailable to the guaranty agency.

(7) Repayment period

(A) In the case of a loan made under section 1077 of this title or this section, the repayment period shall exclude any period of authorized deferment or forbearance and shall begin—

(i) the day after 6 months after the date the student ceases to carry at least one-half the normal full-time academic workload (as determined by the institution); or

(ii) on an earlier date if the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier date.

(B) In the case of a loan made under section 1078–8 of this title, the repayment period shall exclude any period of authorized deferment or forbearance, and shall begin as described in clause (i) or (ii) of subparagraph (A), but interest shall begin to accrue or be paid by the borrower on the day the loan is disbursed.

(C) In the case of a loan made under section 1078–1,[5] 1078–2, or 1078–3 of this title, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

(D) There shall be excluded from the 6-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload as described in subparagraph (A)(i) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10 is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period.

(8) Means of disbursement of loan proceeds

Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted to prohibit the disbursement of loan proceeds by means other than by check or to allow the Secretary to require checks to be made co-payable to the institution and the borrower.

(9) Repayment plans

(A) Design and selection

In accordance with regulations promulgated by the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subparagraph for repayment of such loan, including principal and interest thereon. No plan may require a borrower to repay a loan in less than 5 years unless the borrower, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over of[6] a shorter period. The borrower may choose from—

(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed 10 years;

(ii) a graduated repayment plan paid over a fixed period of time, not to exceed 10 years;

(iii) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed 10 years, except that the borrower's scheduled payments shall not be less than the amount of interest due; and

(iv) for new borrowers on or after October 7, 1998, who accumulate (after October 7, 1998) outstanding loans under this part totaling more than $30,000, an extended repayment plan, with a fixed annual or graduated repayment amount paid over an extended period of time, not to exceed 25 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (1)(L)(i).

(B) Lender selection of option if borrower does not select

If a borrower of a loan made under this part does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).

(c) Guaranty agreements for reimbursing losses

(1) Authority to enter into agreements

(A) The Secretary may enter into a guaranty agreement with any guaranty agency, whereby

[5] See References in Text note below.

[6] So in original.

the Secretary shall undertake to reimburse it, under such terms and conditions as the Secretary may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan. The guaranty agency shall be deemed to have a contractual right against the United States, during the life of such loan, to receive reimbursement according to the provisions of this subsection. Upon receipt of an accurate and complete request by a guaranty agency for reimbursement with respect to such losses, the Secretary shall pay promptly and without administrative delay. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a guaranty agency as reimbursement under this subsection shall be equal to 95 percent of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program. A guaranty agency shall file a claim for reimbursement with respect to losses under this subsection within 45 days after the guaranty agency discharges its insurance obligation on the loan.

(B) Notwithstanding subparagraph (A)—

(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 85 percent of the amount of such excess; and

(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 75 percent of the amount of such excess.

(C) For the purpose of this subsection, the amount of loans of a guaranty agency which are in repayment shall be the original principal amount of loans made by a lender which are insured by such a guaranty agency reduced by—

(i) the amount the insurer has been required to pay to discharge its insurance obligations under this part;

(ii) the original principal amount of loans insured by it which have been fully repaid; and

(iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to subsection (b)(1)(E) of this section or such first installment need not be paid pursuant to subsection (b)(1)(M) of this section.

(D) Reimbursements of losses made by the Secretary on loans submitted for claim by an eligible lender, servicer, or guaranty agency designated for exceptional performance under section 1078–9 of this title shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.

(E) Notwithstanding any other provisions of this section, in the case of a loan made pursuant to a lender-of-last-resort program, the Secretary shall apply the provisions of—

(i) the fourth sentence of subparagraph (A) by substituting ''100 percent'' for ''95 percent'';

(ii) subparagraph (B)(i) by substituting ''100 percent'' for ''85 percent''; and

(iii) subparagraph (B)(ii) by substituting ''100 percent'' for ''75 percent''.

(F) Notwithstanding any other provisions of this section, in the case of an outstanding loan transferred to a guaranty agency from another guaranty agency pursuant to a plan approved by the Secretary in response to the insolvency of the latter such guarantee agency, the Secretary shall apply the provision of—

(i) the fourth sentence of subparagraph (A) by substituting ''100 percent'' for ''95 percent'';

(ii) subparagraph (B)(i) by substituting ''90 percent'' for ''85 percent''; and

(iii) subparagraph (B)(ii) by substituting ''80 percent'' for ''75 percent''.

(G) Notwithstanding any other provision of this section, the Secretary shall exclude a loan made pursuant to a lender-of-last-resort program when making reimbursement payment calculations under subparagraphs (B) and (C).

(2) Contents of guaranty agreements

The guaranty agreement—

(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to ensure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program, including a requirement that each beneficiary of insurance on the loan submit proof that the institution was contacted and other reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known);

(B) shall provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(C) shall set forth adequate assurances that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to this subsection, the undertaking of the Secretary under the guaranty agreement is acceptable in full satisfaction of State law

or regulation requiring the maintenance of a reserve;

(D) shall provide that if, after the Secretary has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 1081 of this title) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but (i) shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for the purpose of paragraph (8); and (ii) except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for the purpose of section 1072(c) of this title;

(F) set forth adequate assurances that the guaranty agency will not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the guaranty agency, length of the borrower's educational program, or the borrower's academic year in school;

(G) shall prohibit the Secretary from making any reimbursement under this subsection to a guaranty agency when a default claim is based on an inability to locate the borrower, unless the guaranty agency, at the time of filing for reimbursement, certifies to the Secretary that diligent attempts, including contact with the institution, have been made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with regulations prescribed by the Secretary; and

(H) set forth assurances that—

(i) upon the request of an eligible institution, the guaranty agency shall, subject to clauses (ii) and (iii), furnish to the institution information with respect to students (including the names and addresses of such students) who received loans made, insured, or guaranteed under this part for attendance at the eligible institution and for whom preclaims assistance activities have been requested under subsection (*l*) of this section;

(ii) the guaranty agency shall not require the payment from the institution of any fee for such information; and

(iii) the guaranty agency will require the institution to use such information only to assist the institution in reminding students of their obligation to repay student loans and shall prohibit the institution from disseminating the information for any other purpose.

(I) may include such other provisions as may be necessary to promote the purpose of this part.

(3) Forbearance

A guaranty agreement under this subsection—

(A) shall contain provisions providing that—

(i) upon request, a lender shall grant a borrower forbearance, renewable at 12-month intervals, on terms agreed to in writing by the parties to the loan with the approval of the insurer, and otherwise consistent with the regulations of the Secretary, if the borrower—

(I) is serving in a medical or dental internship or residency program, the successful completion of which is required to begin professional practice or service, or is serving in a medical or dental internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training, provided that if the borrower qualifies for a deferment under section 1077(a)(2)(C)(vii) of this title or subsection (b)(1)(M)(vii) of this section as in effect prior to the enactment of the Higher Education Amendments of 1992, or section 1077(a)(2)(C) of this title or subsection (b)(1)(M) of this section as amended by such amendments, the borrower has exhausted his or her eligibility for such deferment;

(II) has a debt burden under this subchapter and part C of subchapter I of chapter 34 of title 42 that equals or exceeds 20 percent of income;

(III) is serving in a national service position for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993; or

(IV) is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, and, pursuant to that eligibility, the interest is being paid on such loan under subsection (*o*) of this section;

(ii) the length of the forbearance granted by the lender—

(I) under clause (i)(I) shall equal the length of time remaining in the borrower's medical or dental internship or residency program, if the borrower is not eligible to receive a deferment described in such clause, or such length of time remaining in the program after the borrower has exhausted the borrower's eligibility for such deferment;

(II) under clause (i)(II) or (IV) shall not exceed 3 years; or

(III) under clause (i)(III) shall not exceed the period for which the borrower is

serving in a position described in such clause; and

(iii) no administrative or other fee may be charged in connection with the granting of a forbearance under clause (i), and no adverse information regarding a borrower may be reported to a credit bureau organization solely because of the granting of such forbearance;

(B) may, to the extent provided in regulations of the Secretary, contain provisions that permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer;

(C) shall contain provisions that specify that—

(i) the form of forbearance granted by the lender pursuant to this paragraph, other than subparagraph (A)(i)(IV), shall be temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled; and

(ii) the form of forbearance granted by the lender pursuant to subparagraph (A)(i)(IV) shall be the temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (*o*) of this section; and

(D) shall contain provisions that specify that—

(i) forbearance for a period not to exceed 60 days may be granted if the lender reasonably determines that such a suspension of collection activity is warranted following a borrower's request for deferment, forbearance, a change in repayment plan, or a request to consolidate loans, in order to collect or process appropriate supporting documentation related to the request, and

(ii) during such period interest shall accrue but not be capitalized.

Guaranty agencies shall not be precluded from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default. The Secretary shall permit lenders to exercise administrative forbearances that do not require the agreement of the borrower, under conditions authorized by the Secretary. Such forbearances shall include (i) forbearances for borrowers who are delinquent at the time of the granting of an authorized period of deferment under subsection (b)(1)(M) of this section or section 1077(a)(2)(C) of this title, and (ii) if the borrower is less than 60 days delinquent on such loans at the time of sale or transfer, forbearances for borrowers on loans which are sold or transferred.

(4) Definitions

For the purpose of this subsection, the terms ''insurance beneficiary'' and ''default'' have the meanings assigned to them by section 1085 of this title.

(5) Applicability to existing loans

In the case of any guaranty agreement with a guaranty agency, the Secretary may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such guaranty agency and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6) Secretary's equitable share

For the purpose of paragraph (2)(D), the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

(A) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(B) an amount equal to 24 percent of such payments for use in accordance with section 1072b of this title, except that, beginning on October 1, 2003, this subparagraph shall be applied by substituting ''23 percent'' for ''24 percent''.

(7) New programs eligible for 100 percent reinsurance

(A) Notwithstanding paragraph (1)(C), the amount to be paid a guaranty agency for any fiscal year—

(i) which begins on or after October 1, 1977 and ends before October 1, 1991; and

(ii) which is either the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section, or is one of the 4 succeeding fiscal years,

shall be 100 percent of the amount expended by such guaranty agency in discharge of its insurance obligation insured under such program.

(B) Notwithstanding the provisions of paragraph (1)(C), the Secretary may pay a guaranty agency 100 percent of the amount expended by such agency in discharge of such agency's insurance obligation for any fiscal year which—

(i) begins on or after October 1, 1991; and

(ii) is the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section or is one of the 4 succeeding fiscal years.

(C) The Secretary shall continuously monitor the operations of those guaranty agencies to which the provisions of subparagraph (A) or (B) are applicable and revoke the application of such subparagraph to any such guaranty agency which the Secretary determines has not exercised reasonable prudence in the administration of such program.

(8) Assignment to protect Federal fiscal interest

If the Secretary determines that the protection of the Federal fiscal interest so requires, a guaranty agency shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

(9) Guaranty agency reserve level

(A) Each guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall maintain in the agency's Federal Student Loan Reserve Fund established under section 1072a of this title a current minimum reserve level of at least 0.25 percent of the total attributable amount of all outstanding loans guaranteed by such agency. For purposes of this paragraph, such total attributable amount does not include amounts of outstanding loans transferred to the guaranty agency from another guaranty agency pursuant to a plan of the Secretary in response to the insolvency of the latter such guaranty agency.

(B) The Secretary shall collect, on an annual basis, information from each guaranty agency having an agreement under this subsection to enable the Secretary to evaluate the financial solvency of each such agency. The information collected shall include the level of such agency's current reserves, cash disbursements and accounts receivable.

(C) If (i) any guaranty agency falls below the required minimum reserve level in any 2 consecutive years, (ii) any guaranty agency's Federal reimbursement payments are reduced to 85 percent pursuant to paragraph (1)(B)(i), or (iii) the Secretary determines that the administrative or financial condition of a guaranty agency jeopardizes such agency's continued ability to perform its responsibilities under its guaranty agreement, then the Secretary shall require the guaranty agency to submit and implement a management plan acceptable to the Secretary within 45 working days of any such event.

(D)(i) If the Secretary is not seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the guaranty agency will improve its financial and administrative condition to the required level within 18 months.

(ii) If the Secretary is seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a management plan described in subparagraph (C) shall include the means by which the Secretary and the guaranty agency shall work together to ensure the orderly termination of the operations, and liquidation of the assets, of the guaranty agency.

(E) The Secretary may terminate a guaranty agency's agreement in accordance with subparagraph (F) if—

(i) a guaranty agency required to submit a management plan under this paragraph fails to submit a plan that is acceptable to the Secretary;

(ii) the Secretary determines that a guaranty agency has failed to improve substantially its administrative and financial condition;

(iii) the Secretary determines that the guaranty agency is in danger of financial collapse;

(iv) the Secretary determines that such action is necessary to protect the Federal fiscal interest; or

(v) the Secretary determines that such action is necessary to ensure the continued availability of loans to student or parent borrowers.

(F) If a guaranty agency's agreement under this subsection is terminated pursuant to subparagraph (E), then the Secretary shall assume responsibility for all functions of the guaranty agency under the loan insurance program of such agency. In performing such functions the Secretary is authorized to—

(i) permit the transfer of guarantees to another guaranty agency;

(ii) revoke the reinsurance agreement of the guaranty agency at a specified date, so as to require the merger, consolidation, or termination of the guaranty agency;

(iii) transfer guarantees to the Department of Education for the purpose of payment of such claims and process such claims using the claims standards of the guaranty agency, if such standards are determined by the Secretary to be in compliance with this chapter;

(iv) design and implement a plan to restore the guaranty agency's viability;

(v) provide the guaranty agency with additional advance funds in accordance with section 1072(c)(7) of this title, with such restrictions on the use of such funds as is determined appropriate by the Secretary, in order to—

(I) meet the immediate cash needs of the guaranty agency;

(II) ensure the uninterrupted payment of claims; or

(III) ensure that the guaranty agency will make loans as the lender-of-last-resort, in accordance with subsection (j) of this section;

(vi) use all funds and assets of the guaranty agency to assist in the activities undertaken in accordance with this subparagraph and take appropriate action to require the return, to the guaranty agency or the Secretary, of any funds or assets provided by the guaranty agency, under contract or otherwise, to any person or organization; or

(vii) take any other action the Secretary determines necessary to ensure the continued availability of loans made under this part to residents of the State or States in which the guaranty agency did business, the full honoring of all guarantees issued by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and the proper servicing of loans guaranteed by the guaranty agency prior to the Sec-

retary's assumption of the functions of such agency, and to avoid disruption of the student loan program.

(G) Notwithstanding any other provision of Federal or State law, if the Secretary has terminated or is seeking to terminate a guaranty agency's agreement under subparagraph (E), or has assumed a guaranty agency's functions under subparagraph (F)—

(i) no State court may issue any order affecting the Secretary's actions with respect to such guaranty agency;

(ii) any contract with respect to the administration of a guaranty agency's reserve funds, or the administration of any assets purchased or acquired with the reserve funds of the guaranty agency, that is entered into or extended by the guaranty agency, or any other party on behalf of or with the concurrence of the guaranty agency, after August 10, 1993, shall provide that the contract is terminable by the Secretary upon 30 days notice to the contracting parties if the Secretary determines that such contract includes an impermissible transfer of the reserve funds or assets, or is otherwise inconsistent with the terms or purposes of this section; and

(iii) no provision of State law shall apply to the actions of the Secretary in terminating the operations of a guaranty agency.

(H) Notwithstanding any other provision of law, the Secretary's liability for any outstanding liabilities of a guaranty agency (other than outstanding student loan guarantees under this part), the functions of which the Secretary has assumed, shall not exceed the fair market value of the reserves of the guaranty agency, minus any necessary liquidation or other administrative costs.

(I) The Secretary shall not take any action under subparagraph (E) or (F) without giving the guaranty agency notice and the opportunity for a hearing that, if commenced after September 24, 1998, shall be on the record.

(J) Notwithstanding any other provision of law, the information transmitted to the Secretary pursuant to this paragraph shall be confidential and exempt from disclosure under section 552 of title 5, relating to freedom of information, or any other Federal law.

(K) The Secretary, within 3 months after the end of each fiscal year, shall submit to the House Committee on Education and the Workforce and the Senate Committee on Labor and Human Resources a report specifying the Secretary's assessment of the fiscal soundness of the guaranty agency system.

(d) Usury laws inapplicable

No provision of any law of the United States (other than this chapter) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of the rate specified in this part; and

(2) which is insured (i) by the United States under this part, or (ii) by a guaranty agency under a program covered by an agreement made pursuant to subsection (b) of this section.

(e) Notice of availability of income-sensitive repayment option

At the time of offering a borrower a loan under this part, and at the time of offering the borrower the option of repaying a loan in accordance with this section, the lender shall provide the borrower with a notice that informs the borrower, in a form prescribed by the Secretary by regulation—

(1) that all borrowers are eligible for income-sensitive repayment, including through loan consolidation under section 1078–3 of this title;

(2) the procedures by which the borrower may elect income-sensitive repayment; and

(3) where and how the borrower may obtain additional information concerning income-sensitive repayment.

(f) Payments of certain costs

(1)[7] Payment for certain activities

(A) In general

The Secretary—

(i) for loans originated during fiscal years beginning on or after October 1, 1998, and before October 1, 2003, and in accordance with the provisions of this paragraph, shall, except as provided in subparagraph (C), pay to each guaranty agency, a loan processing and issuance fee equal to 0.65 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency; and

(ii) for loans originated during fiscal years beginning on or after October 1, 2003, and in accordance with the provisions of this paragraph, shall, except as provided in subparagraph (C), pay to each guaranty agency, a loan processing and issuance fee equal to 0.40 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency.

(B) Payment

The payment required by subparagraph (A) shall be paid on a quarterly basis. The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this paragraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application under this subparagraph.

(C) Requirement for payment

No payment may be made under this paragraph for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.

[7] So in original. No par. (2) has been enacted.

(g) Action on insurance program and guaranty agreements

If a nonprofit private institution or organization—

(1) applies to enter into an agreement with the Secretary under subsections (b) and (c) of this section with respect to a student loan insurance program to be carried on in a State with which the Secretary does not have an agreement under subsection (b) of this section, and

(2) as provided in the application, undertakes to meet the requirements of section 1072(c)(6)(B)(i), (ii), and (iii) of this title,

the Secretary shall consider and act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives of his actions.

(h) Lending by guaranty agencies

(1) Lending from Sallie Mae advances

From sums advanced by the Association pursuant to section 1087–2(p) of this title, each guaranty agency or an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title is authorized to make loans directly to students otherwise unable to obtain loans under this part.

(2) Amount of advances

(A) Each guaranty agency or an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title which has an application approved under section 1087–2(p)(2) of this title may receive advances under section 1087–2(p) of this title for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency or lender is eligible to receive may not exceed 25 percent of the average of the loans guaranteed by that agency or lender for the 3 years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency or lender does not have 3 years previous experience, the amount such agency or lender is eligible to receive may not exceed 25 percent of the loans guaranteed under a program of a State of comparable size.

(B) Each guaranty agency and each eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title shall repay advances made under section 1087–2(p) of this title in accordance with agreements entered into between the Association and such agency or lender.

(3) Loan term, conditions, and benefits

Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.

(i) Multiple disbursement of loans

(1) Escrow accounts administered by escrow agent

Any guaranty agency or eligible lender (hereafter in this subsection referred to as the ''escrow agent'') may enter into an agreement with any other eligible lender that is not an eligible institution or an agency or instrumentality of the State (hereafter in this subsection referred to as the ''lender'') for the purpose of authorizing disbursements of the proceeds of a loan to a student. Such agreement shall provide that the lender will pay the proceeds of such loans into an escrow account to be administered by the escrow agent in accordance with the provisions of paragraph (2) of this subsection. Such agreement may allow the lender to make payments into the escrow account in amounts that do not exceed the sum of the amounts required for disbursement of initial or subsequent installments to borrowers and to make such payments not more than 21 days prior to the date of the disbursement of such installment to such borrowers. Such agreement shall require the lender to notify promptly the eligible institution when funds are escrowed under this subsection for a student at such institution.

(2) Authority of escrow agent

Each escrow agent entering into an agreement under paragraph (1) of this subsection is authorized to—

(A) make the disbursements in accordance with the note evidencing the loan;

(B) commingle the proceeds of all loans paid to the escrow agent pursuant to the escrow agreement entered into under such paragraph (1);

(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

(D) retain interest or other earnings on such investment; and

(E) return to the lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.

(j) Lenders-of-last-resort

(1) General requirement

In each State, the guaranty agency or an eligible lender in the State described in section 1085(d)(1)(D) of this title shall make loans directly, or through an agreement with an eligible lender or lenders, to students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part. Loans made under this subsection shall not exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B) of this section, nor be less than $200. The guaranty agency shall consider the request of any eligible lender, as defined under section 1085(d)(1)(A) of this title, to serve as the lender-of-last-resort pursuant to this subsection.

(2) Rules and operating procedures

The guaranty agency shall develop rules and operating procedures for the lender-of-last-resort program designed to ensure that—

(A) the program establishes operating hours and methods of application designed

to facilitate application by students and ensure a response within 60 days after the student's original complete application is filed under this subsection;

(B) consistent with standards established by the Secretary, students applying for loans under this subsection shall not be subject to additional eligibility requirements or requests for additional information beyond what is required under this subchapter and part C of subchapter I of chapter 34 of title 42 in order to receive a loan under this part from an eligible lender, nor be required to receive more than two rejections from eligible lenders in order to obtain a loan under this subsection;

(C) information about the availability of loans under the program is made available to institutions of higher education in the State;

(D) appropriate steps are taken to ensure that borrowers receiving loans under the program are appropriately counseled on their loan obligation; and

(E) the guaranty agency notifies the Secretary when the guaranty agency believes or has reason to believe that the Secretary may need to exercise the Secretary's authority under section 1087–2(q) of this title.

(3) Advances to guaranty agencies for lender-of-last-resort services

(A) In order to ensure the availability of loan capital, the Secretary is authorized to provide a guaranty agency designated for a State with additional advance funds in accordance with subparagraph (C) and section 1072(c)(7) of this title, with such restrictions on the use of such funds as are determined appropriate by the Secretary, in order to ensure that the guaranty agency will make loans as the lender-of-last-resort. Such agency shall make such loans in accordance with this subsection and the requirements of the Secretary.

(B) Notwithstanding any other provision in this part, a guaranty agency serving as a lender-of-last-resort under this paragraph shall be paid a fee, established by the Secretary, for making such loans in lieu of interest and special allowance subsidies, and shall be required to assign such loans to the Secretary on demand. Upon such assignment, the portion of the advance represented by the loans assigned shall be considered repaid by such guaranty agency.

(C) The Secretary shall exercise the authority described in subparagraph (A) only if the Secretary determines that eligible borrowers are seeking and are unable to obtain loans under this part, and that the guaranty agency designated for that State has the capability to provide lender-of-last-resort loans in a timely manner, in accordance with the guaranty agency's obligations under paragraph (1), but cannot do so without advances provided by the Secretary under this paragraph. If the Secretary makes the determinations described in the preceding sentence and determines that it would be cost-effective to do so, the Secretary may provide advances under this paragraph to such guaranty agency. If the Secretary determines that such guaranty agency does not have such capability, or will not provide such loans in a timely fashion, the Secretary may provide such advances to enable another guaranty agency, that the Secretary determines to have such capability, to make lender-of-last-resort loans to eligible borrowers in that State who are experiencing loan access problems.

(k) Information on defaults

(1) Provision of information to eligible institutions

Notwithstanding any other provision of law, in order to notify eligible institutions of former students who are in default of their continuing obligation to repay student loans, each guaranty agency shall, upon the request of an eligible institution, furnish information with respect to students who were enrolled at the eligible institution and who are in default on the repayment of any loan made, insured, or guaranteed under this part. The information authorized to be furnished under this subsection shall include the names and addresses of such students.

(2) Public dissemination not authorized

Nothing in paragraph (1) of this subsection shall be construed to authorize public dissemination of the information described in paragraph (1).

(3) Borrower location information

Any information provided by the institution relating to borrower location shall be used by the guaranty agency in conducting required skip-tracing activities.

***(l)* Default aversion assistance**

(1) Assistance required

Upon receipt of a complete request from a lender received not earlier than the 60th day of delinquency, a guaranty agency having an agreement with the Secretary under subsection (c) of this section shall engage in default aversion activities designed to prevent the default by a borrower on a loan covered by such agreement.

(2) Reimbursement

(A) In general

A guaranty agency, in accordance with the provisions of this paragraph, may transfer from the Federal Student Loan Reserve Fund under section 1072a of this title to the Agency Operating Fund under section 1072b of this title a default aversion fee. Such fee shall be paid for any loan on which a claim for default has not been paid as a result of the loan being brought into current repayment status by the guaranty agency on or before the 300th day after the loan becomes 60 days delinquent.

(B) Amount

The default aversion fee shall be equal to 1 percent of the total unpaid principal and accrued interest on the loan at the time the request is submitted by the lender. A guaranty agency may transfer such fees earned under this subsection not more frequently than monthly. Such a fee shall not be paid

more than once on any loan for which the guaranty agency averts the default unless—

(i) at least 18 months has elapsed between the date the borrower entered current repayment status and the date the lender filed a subsequent default aversion assistance request; and

(ii) during the period between such dates, the borrower was not more than 30 days past due on any payment of principal and interest on the loan.

(C) Definition

For the purpose of earning the default aversion fee, the term ''current repayment status'' means that the borrower is not delinquent in the payment of any principal or interest on the loan.

(m) Income contingent repayment

(1) Authority of Secretary to require

The Secretary may require borrowers who have defaulted on loans made under this part that are assigned to the Secretary under subsection (c)(8) of this section to repay those loans under an income contingent repayment plan, the terms and conditions of which shall be established by the Secretary and the same as, or similar to, an income contingent repayment plan established for purposes of part C of this subchapter.

(2) Loans for which income contingent repayment may be required

A loan made under this part may be required to be repaid under this subsection if the note or other evidence of the loan has been assigned to the Secretary pursuant to subsection (c)(8) of this section.

(n) Blanket certificate of loan guaranty

(1) In general

Subject to paragraph (3), any guaranty agency that has entered into or enters into any insurance program agreement with the Secretary under this part may—

(A) offer eligible lenders participating in the agency's guaranty program a blanket certificate of loan guaranty that permits the lender to make loans without receiving prior approval from the guaranty agency of individual loans for eligible borrowers enrolled in eligible programs at eligible institutions; and

(B) provide eligible lenders with the ability to transmit electronically data to the agency concerning loans the lender has elected to make under the agency's insurance program via standard reporting formats, with such reporting to occur at reasonable and standard intervals.

(2) Limitations on blanket certificate of guaranty

(A) An eligible lender may not make a loan to a borrower under this section after such lender receives a notification from the guaranty agency that the borrower is not an eligible borrower.

(B) A guaranty agency may establish limitations or restrictions on the number or volume of loans issued by a lender under the blanket certificate of guaranty.

(3) Participation level

During fiscal years 1999 and 2000, the Secretary may permit, on a pilot basis, a limited number of guaranty agencies to offer blanket certificates of guaranty under this subsection. Beginning in fiscal year 2001, any guaranty agency that has an insurance program agreement with the Secretary may offer blanket certificates of guaranty under this subsection.

(4) Report required

The Secretary shall, at the conclusion of the pilot program under paragraph (3), provide a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on the impact of the blanket certificates of guaranty on program efficiency and integrity.

***(o)* Armed Forces student loan interest payment program**

(1) Authority

Using funds received by transfer to the Secretary under section 2174 of title 10 for the payment of interest and any special allowance on a loan to a member of the Armed Forces that is made, insured, or guaranteed under this part, the Secretary shall pay the interest and special allowance on such loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest or any special allowance on such a loan out of any funds other than funds that have been so transferred.

(2) Forbearance

During the period in which the Secretary is making payments on a loan under paragraph (1), the lender shall grant the borrower forbearance in accordance with the guaranty agreement under subsection (c)(3)(A)(i)(IV) of this section.

(3) Special allowance defined

For the purposes of this subsection, the term ''special allowance'',[8] means a special allowance that is payable with respect to a loan under section 1087–1 of this title.

(Pub. L. 89–329, title IV, § 428, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1367; amended Pub. L. 100–50, § 10(a)–(c), (e)–(m), June 3, 1987, 101 Stat. 341–343; Pub. L. 100–203, title III, §§ 3001(b), 3002(b), 3003, Dec. 22, 1987, 101 Stat. 1330–38, 1330–39; Pub. L. 100–369, §§ 5(b)(2), 7(c), 11(a), July 18, 1988, 102 Stat. 836–838; Pub. L. 101–239, title II, §§ 2002(a)(2), (b)(1), 2004(b)(1), (3), 2006(b), Dec. 19, 1989, 103 Stat. 2111, 2116, 2118; Pub. L. 101–508, title III, §§ 3002, 3004(b), Nov. 5, 1990, 104 Stat. 1388–25, 1388–27; Pub. L. 102–26, § 9, Apr. 9, 1991, 105 Stat. 128; Pub. L. 102–164, title VI, §§ 601(b), 602(b), 604, 605(b)(2), Nov. 15, 1991, 105 Stat. 1065, 1066, 1068; Pub. L. 102–325, title IV, §§ 411(b)(2), 416(a)–(e)(1), (f)–(p)(7), (q)–(t), July 23, 1992, 106 Stat. 510, 516–525, 527–529; Pub. L. 103–66, title IV, §§ 4041(a)(1), (2)(B), (b), 4043(a), 4044, 4045, 4102(c), 4107(a), (b), 4108(a), (b), 4110(a), 4112(a), 4201(a), Aug. 10, 1993, 107 Stat. 354, 355, 358, 359, 367–370; Pub. L. 103–82, title I, § 102(c)(1), Sept. 21,

[8] So in original. The comma probably should not appear.

1993, 107 Stat. 823; Pub. L. 103–208, § 2(c)(11)–(28), Dec. 20, 1993, 107 Stat. 2462–2465; Pub. L. 103–382, title III, § 355(a), Oct. 20, 1994, 108 Stat. 3967; Pub. L. 105–33, title VI, §§ 6101(b), 6104(2), Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–244, title IV, § 417(a)–(c)(1)(A), (2)–(k), Oct. 7, 1998, 112 Stat. 1682–1690; Pub. L. 107–314, div. A, title VI, § 651(b), Dec. 2, 2002, 116 Stat. 2579.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (a)(2)(C)(ii)(III), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Title I of the Act enacted subchapter I (§ 12511 et seq.) of chapter 129 of Title 42, The Public Health and Welfare, and amended sections 1070a–6 and 1087vv of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

Section 1078–1 of this title, referred to in subsecs. (a)(2)(E) and (b)(1)(B), (Q), (7)(C), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

This chapter, referred to in subsecs. (a)(6), (c)(9)(F)(iii), and (d), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Higher Education Amendments of 1992, referred to in subsec. (c)(3)(A)(i)(I), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448, as amended. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

The National and Community Service Trust Act of 1993, referred to in subsec. (c)(3)(A)(i)(III), is Pub. L. 103–82, Sept. 21, 1993, 107 Stat. 785. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 12501 of Title 42, The Public Health and Welfare, and Tables.

CODIFICATION

Amendments by section 2(c)(17), (26), (27) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325, Pub. L. 103–66, and Pub. L. 103–82, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1078, Pub. L. 89–329, title IV, § 428, Nov. 8, 1965, 79 Stat. 1240; Pub. L. 90–460, §§ 1(a)(2), 2(a)(2), (b)(1), (2), 3(b), Aug. 3, 1968, 82 Stat. 634–636; Pub. L. 90–575, title I, §§ 111(a), (b)(1), 112(b), 113(b)(3), (4), 115(a)(1)–(3), (b), 116(b)(3), 117(a), (b), 120(a)(1), (b), (c)(1), Oct. 16, 1968, 82 Stat. 1020–1027; Pub. L. 92–318, title I, §§ 132(b), 132A(b), 132C(a), (b), 132D(b)–(d), June 23, 1972, 86 Stat. 261–264; Pub. L. 93–269, §§ 2–4, Apr. 18, 1974, 88 Stat. 87, 89; Pub. L. 94–328, § 2(b), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2108; S. Res. 4, Feb. 4, 1977; Pub. L. 95–43, § 1(a)(19)–(29), June 15, 1977, 91 Stat. 214–216; Pub. L. 95–566, § 5(a)(2), (b)(1), (3)–(5), Nov. 1, 1978, 92 Stat. 2403; S. Res. 30, Mar. 7, 1979; Pub. L. 96–49, § 5(b), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, §§ 411(b), 412(c), (d), (f), 413(b), (d), 414, 415(a)(3)–(5), (b)(2), 417, 423(a)(2), (b)–(d), title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1416–1420, 1422, 1432, 1503; Pub. L. 97–35, title V, §§ 532(a), (b)(1), 535(c), (d), 536(b), 537(a)(1), (b)(2), (c), (d)(1), (e)(2), Aug. 13, 1981, 95 Stat. 451, 452, 455–457; Pub. L. 98–79, § 10(b), Aug. 15, 1983, 97 Stat. 484; Pub. L. 99–272, title XVI, §§ 16012(b), 16013(a), (c), (e)(2), (3), 16014(a)(1), (b)(1), (2) formerly (1), (3) formerly (2), 16015(b), 16016, 16018(a)(2), 16021, 16032(c), Apr. 7, 1986, 100 Stat. 340–343, 348, 349, 355, renumbered and amended, Pub. L. 99–320, § 2(a), (b), May 23, 1986, 100 Stat. 491, related to Federal interest subsidy payments, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1078a, Pub. L. 91–95, § 2, Oct. 22, 1969, 83 Stat. 141; Pub. L. 92–318, title I, § 134(a), June 23, 1972, 86 Stat. 270; Pub. L. 93–269, § 5, Apr. 18, 1974, 88 Stat. 89; Pub. L. 94–328, § 2(c), June 30, 1976, 90 Stat. 727; Pub. L. 94–482, title I, § 127(c)(1), Oct. 12, 1976, 90 Stat. 2142, related to special allowances for insured student loans, prior to repeal by Pub. L. 94–482, title I, § 127(c)(2), Oct. 12, 1976, 90 Stat. 2142.

AMENDMENTS

2002—Subsec. (c)(3)(A)(i)(IV). Pub. L. 107–314, § 651(b)(1)(A), added subcl. (IV).

Subsec. (c)(3)(A)(ii)(II). Pub. L. 107–314, § 651(b)(1)(B), inserted ''or (IV)'' after ''(i)(II)''.

Subsec. (c)(3)(C). Pub. L. 107–314, § 651(b)(1)(C), added subpar. (C) and struck out former subpar. (C) which read as follows: ''shall contain provisions that specify that the form of forbearance granted by the lender for purposes of this paragraph shall be the temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled; and''.

Subsec. (*o*). Pub. L. 107–314, § 651(b)(2), added subsec. (*o*).

1998—Subsec. (a)(2)(A)(i). Pub. L. 105–244, § 417(a)(1)(A), added subcls. (I) and (II) and struck out former subcls. (I) to (III) which read as follows:

''(I) sets forth such student's estimated cost of attendance (as determined under section 1087*ll* of this title);

''(II) sets forth such student's estimated financial assistance; and

''(III) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title;''.

Subsec. (a)(2)(B). Pub. L. 105–244, § 417(a)(1)(B), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan (as determined under part E of this subchapter) and the amount of such need, subject to the provisions of subparagraph (D).''

Subsec. (a)(2)(C). Pub. L. 105–244, § 417(a)(1)(C), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''For the purpose of paragraph (1) and this paragraph—

''(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42 and part D of this subchapter, and any veterans' education benefits paid because of enrollment in a postsecondary education institution, including veterans' education benefits (as defined in section 1087vv(c) of this title), plus other scholarship, grant, or loan assistance; and

''(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part E of this subchapter.''

Subsec. (a)(2)(F). Pub. L. 105–244, § 417(a)(1)(D), struck out subpar. (F) which read as follows: ''Except as provided in subparagraph (D), an eligible institution may refuse to certify a statement which permits a student to receive a loan under this part or to certify a loan amount that is less than the student's determination of need (as determined under part E of this subchapter), if the reason for such action is documented and provided in written form to each student so affected.''

Subsec. (a)(5). Pub. L. 105–244, § 417(a)(2), substituted ''September 30, 2004'' for ''September 30, 2002'' and ''September 30, 2008'' for ''September 30, 2006''.

Subsec. (b)(1)(A). Pub. L. 105–244, § 417(b)(1)(A), inserted '', as defined in section 1088(a)(2) of this title,'' after ''academic year'' in introductory provisions.

Subsec. (b)(1)(A)(i)(I). Pub. L. 105–244, § 417(b)(1)(B)(i), substituted ''length; and'' for ''length (as determined under section 1088 of this title);''.

Subsec. (b)(1)(A)(i)(II), (III). Pub. L. 105–244, § 417(b)(1)(B)(ii), added subcl. (II) and struck out former subcls. (II) and (III) which read as follows:

''(II) $1,750, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;''.

Subsec. (b)(1)(A)(vi). Pub. L. 105–244, § 417(b)(1)(C)–(E), added cl. (vi).

Subsec. (b)(1)(D)(ii). Pub. L. 105–244, § 417(b)(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the repayment period of any insured loan may not exceed 10 years, and''.

Subsec. (b)(1)(E). Pub. L. 105–244, § 417(b)(3), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

''(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 1078–1 of this title, the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with regulations of the Secretary; and

''(ii) repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years commencing at the beginning of the repayment period determined under paragraph (7) of this subsection;''.

Subsec. (b)(1)(G). Pub. L. 105–244, § 417(b)(4), struck out ''not less than'' after ''insures''.

Subsec. (b)(1)(L)(i). Pub. L. 105–244, § 417(b)(5), inserted ''except as otherwise provided by a repayment plan selected by the borrower under clause (ii) or (iii) of paragraph (9)(A),'' before ''during any'' and '', notwithstanding any payment plan under paragraph (9)(A)'' after ''due and payable''.

Subsec. (b)(1)(M)(i)(I). Pub. L. 105–244, § 417(b)(6)(A), inserted before semicolon '', except that no borrower, notwithstanding the provisions of the promissory note, shall be required to borrow an additional loan under this subchapter and part C of subchapter I of chapter 34 of title 42 in order to be eligible to receive a deferment under this clause''.

Subsec. (b)(1)(M)(ii). Pub. L. 105–244, § 417(b)(6)(B), inserted before semicolon '', except that no borrower who provides evidence of eligibility for unemployment benefits shall be required to provide additional paperwork for a deferment under this clause''.

Subsec. (b)(1)(U)(i)(I), (ii). Pub. L. 105–244, § 417(b)(7)(A), substituted ''emergency action,'' for ''emergency action,,''.

Subsec. (b)(1)(U)(iii)(I). Pub. L. 105–244, § 417(b)(7)(B), inserted ''that originates or holds more than $5,000,000 in loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 for any lender fiscal year (except that each lender described in section 1085(d)(1)(A)(ii)(III) of this title shall annually submit the results of an audit required by this clause),'' before ''at least once a year''.

Subsec. (b)(1)(X). Pub. L. 105–244, § 417(b)(8)(B)(i), substituted ''subsection (c)(9)'' for ''subsection (c)(10)''.

Subsec. (b)(1)(Y). Pub. L. 105–244, § 417(b)(8)(A), (B)(ii), (C), added subpar. (Y).

Subsec. (b)(3). Pub. L. 105–244, § 417(b)(9)(B), inserted concluding provisions.

Subsec. (b)(3)(C). Pub. L. 105–244, § 417(b)(9)(A), added subpar. (C) and struck out former subpar. (C) which read as follows: ''conduct unsolicited mailings to students enrolled in secondary school of student loan application forms; or''.

Subsec. (b)(7)(D). Pub. L. 105–244, § 417(b)(10), added subpar. (D).

Subsec. (b)(9). Pub. L. 105–244, § 417(b)(11), added par. (9).

Subsec. (c)(1)(A). Pub. L. 105–244, § 417(c)(1)(A)(i), substituted ''95 percent'' for ''98 percent''.

Subsec. (c)(1)(B)(i). Pub. L. 105–244, § 417(c)(1)(A)(ii), substituted ''85 percent'' for ''88 percent''.

Subsec. (c)(1)(B)(ii). Pub. L. 105–244, § 417(c)(1)(A)(iii), substituted ''75 percent'' for ''78 percent''.

Subsec. (c)(1)(E)(i). Pub. L. 105–244, § 417(c)(1)(A)(iv)(I), substituted ''95 percent'' for ''98 percent''.

Subsec. (c)(1)(E)(ii). Pub. L. 105–244, § 417(c)(1)(A)(iv)(II), substituted ''85 percent'' for ''88 percent''.

Subsec. (c)(1)(E)(iii). Pub. L. 105–244, § 417(c)(1)(A)(iv)(III), substituted ''75 percent'' for ''78 percent''.

Subsec. (c)(1)(F)(i). Pub. L. 105–244, § 417(c)(1)(A)(v)(I), substituted ''95 percent'' for ''98 percent''.

Subsec. (c)(1)(F)(ii). Pub. L. 105–244, § 417(c)(1)(A)(v)(II), substituted ''85 percent'' for ''88 percent''.

Subsec. (c)(1)(F)(iii). Pub. L. 105–244, § 417(c)(1)(A)(v)(III), substituted ''75 percent'' for ''78 percent''.

Subsec. (c)(2)(A). Pub. L. 105–244, § 417(c)(2)(A), substituted ''proof that the institution was contacted and other reasonable attempts were made'' for ''proof that reasonable attempts were made''.

Subsec. (c)(2)(G). Pub. L. 105–244, § 417(c)(2)(B), substituted ''certifies to the Secretary that diligent attempts, including contact with the institution, have been made'' for ''certifies to the Secretary that diligent attempts have been made''.

Subsec. (c)(2)(H)(ii). Pub. L. 105–244, § 417(c)(3), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the guaranty agency may require the payment by the institution of a reasonable fee (as determined in accordance with regulations prescribed by the Secretary) for such information; and''.

Subsec. (c)(3)(A)(i). Pub. L. 105–244, § 417(c)(4)(A), struck out ''written'' before ''request'' in introductory provisions.

Subsec. (c)(3)(D). Pub. L. 105–244, § 417(c)(4)(B)–(D), added subpar. (D).

Subsec. (c)(6). Pub. L. 105–244, § 417(c)(5), amended heading and text of par. (6) generally, revising and restating provisions relating to Secretary's equitable share.

Subsec. (c)(8). Pub. L. 105–244, § 417(c)(6), redesignated subpar. (A) as entire par. and struck out subpar. (B) which read as follows: ''An orderly transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part C of this subchapter shall be deemed to be in the Federal fiscal interest, and a guaranty agency shall promptly assign loans to the Secretary under this paragraph upon the Secretary's request.''

Subsec. (c)(9)(A). Pub. L. 105–244, § 417(c)(7)(A), substituted ''maintain in the agency's Federal Student Loan Reserve Fund established under section 1072a of this title a current minimum reserve level of at least 0.25 percent'' for ''maintain a current minimum reserve level of at least .5 percent''.

Subsec. (c)(9)(C). Pub. L. 105–244, § 417(c)(7)(B), substituted ''85 percent pursuant to paragraph (1)(B)(i)'' for ''80 percent pursuant to subsection (c)(1)(B)(ii) of this section'', struck out '', as appropriate,'' after ''Secretary shall require'', and substituted ''45 working days'' for ''30 working days''.

Subsec. (c)(9)(E)(iv). Pub. L. 105–244, § 417(c)(7)(C)(i), inserted ''or'' at end.

Subsec. (c)(9)(E)(v). Pub. L. 105–244, § 417(c)(7)(C)(ii), substituted a period for ''; or'' at end.

Subsec. (c)(9)(E)(vi). Pub. L. 105–244, § 417(c)(7)(C)(iii), struck out cl. (vi) which read as follows: ''the Secretary determines that such action is necessary to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part C of this subchapter.''

Subsec. (c)(9)(F)(vii). Pub. L. 105–244, § 417(c)(7)(D), substituted ''and to avoid disruption of the student loan program.'' for ''to avoid disruption of the student loan program, and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part C of this subchapter.''

Subsec. (c)(9)(I). Pub. L. 105–244, § 417(c)(7)(E), inserted ''that, if commenced after September 24, 1998, shall be on the record'' after ''for a hearing''.

Subsec. (c)(9)(K). Pub. L. 105–244, § 417(c)(7)(F), substituted ''and the Workforce'' for ''and Labor'' and struck out ''and the progress of the transition from the loan programs under this part to the direct student loan programs under part C of this subchapter'' after ''guaranty agency system''.

Subsec. (e). Pub. L. 105–244, § 417(d), amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) related to payments for lender referral services.

Subsec. (f). Pub. L. 105–244, § 417(e), amended heading and text of subsec. (f) generally. Prior to amendment, subsec. (f) authorized the Secretary to make payments to guaranty agencies for fiscal years prior to fiscal year 1994 for certain administrative and other costs and provided for applications for such payments.

Subsec. (g). Pub. L. 105–244, § 417(f), substituted ''and the Workforce'' for ''and Labor'' in concluding provisions.

Subsec. (j)(3). Pub. L. 105–244, § 417(g)(1), struck out ''during transition to direct lending'' after ''services'' in heading.

Subsec. (j)(3)(A). Pub. L. 105–244, § 417(g)(2), struck out ''during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part C of this subchapter'' after ''loan capital'' and inserted ''designated for a State'' after ''a guaranty agency'' and ''subparagraph (C) and'' after ''funds in accordance with''.

Subsec. (j)(3)(C). Pub. L. 105–244, § 417(g)(3), added subpar. (C).

Subsec. (*l*). Pub. L. 105–244, § 417(h), amended heading and text of subsec. (*l*) generally. Prior to amendment, text read as follows:

''(1) ASSISTANCE REQUIRED.—Upon receipt of a proper request from the lender, a guaranty agency having an agreement with the Secretary under subsection (c) of this section shall engage in preclaims assistance activities (as described in subsection (c)(6)(C)(i)(I) of this section) and supplemental preclaims assistance activities (as described in subsection (c)(6)(C) of this section) with respect to each loan covered by such agreement.

''(2) PAYMENTS FOR SUPPLEMENTAL PRECLAIMS ASSISTANCE.—The Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency that engages in supplemental preclaims assistance (as defined in subsection (c)(6)(C) of this section) on a loan guaranteed under this part. For each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent, such payment shall be equal to one percent of the total of the unpaid principal and the accrued unpaid interest of the loan.''

Subsec. (m)(1). Pub. L. 105–244, § 417(i), substituted ''may require borrowers'' for ''shall require at least 10 percent of the borrowers''.

Subsec. (n). Pub. L. 105–244, § 417(k), added subsec. (n).

Pub. L. 105–244, § 417(j), struck out heading and text of subsec. (n) which related to State share of default costs.

1997—Subsec. (a)(5). Pub. L. 105–33, § 6104(2), substituted ''September 30, 2002,'' for ''September 30, 1998,'' and ''September 30, 2006.'' for ''September 30, 2002.''

Subsec. (c)(9)(A). Pub. L. 105–33, § 6101(b), struck out ''for the fiscal year of the agency that begins in 1993'' after ''loans guaranteed by such agency'' and struck out at end ''The minimum reserve level shall increase to—

''(i) .7 percent of such total attributable amount for the fiscal year of the agency that begins in 1994;

''(ii) .9 percent of such total attributable amount for the fiscal year of the agency that begins in 1995; and

''(iii) 1.1 percent of such total attributable amount for each fiscal year of the agency that begins on or after January 1, 1996.''

1994—Subsec. (c)(1)(G). Pub. L. 103–382 added subpar. (G).

1993—Subsec. (a)(2)(C)(i). Pub. L. 103–208, § 2(c)(11), substituted ''; and'' for period at end.

Subsec. (a)(2)(E). Pub. L. 103–208, § 2(c)(12), inserted ''or 1078–8'' after ''1078–1''.

Subsec. (b)(1)(A)(ii), (iii). Pub. L. 103–208, § 2(c)(13)(A), added cls. (ii) and (iii) and struck out former cls. (ii) and (iii) which read as follows:

''(ii) in the case of a student who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study—

''(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

''(II) $2,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such academic year; and

''(III) $1,175, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such academic year;

''(iii) in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

''(I) $5,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this title);

''(II) $3,675, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(III) $1,825, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and''.

Subsec. (b)(1)(A)(iv), (v). Pub. L. 103–208, § 2(c)(13)(B), (C), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (b)(1)(B). Pub. L. 103–208, § 2(c)(14), substituted a semicolon for period at end of closing provisions.

Subsec. (b)(1)(D). Pub. L. 103–66, § 4043(a)(1), substituted ''be subject to income contingent repayment in accordance with subsection (m) of this section;'' for ''be subject to repayment in accordance with the regulations required by subsection (m) of this section if the Secretary has published the finding required by paragraph (2) of such subsection;''.

Subsec. (b)(1)(G). Pub. L. 103–66, § 4108(b), substituted ''98 percent'' for ''100 percent'' and inserted before semicolon at end '', except that such program shall insure 100 percent of the unpaid principal of loans made with funds advanced pursuant to subsection (j) of this section or section 1087–2(q) of this title''.

Subsec. (b)(1)(H). Pub. L. 103–66, § 4102(c), substituted ''1.0 percent'' for ''3 percent''.

Subsec. (b)(1)(N). Pub. L. 103–208, § 2(c)(15), amended subpar. (N) generally. Prior to amendment, subpar. (N) read as follows: ''provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check and except in the case of students who are studying outside the United States in a program of study abroad that is

approved for credit by the home institution at which the student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney;''.

Subsec. (b)(1)(U). Pub. L. 103–208, §2(c)(16), inserted a comma after ''emergency action'' in two places and substituted ''this clause'' for ''this clause;'' at end.

Subsec. (b)(1)(V). Pub. L. 103–208, §2(c)(17), redesignated subpar. (X) as (V) and struck out former subpar. (V) which related to procedure and requirements for granting a forbearance while a borrower is enrolled in a medical or dental internship or residency program. See Codification note above.

Subsec. (b)(1)(W). Pub. L. 103–208, §2(c)(17), redesignated subpar. (Y) as (W) and struck out former subpar. (W) which read as follows:

''(i) provides that, upon written request, a lender shall grant a borrower forbearance on such terms as are otherwise consistent with the regulations of the Secretary, during periods in which the borrower is serving in a national service position, for which the borrower receives a national service educational award under the National and Community Service Trust Act of 1993;

''(ii) provides that clauses (iii) and (iv) of subparagraph (V) shall also apply to a forbearance granted under this subparagraph; and

''(iii) provides that interest shall continue to accrue on a loan for which a borrower receives forbearance under this subparagraph and shall be capitalized or paid by the borrower;''. See Codification note above.

Pub. L. 103–82, §102(c)(1)(A), added subpar. (W) and redesignated former subpar. (W) as (X).

Subsec. (b)(1)(X). Pub. L. 103–208, §2(c)(17)(B), redesignated subpar. (Z) as (X). Former subpar. (X) redesignated (V). See Codification note above.

Pub. L. 103–82, §102(c)(1)(A)(i), redesignated subpar. (W) as (X). Former subpar. (X) redesignated (Y).

Subsec. (b)(1)(Y). Pub. L. 103–208, §2(c)(17)(B), redesignated subpar. (Y) as (W). See Codification note above.

Pub. L. 103–82, §102(c)(1)(A)(i), redesignated subpar. (X) as (Y). Former subpar. (Y) redesignated (Z).

Subsec. (b)(1)(Z). Pub. L. 103–208, §2(c)(17)(B), redesignated subpar. (Z) as (X). See Codification note above.

Pub. L. 103–82, §102(c)(1)(A)(i), redesignated subpar. (Y) as (Z).

Subsec. (b)(2)(F)(i). Pub. L. 103–208, §2(c)(18), substituted ''either jointly or separately to provide a notice'' for ''each to provide a separate notice''.

Subsec. (b)(2)(F)(ii). Pub. L. 103–208, §2(c)(19)–(21), substituted ''transferee'' for ''transferor'' in introductory provisions, struck out ''to another holder'' after ''the loan'' in subcl. (I), and substituted ''the new'' for ''such other'' in subcl. (II).

Subsec. (b)(7). Pub. L. 103–208, §2(c)(22), amended par. (7) generally. Prior to amendment, par. (7) read as follows:

''(A) In the case of a loan made under section 1077 of this title or this section, the repayment period shall begin on the day immediately following the expiration of the 6-month period after the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment or forbearance.

''(B) In the case of a loan made under section 1078–1 or 1078–8 of this title, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

''(C) In the case of a loan made under section 1078–2 or 1078–3 of this title, the repayment period shall begin on the day the loan is disbursed, and shall exclude any period of authorized deferment or forbearance.''

Subsec. (b)(8). Pub. L. 103–208, §2(c)(23), added par. (8).

Subsec. (c)(1)(A). Pub. L. 103–208, §2(c)(24), substituted last sentence for former last sentence which read as follows: ''In no case shall a guaranty agency file a claim under this subsection for reimbursement with respect to losses prior to 270 days after the loan becomes delinquent with respect to any installment thereon, or later than 45 days after the guaranty agency discharges its insurance obligation on the loan.''

Pub. L. 103–66, §4108(a)(1), substituted ''98 percent'' for ''100 percent'' in fourth sentence.

Subsec. (c)(1)(B), (E), (F). Pub. L. 103–66, §4108(a)(2)–(4), in subpar. (B), substituted ''88 percent'' for ''90 percent'' in cl. (i) and ''78 percent'' for ''80 percent'' in cl. (ii), and added subpars. (E) and (F).

Subsec. (c)(2)(G). Pub. L. 103–208, §2(c)(25), substituted ''certifies'' for ''demonstrates'' before ''to the Secretary''.

Subsec. (c)(3)(A). Pub. L. 103–208, §2(c)(26), added subpar. (A) and struck out former subpar. (A) which read as follows: ''shall contain provisions providing for forbearance in accordance with subparagraphs (V) and (W) of subsection (b)(1) of this section for the benefit of the student borrower serving in a medical or dental internship or residency program;''. See Codification note above.

Pub. L. 103–82, §102(c)(1)(B), substituted ''subparagraphs (V) and (W) of subsection (b)(1)'' for ''subsection (b)(1)(V)''.

Subsec. (c)(6)(A)(ii). Pub. L. 103–66, §4110(a), substituted ''27 percent'' for ''30 percent''.

Subsec. (c)(8). Pub. L. 103–66, §4044, designated existing provisions as subpar. (A), struck out second and third sentences, and added subpar. (B). Prior to amendment, second and third sentences read as follows: ''Prior to making such determination for any guaranty agency, the Secretary shall, in consultation with the guaranty agency, develop criteria to determine whether such agency has made adequate collections efforts. In determining whether a guaranty agency's collection efforts have met such criteria, the Secretary shall consider the agency's record of success in collecting on defaulted loans, the age of the loans, and the amount of recent payments received on the loans.''

Subsec. (c)(9). Pub. L. 103–66, §4107(a), redesignated par. (10) as (9) and struck out former par. (9) which required guaranty agencies to pay reinsurance fees to the Secretary.

Subsec. (c)(10). Pub. L. 103–66, §4107(a)(2), redesignated par. (10) as (9).

Subsec. (c)(10)(C). Pub. L. 103–66, §4045(1), inserted '', as appropriate,'' after ''the Secretary shall require''.

Subsec. (c)(10)(D). Pub. L. 103–66, §4045(2), designated existing provisions as cl. (i), substituted ''If the Secretary is not seeking to terminate the guaranty agency's agreement under subparagraph (E), or assuming the guaranty agency's functions under subparagraph (F), a'' for ''Each'', and added cl. (ii).

Subsec. (c)(10)(E)(iv) to (vi). Pub. L. 103–66, §4045(3), added cls. (iv) to (vi).

Subsec. (c)(10)(F). Pub. L. 103–66, §4045(4)(A), substituted ''If a guaranty'' for ''Except as provided in subparagraph (G), if a guaranty''.

Subsec. (c)(10)(F)(v). Pub. L. 103–66, §4045(4)(B), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: ''provide the guaranty agency with additional advance funds in accordance with section 1072(c)(7) of this title in order to meet immediate cash needs of the guaranty agency and ensure the uninterrupted payment of claims, with such restrictions on the use of such funds, as determined appropriate by the Secretary; or''.

Subsec. (c)(10)(F)(vi), (vii). Pub. L. 103–66, §4045(4)(C), (D), in cl. (vi), substituted ''to avoid'' for ''and to avoid'' before ''disruption of the student'' and inserted before period at end '', and to ensure an orderly transition from the loan programs under this part to the direct student loan programs under part C of this subchapter'', redesignated cl. (vi) as (vii), and added new cl. (vi).

Subsec. (c)(10)(G). Pub. L. 103–66, §4045(5), (7), added subpar. (G) and struck out former subpar. (G) which read as follows: ''The Secretary may not take any ac-

tion under subparagraph (E) or (F) against any guaranty agency that is backed by the full faith and credit of the State where such guaranty agency is the primary guarantor.''

Subsec. (c)(10)(H) to (J). Pub. L. 103–66, § 4045(6), (7), added subpar. (H) and redesignated former subpars. (H) and (I) as (I) and (J), respectively. Former subpar. (J) redesignated (K).

Subsec. (c)(10)(K). Pub. L. 103–66, § 4045(6), (8), redesignated subpar. (J) as (K) and substituted ''system and the progress of the transition from the loan programs under this part to the direct student loan programs under part C of this subchapter.'' for ''system, together with recommendations for legislative changes, if necessary, for the maintenance of a strong guaranty agency system.''

Subsec. (e)(1). Pub. L. 103–66, § 4041(b)(1), amended heading, designated existing provisions as subpar. (A) and substituted ''with which the Secretary has an agreement under subparagraph (B)'' for ''in any State'', and added subpar. (B).

Subsec. (e)(2). Pub. L. 103–66, § 4041(b)(2)(A), in introductory provisions, substituted ''with which the Secretary has an agreement under paragraph (1)(B)'' for ''in a State''.

Subsec. (e)(2)(A). Pub. L. 103–208, § 2(c)(27), redesignated former cl. (i), subcl. (I) as (i) and former cl. (i), subcl. (II) as (ii) and struck out cl. (i) designation following subpar. (A) designation. See Codification note above.

Pub. L. 103–66, § 4041(b)(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State; and''.

Subsec. (e)(3). Pub. L. 103–66, § 4041(b)(3), substituted ''From funds available for costs of transition under section 1087h of this title, the'' for ''The''.

Subsec. (e)(5). Pub. L. 103–66, § 4041(b)(4), struck out par. (5) which related to authorization of appropriations.

Subsec. (f)(1)(A). Pub. L. 103–66, § 4107(b)(1), substituted ''For a fiscal year prior to fiscal year 1994, the Secretary'' for ''The Secretary''.

Subsec. (f)(1)(B). Pub. L. 103–66, § 4107(b)(2), inserted ''prior to fiscal year 1994'' after ''any fiscal year''.

Subsec. (j)(2). Pub. L. 103–208, § 2(c)(28), substituted ''lender-of-last-resort'' for ''lender of last resort'' in introductory provisions.

Subsec. (j)(2)(A) to (E). Pub. L. 103–66, § 4041(a)(2)(B), in subpar. (A) inserted before semicolon ''and ensure a response within 60 days after the student's original complete application is filed under this subsection'', added subpar. (B), and redesignated former subpars. (B) to (D) as (C) to (E), respectively.

Subsec. (j)(3). Pub. L. 103–66, § 4041(a)(1), added par. (3) consisting of subpars. (A) and (B), and struck out former par. (3) relating to limitation on lender-of-last-resort program, consisting of subpars. (A) to (C).

Subsec. (*l*)(2). Pub. L. 103–66, § 4112(a), inserted second sentence and struck out former second sentence which read as follows: ''Such payments shall be equal to $50.00 for each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent.''

Subsec. (m). Pub. L. 103–66, § 4043(a)(2), amended par. (1) generally, added par. (2), and struck out former pars. (2) to (4). Prior to amendment, former pars. (1) to (4) related to establishment of terms and conditions, collection mechanism, loans for which income contingent repayment is required, and additional authority, respectively.

Subsec. (n). Pub. L. 103–66, § 4201(a), added subsec. (n).

1992—Subsec. (a)(2)(C). Pub. L. 102–325, § 416(a)(1), amended cls. (i) and (ii) generally. Prior to amendment, cls. (i) and (ii) read as follows:

''(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A of this subchapter (as determined in accordance with section 1091(b) of this title), subpart 2 of part A of this subchapter, part D of this subchapter, and part C of subchapter I of chapter 34 of title 42, and any amount paid the student under chapters 32, 34, and 35 of title 38, plus other scholarship, grant, or loan assistance; and

''(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated by subtracting from the estimated cost of attendance at the eligible institution the total of the expected family contribution with respect to such student plus any estimated financial assistance reasonably available to such student.''

Subsec. (a)(3)(A)(v). Pub. L. 102–325, § 416(a)(2), added cl. (v).

Subsec. (a)(5). Pub. L. 102–325, § 411(b)(2), substituted ''September 30, 1998'' for ''September 30, 1992'' and ''September 30, 2002'' for ''September 30, 1997''.

Subsec. (a)(7). Pub. L. 102–325, § 416(a)(3), added par. (7).

Subsec. (b)(1)(A). Pub. L. 102–325, § 416(b)(1)(A), inserted ''or in a program of study abroad approved for credit by the eligible home institution at which such student is enrolled'' in introductory provisions.

Subsec. (b)(1)(A)(i) to (iv). Pub. L. 102–325, § 416(b)(1)(B), added cls. (i) to (iv) and struck out former cls. (i) to (iii) which read as follows:

''(i) $2,625, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

''(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; and

''(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary);''.

Subsec. (b)(1)(B). Pub. L. 102–325, § 416(b)(2), which directed the amendment of subpar. (B) by striking clauses (i) and (ii) and inserting language which contained new cls. (i) and (ii) followed by concluding provisions, was executed by substituting the new cls. (i) and (ii) and concluding provisions for former cls. (i) and (ii) and former concluding provisions to reflect the probable intent of Congress. Prior to amendment, cls. (i) and (ii) and concluding provisions read as follows:

> ''(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 1078–1 or 1078–2 of this title; and
>
> ''(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 1078–1 or 1078–2 of this title;

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;''.

Subsec. (b)(1)(D), (E). Pub. L. 102–325, § 416(c)(1), amended subpars. (D) and (E) generally. Prior to amendment, subpars. (D) and (E) read as follows:

''(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the repayment period of any insured loan may not exceed 10 years, and (iii) the note or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed;

''(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months preceding the start of the repayment period, specifically

requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution;''.

Subsec. (b)(1)(L)(i). Pub. L. 102–325, § 416(d), substituted ''(but in no instance less than the amount of interest due and payable)'' for '', except that, in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less''.

Subsec. (b)(1)(M). Pub. L. 102–325, § 416(e)(1), amended subpar. (M) generally, revising and restating as cls. (i) to (iii) provisions formerly contained in cls. (i) to (xi).

Subsec. (b)(1)(N). Pub. L. 102–325, § 416(f), substituted ''except in the case of students who are studying outside the United States in a program of study abroad that is approved for credit by the home institution at which the student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney;'' for ''except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student;''.

Subsec. (b)(1)(T). Pub. L. 102–325, § 416(g), amended subpar. (T) generally. Prior to amendment, subpar. (T) read as follows: ''provides no restrictions with respect to eligible institutions (other than nonresidential correspondence schools) which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program as in effect on January 1, 1985, unless—

''(i) that institution is ineligible under regulations for the emergency action, limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program; or

''(ii) there is a State constitutional prohibition affecting the eligibility of such an institution;''.

Subsec. (b)(1)(U)(iii). Pub. L. 102–325, § 416(h), added cl. (iii).

Subsec. (b)(1)(V). Pub. L. 102–325, § 416(i)(4), (5), added cls. (ii) and (iii) and redesignated former cl. (ii) as (iv).

Pub. L. 102–325, § 416(i)(3), which directed the amendment of cl. (ii) by substituting a semicolon for a period at end, could not be executed because the period had been stricken by Pub. L. 102–164, § 601(b)(2).

Pub. L. 102–325, § 416(i)(1), (2), struck out ''and'' at end of cl. (i) and inserted ''or (ii)'' after ''clause (i)'' in two places in cl. (ii).

Subsec. (b)(1)(W) to (Y). Pub. L. 102–325, § 416(j), added subpars. (W) to (Y) and struck out former subpars. (W) and (X) which related to credit reports, credit worthy cosigners, and authorizations for entry of judgments against borrowers in the event of default.

Subsec. (b)(2)(C). Pub. L. 102–325, § 416(k)(1), substituted '', including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States,'' for '', as the Secretary may reasonably require to carry out the Secretary's functions under this part,''.

Subsec. (b)(2)(D)(i). Pub. L. 102–325, § 416(k)(2)(A), substituted ''on at least an annual basis'' for ''at least once every 2 years''.

Subsec. (b)(2)(E). Pub. L. 102–325, § 416(k)(3), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (b)(2)(F). Pub. L. 102–325, § 416(k)(2)(B), (4), added subpar. (F).

Subsec. (b)(3)(B) to (D). Pub. L. 102–325, § 416(*l*), added subpar. (B) and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (b)(4). Pub. L. 102–325, § 416(n), inserted at end sentence relating to requests for deferment of repayment by students engaged in fellowship-supported study outside the United States.

Pub. L. 102–325, § 416(m), redesignated par. (5) as (4) and struck out former par. (4) which related to targeted teacher deferment rule.

Subsec. (b)(5). Pub. L. 102–325, § 416(m)(2), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (b)(6). Pub. L. 102–325, § 416(*o*), added par. (6). Former par. (6) redesignated (5).

Subsec. (b)(7). Pub. L. 102–325, § 416(c)(2), added par. (7).

Subsec. (c)(1)(A). Pub. L. 102–325, § 416(p)(1), substituted '', or later than 45 days after the guaranty agency discharges its insurance obligation on the loan.'' for period at end.

Subsec. (c)(1)(D). Pub. L. 102–325, § 416(p)(2), added subpar. (D).

Subsec. (c)(2). Pub. L. 102–325, § 416(p)(3), struck out ''and'' at end of subpar. (F), added subpars. (G) and (H), and redesignated former subpar. (G) as (I).

Subsec. (c)(3). Pub. L. 102–325, § 416(p)(4), added subpar. (C) and concluding provisions and struck out former last sentence which read as follows: ''Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.''

Subsec. (c)(7)(A). Pub. L. 102–325, § 416(p)(5)(A), substituted ''(1)(C)'' for ''(1)(B)'' in introductory provisions and inserted ''and ends before October 1, 1991'' in cl. (i).

Subsec. (c)(7)(B). Pub. L. 102–325, § 416(p)(5)(D), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (c)(7)(C). Pub. L. 102–325, § 416(p)(5)(B), (C), redesignated subpar. (B) as (C) and inserted ''or (B)'' after ''(A)''.

Subsec. (c)(8). Pub. L. 102–325, § 416(p)(6), inserted provisions at end directing Secretary to develop criteria to determine whether agency has made adequate collection efforts and directing Secretary to consider certain factors in making determination.

Subsec. (c)(10). Pub. L. 102–325, § 416(p)(7), added par. (10).

Subsec. (f)(1)(A)(i). Pub. L. 102–325, § 416(q)(1), substituted ''eligible lender'' for ''commercial lender''.

Subsec. (f)(1)(C). Pub. L. 102–325, § 416(q)(2), added subpar. (C).

Subsec. (j). Pub. L. 102–325, § 416(r), designated existing provisions as par. (1), inserted par. heading, and added pars. (2) and (3).

Subsec. (k)(3). Pub. L. 102–325, § 416(s), added par. (3).

Subsec. (m). Pub. L. 102–325, § 416(t), added subsec. (m).

1991—Subsec. (a)(2)(A)(iii). Pub. L. 102–164, § 602(b)(1), added cl. (iii).

Subsec. (a)(2)(F). Pub. L. 102–26 amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''Except as provided in subparagraph (D), an eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, refuse to provide to any eligible lender which has an agreement under subsection (b) of this section with any guaranty agency, a statement which permits a student to receive any loan under this part, except that, in individual cases where the institution determines that the portion of the student's expenses to be covered by the loan can be met more appropriately, either by the institution or directly by the student, from other sources, the institution may refuse to provide such statement or may reduce the determination of need contained in such statement.''

Subsec. (b)(1)(W). Pub. L. 102–164, § 601(b), added subpar. (W).

Subsec. (b)(1)(X). Pub. L. 102–164, § 604, added subpar. (X).

Subsec. (c)(6)(D). Pub. L. 102–164, § 605(b)(2), struck out subpar. (D) which read as follows: ''In the case of a State which enacts and enforces a garnishment law that complies with the requirements of section 1078–5 of this title, subparagraph (A)(ii) shall be applied by substituting '35 percent' for '30 percent'.''

1990—Subsec. (a)(2)(F). Pub. L. 101–508, § 3004(b), inserted before period at end '', except that, in individual

cases where the institution determines that the portion of the student's expenses to be covered by the loan can be met more appropriately, either by the institution or directly by the student, from other sources, the institution may refuse to provide such statement or may reduce the determination of need contained in such statement''.

Subsec. (c)(1)(A). Pub. L. 101–508, § 3002(a)(1), struck out before period at end of first sentence '', including the administrative costs of supplemental preclaim assistance for default prevention as defined in paragraph (6)(C)''.

Subsec. (c)(6)(C). Pub. L. 101–508, § 3002(a)(2)–(5), in introductory provisions of cl. (i), substituted ''subsection (*l*) of this section'' for ''this paragraph'', in cl. (i)(I), substituted ''generally comparable in intensiveness to the level of preclaims assistance performed, prior to the 120th day of delinquency, by the guaranty agency as of October 16, 1990'' for ''required or permitted under paragraph (2)(A) of this subsection and subsection (f) of this section'', in cl. (ii), substituted ''payment under subsection (*l*) of this section'' for ''reimbursement'' and ''described in division (i)(I) of this subparagraph'' for ''which the guaranty agency is required or permitted to provide pursuant to paragraph (2)(A) of this subsection and subsection (f) of this section'', and in cl. (iv), struck out first sentence which read as follows: ''The costs for each delinquent loan associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each such loan subject to the supplemental preclaims assistance authorized by this subparagraph or $100, whichever is less.''

Subsec. (*l*). Pub. L. 101–508, § 3002(b), added subsec. (*l*).

1989—Subsec. (a)(2)(A)(i)(III). Pub. L. 101–239, § 2004(b)(1), added subcl. (III).

Subsec. (b)(1)(M)(i). Pub. L. 101–239, § 2002(a)(2), inserted before semicolon at end '', except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program''.

Subsec. (b)(1)(O). Pub. L. 101–239, § 2004(b)(3), amended subpar. (O) generally, substituting requirement that student loans be disbursed in accordance with section 1078–7 of this title for provisions requiring that certain loans be disbursed directly by lender in 2 or more installments, none exceeding more than one-half of the loan, or in installments pursuant to escrow provisions in subsec. (i).

Subsec. (b)(1)(T)(i). Pub. L. 101–239, § 2006(b)(1), inserted ''emergency action,'' after ''regulations for the''.

Subsec. (b)(1)(U). Pub. L. 101–239, § 2006(b), in cl. (i) inserted ''emergency action,'' after ''regulations for the'', and in cl. (ii) inserted ''take emergency action,'' after ''such program to''.

Subsec. (b)(1)(V). Pub. L. 101–239, § 2002(b)(1)(A), added subpar. (V).

Subsec. (c)(3). Pub. L. 101–239, § 2002(b)(1)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''To the extent provided in regulations of the Secretary, a guaranty agreement under this subsection may contain provisions which permit such forbearance for the benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer. Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.''

1988—Subsec. (b)(1)(M)(v). Pub. L. 100–369, § 7(c), substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (b)(1)(M)(vii). Pub. L. 100–369, § 11(a), inserted ''after January 1, 1986,'' after ''service''.

Subsec. (b)(1)(O). Pub. L. 100–369, § 5(b)(2), substituted ''section 1078–2 or 1078–3'' for ''section 1078–1, 1078–2, or 1078–3''.

1987—Subsec. (a)(2)(D). Pub. L. 100–50, § 10(e), substituted ''certifies the eligibility of any student'' for ''permits the student''.

Subsec. (b)(1)(A)(i). Pub. L. 100–50, § 10(f)(1), substituted ''first and'' for ''first or''.

Subsec. (b)(1)(B)(i). Pub. L. 100–50, § 10(a)(1), inserted '', excluding loans made under section 1078–1 or 1078–2 of this title'' after ''undergraduate education''.

Subsec. (b)(1)(B)(ii). Pub. L. 100–50, § 10(a)(2), inserted '', excluding loans made under section 1078–1 or 1078–2 of this title'' after ''graduate or professional student)''.

Subsec. (b)(1)(M)(vi). Pub. L. 100–50, § 10(b)(1), inserted ''nonprofit'' before ''private''.

Subsec. (b)(1)(M)(vii). Pub. L. 100–50, § 10(b)(2), inserted ''or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training'' before semicolon at end.

Subsec. (b)(1)(N). Pub. L. 100–50, § 10(f)(2), inserted ''and except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student'' before semicolon at end.

Subsec. (b)(1)(O). Pub. L. 100–50, § 10(c), substituted ''$1,000 or more'' for ''more than $1,000''.

Subsec. (b)(1)(O)(i). Pub. L. 100–50, § 10(f)(3), substituted ''being disbursed'' for ''being dispensed''.

Subsec. (b)(1)(P). Pub. L. 100–50, § 10(f)(4), added subpar. (P) and struck out former subpar. (P) which read as follows: ''requires the borrower and the institution at which the borrower is in attendance to promptly notify the holder of the loan, directly or through the guaranty agency, concerning any change of address or status;''.

Subsec. (b)(1)(T). Pub. L. 100–50, § 10(f)(5), inserted ''(other than nonresidential correspondence schools)'' after ''eligible institutions''.

Subsec. (b)(5). Pub. L. 100–50, § 10(g), substituted ''paragraph (1)(M)(i)(III)'' for ''paragraph (1)(M)''.

Subsec. (b)(6)(A). Pub. L. 100–50, § 10(h)(1), substituted ''Until such time as the Secretary has implemented section 1092b of this title and is able to provide to guaranty agencies the information required by such section'' for ''Prior to the implementation of section 1092b of this title''.

Subsec. (b)(6)(B)(ii). Pub. L. 100–50, § 10(h)(2), added cl. (ii) and struck out former cl. (ii) which read as follows: ''the amount borrowed, the cumulative amount borrowed, the income reported on the loan application, and the purposes and the cost of attendance of the borrower.''

Subsec. (c)(1)(A). Pub. L. 100–203, § 3002(b)(1), substituted ''shall be deemed'' for ''shall, subject to section 1072(e) of this title, be deemed''.

Pub. L. 100–203, § 3001(b)(1), substituted ''shall, subject to section 1072(e) of this title, be deemed'' for ''shall be deemed''.

Subsec. (c)(6)(C)(iv). Pub. L. 100–50, § 10(i), inserted at end ''In the case of accounts brought into repayment status as a result of performing supplemental preclaims assistance, the cost of such assistance is a permissible charge to the borrower (for the cost of collection) for which the borrower shall be liable.''

Subsec. (c)(6)(D). Pub. L. 100–50, § 10(j), inserted ''and enforces'' after ''enacts''.

Subsec. (c)(9)(A). Pub. L. 100–203, § 3002(b)(2), substituted ''an amount equal to'' for ''an amount, subject to section 1072(e) of this title, equal to'' in introductory provisions.

Pub. L. 100–203, § 3001(b)(2), substituted ''an amount, subject to section 1072(e) of this title, equal to'' for ''an amount equal to'' in introductory provisions.

Subsec. (c)(9)(A)(i), (ii). Pub. L. 100–50, § 10(k)(1), inserted ''covered'' before ''loans''.

Subsec. (c)(9)(D). Pub. L. 100–50, § 10(k)(2), added subpar. (D).

Subsec. (f)(1)(B). Pub. L. 100–203, § 3002(b)(3), substituted ''shall be deemed'' for ''shall, subject to section 1072(e) of this title, be deemed''.

Pub. L. 100–203, § 3001(b)(3), substituted ''shall, subject to section 1072(e) of this title, be deemed'' for ''shall be deemed''.

Subsec. (i)(1). Pub. L. 100–50, § 10(*l*), struck out ''multiple'' after ''authorizing'' and substituted ''21 days'' for ''45 days''.

Subsec. (j). Pub. L. 100–50, §10(m), inserted provision at end that the guaranty agency consider the request of an eligible lender to serve as the lender-of-last-resort pursuant to this subsection.

Subsec. (k)(1). Pub. L. 100–203, §3003, substituted ''Notwithstanding any other provision of law, in'' for ''In'', ''guaranty agency shall'' for ''guaranty agency may'', and ''subsection shall include'' for ''subsection may include''.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–314 applicable with respect to interest, and any special allowance under section 1087–1 of this title, that accrue for months beginning on or after Oct. 1, 2003, on student loans described in section 2174(c) of Title 10, Armed Forces, that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of Title 10) on or after that date, see section 651(e) of Pub. L. 107–314, set out as an Effective Date note under section 2174 of Title 10.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 417(a), (b), (c)(2)–(k) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, §417(c)(1)(B), Oct. 7, 1998, 112 Stat. 1687, provided that: ''The amendments made by subparagraph (A) of this paragraph [amending this section] apply to loans for which the first disbursement is made on or after October 1, 1998.''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 355(b) of Pub. L. 103–382 provided that: ''Subsection (a) [amending this section] and the amendment made by subsection (a) shall take effect on August 10, 1993.''

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by section 2(c)(11), (12), (14)–(17), (22)–(28) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, amendment by section 2(c)(13)(A) of Pub. L. 103–208 effective on and after July 1, 1994, amendment by section 2(c)(13)(B), (C) and (18) of Pub. L. 103–208 effective on and after Dec. 20, 1993, and amendment by section 2(c)(19)–(21) of Pub. L. 103–208 effective on and after 30 days after Dec. 20, 1993, see section 5(a), (b)(2), (3), (6) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

Section 4043(b) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall take effect on July 1, 1994.''

Section 4102(d) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section and sections 1078–8 and 1087–1 of this title] shall take effect on July 1, 1994.''

Section 4107(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall take effect on October 1, 1993.''

Section 4108(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section] shall apply to any loan for which the first disbursement is made on or after October 1, 1993.''

Section 4110(b) of Pub. L. 103–66 provided that: ''The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1993.''

Section 4112(b) of Pub. L. 103–66 provided that: ''The amendment made by this section [amending this section] shall take effect on October 1, 1993.''

Section 4201(b) of Pub. L. 103–66 provided that: ''The amendment made by this section [amending this section] shall take effect on October 1, 1994.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 432 of Pub. L. 102–325, as amended by Pub. L. 103–208, §2(k)(5), Dec. 20, 1993, 107 Stat. 2486, provided that:

''(a) IN GENERAL.—The changes made in part B of title IV of the Act [20 U.S.C. 1071 et seq.] by the amendments made by this part [part B (§§411–432) of title IV of Pub. L. 102–325, see Tables for classification] shall take effect on the date of enactment of this Act [July 23, 1992], except—

''(1) as otherwise provided in such part B;

''(2) that the changes made in sections 425(a), 428(b)(1)(A), 428(b)(1)(B), 428A(b), 428B(b) [20 U.S.C. 1075(a), 1078(b)(1)(A), (B), 1078–1(b), 1078–2(b)], relating to annual and aggregate loan limits, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, except that—

''(A) the changes made in section 425(a)(1)(A)(i) and 428(b)(1)(A)(i) shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992; and

''(B) the changes made in section 425(a)(1)(A)(iv) and 428(b)(1)(A)(iv) shall apply with respect to loans to cover the costs of instruction for periods of enrollment beginning on or after October 1, 1993;

''(3) that the changes made in sections 427(a)(2)(C), 428(b)(1)(M), and 428B(d)(1) [20 U.S.C. 1077(a)(2)(C), 1078(b)(1)(M), 1078–2(d)(1)], relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

''(4) that the changes made in sections 428(a)(7) and 428(f)(1)(C), relating to payments for unconsummated loans, shall apply with respect to loans made on or after October 1, 1992;

''(5) that the changes made in sections 427(a)(2)(H) and 428(b)(1)(E)(i), relating to offering graduated or income sensitive repayment options, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

''(6) that the changes made in section 428(b)(4), relating to teacher deferment, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

''(7) that section 428(c)(2)(H)(i) as added by such amendments shall be effective on and after October 1, 1992;

''(8) that the changes in section 428(c)(3) with respect to forbearance after a default shall be effective on and after October 1, 1992;

''(9) that the changes made in section 428B(a) [20 U.S.C. 1078–2(a)] with respect to use of credit histories shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;

''(10) that section 428B(c) as added by such amendments, relating to disbursement of Federal PLUS Loans, shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

''(11) that the changes made in section 428C [20 U.S.C. 1078–3], relating to consolidation loans, shall apply with respect to loans under such section for which the application is received by an eligible lender on or after January 1, 1993;

''(12) that section 428H [20 U.S.C. 1078–8] as added by such amendments shall be effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after October 1, 1992;

''(13) that the changes made in section 438 [20 U.S.C. 1087–1] shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

''(14) that the changes in section 439(d)(1) [20 U.S.C. 1087–2(d)(1)], relating to facilities loans, shall apply with respect to applications received on or after July 1, 1992; and

''(15) that the changes in the designation or names of loans or programs under part B is [sic] effective with respect to applications or other documents (used in making such loans) that are printed after the date of enactment of this Act.

''(b) NEW BORROWERS.—For purposes of the section, the term 'new borrower' means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act [20 U.S.C. 1071 et seq.].''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 2002(a)(2) of Pub. L. 101–239 applicable to any loan made, insured, or guaranteed under this part or part D of this subchapter, including a loan made before Dec. 19, 1989, and amendment effective Jan. 1, 1990, but inapplicable with respect to any portion of a period of deferment granted to a borrower under section 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), or 1087dd(c)(2)(A)(i) of this title for service in a medical internship or residency program completed prior to Dec. 19, 1989, see section 2002(a)(4) of Pub. L. 101–239, set out as a note under section 1077 of this title.

Section 2002(b)(2) of Pub. L. 101–239 provided that: ''The amendments made by this subsection [amending this section] shall apply with respect to loans made before, on, or after the date of enactment of this Act [Dec. 19, 1989].''

Amendment by section 2004(b)(1), (3) of Pub. L. 101–239 applicable with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after Jan. 1, 1990, see section 2004(c) of Pub. L. 101–239, set out as a note under section 1077 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 11(a) of Pub. L. 100–369 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100–369, set out as a note under section 1077 of this title.

Amendment by section 5(b)(2) of Pub. L. 100–369 effective with respect to loans made on or after Oct. 1, 1988, and amendment by section 7(c) of Pub. L. 100–369 effective July 18, 1988, see section 13(b) of Pub. L. 100–369, set out as a note under section 1091 of this title.

EFFECTIVE DATE OF 1987 AMENDMENTS

Section 3002(b)(1)–(3) of Pub. L. 100–203 provided in part that the amendments by section 3002(b)(1)–(3) of Pub. L. 100–203 are effective Sept. 30, 1989.

Amendment by section 10(b) of Pub. L. 100–50 applicable with respect to loans made, insured or guaranteed under this part on, before, or after June 3, 1987, see section 11(b) of Pub. L. 100–369, set out as an Effective Date of 1988 Amendment note under section 1077 of this title.

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1987, with subsection (b)(1)(M) (except cls. (viii), (ix), and (x)) applicable only to loans to new borrowers made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, or disbursed on or after July 1, 1987, subsection (b)(1)(A) and (B) applicable with respect only to loans disbursed on or after Jan. 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, and subsection (b)(1)(H) applicable with respect only to loans for which the borrower files an application on or after July 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

GUARANTEED STUDENT LOAN FAMILY CONTRIBUTION SCHEDULE FOR THE PERIODS OF INSTRUCTION BEGINNING AFTER JUNE 30, 1983

Pub. L. 97–301, §9, Oct. 13, 1982, 96 Stat. 1403, as amended by Pub. L. 98–79, §4(b), Aug. 15, 1983, 97 Stat. 481; Pub. L. 98–511, title VII, §707(7), (8), Oct. 19, 1984, 98 Stat. 2407, 2408; Pub. L. 99–272, title XVI, §16018(b), Apr. 7, 1986, 100 Stat. 348; Pub. L. 99–498, title IV, §408(a)(6), (7), Oct. 17, 1986, 100 Stat. 1495, specified that the family contribution schedule for specific periods of instruction through June 30, 1988, for loans made, insured, or guaranteed under this part be the family contribution schedule for such loans for the period of instruction from July 1, 1982, through June 30, 1983, and required the family contribution schedule for the period of instruction from July 1, 1982, through June 30, 1983, to be modified by the Secretary of Education for use for each of the specific periods of instruction to reflect the most recent and relevant data, prior to repeal by Pub. L. 99–498, title IV, §408(b), Oct. 17, 1986, 100 Stat. 1495, effective with respect to any academic year beginning on or after July 1, 1988, Pub. L. 97–301.

§ 1078–1. Voluntary flexible agreements with guaranty agencies

(a) Voluntary agreements

(1) Authority

Subject to paragraph (2), the Secretary may enter into a voluntary, flexible agreement with a guaranty agency under this section, in lieu of agreements with a guaranty agency under subsections (b) and (c) of section 1078 of this title. The Secretary may waive or modify any requirement under such subsections, except that the Secretary may not waive—

(A) any statutory requirement pertaining to the terms and conditions attached to student loans or default claim payments made to lenders; or

(B) the prohibitions on inducements contained in section 1078(b)(3) of this title unless the Secretary determines that such a waiver is consistent with the purposes of this section and is limited to activities of the guaranty agency within the State or States for which the guaranty agency serves as the designated guarantor.

(2) Special rule

If the Secretary grants a waiver pursuant to paragraph (1)(B), any guaranty agency doing business within the affected State or States may request, and the Secretary shall grant, an identical waiver to such guaranty agency under the same terms and conditions (including service area limitations) as govern the original waiver.

(3) Eligibility

During fiscal years 1999, 2000, and 2001, the Secretary may enter into a voluntary, flexible agreement with not more than 6 guaranty agencies that had 1 or more agreements with the Secretary under subsections (b) and (c) of section 1078 of this title as of the day before October 7, 1998. Beginning in fiscal year 2002, any guaranty agency or consortium thereof may enter into a voluntary flexible agreement with the Secretary.

(4) Report required

Not later than September 30, 2001, the Secretary shall report to the Committee on Labor

and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives regarding the impact that the voluntary flexible agreements have had upon program integrity, program and cost efficiencies, and the availability and delivery of student financial aid. Such report shall include—

(A) a description of each voluntary flexible agreement and the performance goals established by the Secretary for each agreement;

(B) a list of participating guaranty agencies and the specific statutory or regulatory waivers provided to each guaranty agency and any waivers provided to other guaranty agencies under paragraph (2);

(C) a description of the standards by which each agency's performance under the agency's voluntary flexible agreement was assessed and the degree to which each agency achieved the performance standards; and

(D) an analysis of the fees paid by the Secretary, and the costs and efficiencies achieved under each voluntary agreement.

(b) Terms of agreement

An agreement between the Secretary and a guaranty agency under this section—

(1) shall be developed by the Secretary, in consultation with the guaranty agency, on a case-by-case basis;

(2) may only include provisions—

(A) specifying the responsibilities of the guaranty agency under the agreement, with respect to—

(i) administering the issuance of insurance on loans made under this part on behalf of the Secretary;

(ii) monitoring insurance commitments made under this part;

(iii) default aversion activities;

(iv) review of default claims made by lenders;

(v) payment of default claims;

(vi) collection of defaulted loans;

(vii) adoption of internal systems of accounting and auditing that are acceptable to the Secretary, and reporting the result thereof to the Secretary in a timely manner, and on an accurate, and auditable basis;

(viii) timely and accurate collection and reporting of such other data as the Secretary may require to carry out the purposes of the programs under this subchapter and part C of subchapter I of chapter 34 of title 42;

(ix) monitoring of institutions and lenders participating in the program under this part; and

(x) informational outreach to schools and students in support of access to higher education;

(B) regarding the fees the Secretary shall pay, in lieu of revenues that the guaranty agency may otherwise receive under this part, to the guaranty agency under the agreement, and other funds that the guaranty agency may receive or retain under the agreement, except that in no case may the cost to the Secretary of the agreement, as reasonably projected by the Secretary, exceed the cost to the Secretary, as similarly projected, in the absence of the agreement;

(C) regarding the use of net revenues, as described in the agreement under this section, for such other activities in support of postsecondary education as may be agreed to by the Secretary and the guaranty agency;

(D) regarding the standards by which the guaranty agency's performance of the agency's responsibilities under the agreement will be assessed, and the consequences for a guaranty agency's failure to achieve a specified level of performance on 1 or more performance standards;

(E) regarding the circumstances in which a guaranty agency's agreement under this section may be ended in advance of the agreement's expiration date;

(F) regarding such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage; and

(G) such other provisions as the Secretary may determine to be necessary to protect the United States from the risk of unreasonable loss and to promote the purposes of this part;

(3) shall provide for uniform lender participation with the guaranty agency under the terms of the agreement; and

(4) shall not prohibit or restrict borrowers from selecting a lender of the borrower's choosing, subject to the prohibitions and restrictions applicable to the selection under this chapter.

(c) Public notice

(1) In general

The Secretary shall publish in the Federal Register a notice to all guaranty agencies that sets forth—

(A) an invitation for the guaranty agencies to enter into agreements under this section; and

(B) the criteria that the Secretary will use for selecting the guaranty agencies with which the Secretary will enter into agreements under this section.

(2) Agreement notice

The Secretary shall notify the Chairperson and the Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 30 days prior to concluding an agreement under this section. The notice shall contain—

(A) a description of the voluntary flexible agreement and the performance goals established by the Secretary for the agreement;

(B) a list of participating guaranty agencies and the specific statutory or regulatory waivers provided to each guaranty agency;

(C) a description of the standards by which each guaranty agency's performance under the agreement will be assessed; and

(D) a description of the fees that will be paid to each participating guaranty agency.

(3) Waiver notice

The Secretary shall notify the Chairperson and the Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 30 days prior to the granting of a waiver pursuant to subsection (a)(2) of this section to a guaranty agency that is not a party to a voluntary flexible agreement.

(4) Public availability

The text of any voluntary flexible agreement, and any subsequent revisions, and any waivers related to section 1078(b)(3) of this title that are not part of such an agreement, shall be readily available to the public.

(5) Modification notice

The Secretary shall notify the Chairperson and the Ranking Minority Members of the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives 30 days prior to any modifications to an agreement under this section.

(d) Termination

At the expiration or early termination of an agreement under this section, the Secretary shall reinstate the guaranty agency's prior agreements under subsections (b) and (c) of section 1078 of this title, subject only to such additional requirements as the Secretary determines to be necessary in order to ensure the efficient transfer of responsibilities between the agreement under this section and the agreements under subsections (b) and (c) of section 1078 of this title, and including the guaranty agency's compliance with reserve requirements under sections 1072 and 1078 of this title.

(Pub. L. 89–329, title IV, § 428A, as added Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(4), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1078–1, Pub. L. 89–329, title IV, § 428A, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1384; amended Pub. L. 100–50, § 10(n), (*o*)(1), (p)(1), (q), (r)(1), June 3, 1987, 101 Stat. 343, 344; Pub. L. 100–369, §§ 3–5(a), (b)(3), July 18, 1988, 102 Stat. 835, 836; Pub. L. 101–239, title II, § 2003(a)(1), (b)(1), (c)(1), Dec. 19, 1989, 103 Stat. 2112, 2114; Pub. L. 101–508, title III, § 3006(b), Nov. 5, 1990, 104 Stat. 1388–28; Pub. L. 102–26, § 2(c)(1), Apr. 9, 1991, 105 Stat. 123; Pub. L. 102–325, title IV, § 417, July 23, 1992, 106 Stat. 529; Pub. L. 103–208, § 2(c)(29)–(32), Dec. 20, 1993, 107 Stat. 2465, 2466, related to Federal supplemental loans for students, prior to repeal by Pub. L. 103–66, title IV, § 4047(b), (d), Aug. 10, 1993, 107 Stat. 364, effective July 1, 1994.

Another prior section 1078–1, Pub. L. 89–329, title IV, § 428A, as added Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2120; amended Pub. L. 95–43, § 1(a)(30)–(32), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title IV, § 412(e), (f), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1416, 1417, 1503; Pub. L. 97–35, title V, § 535(e), Aug. 13, 1981, 95 Stat. 455, related to student loan insurance programs, prior to the general amendment of this part by Pub. L. 99–498.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE

Section effective Oct. 1, 1998, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1078–2. Federal PLUS loans

(a) Authority to borrow

(1) Authority and eligibility

Parents of a dependent student shall be eligible to borrow funds under this section in amounts specified in subsection (b) of this section, if—

(A) the parents do not have an adverse credit history as determined pursuant to regulations promulgated by the Secretary; and

(B) the parents meet such other eligibility criteria as the Secretary may establish by regulation, after consultation with guaranty agencies, eligible lenders, and other organizations involved in student financial assistance.

(2) Terms, conditions, and benefits

Except as provided in subsections (c), (d), and (e) of this section, loans made under this section shall have the same terms, conditions, and benefits as all other loans made under this part.

(3) Special rule

Whenever necessary to carry out the provisions of this section, the terms ''student'' and ''borrower'' as used in this part shall include a parent borrower under this section.

(b) Limitation based on need

Any loan under this section may be counted as part of the expected family contribution in the determination of need under this subchapter and part C of subchapter I of chapter 34 of title 42, but no loan may be made to any parent under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 1078(a)(2)(A) of this title. The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

(c) PLUS loan disbursement

All loans made under this section shall be disbursed in accordance with the requirements of section 1078–7 of this title and shall be disbursed by—

(1) an electronic transfer of funds from the lender to the eligible institution; or

(2) a check copayable to the eligible institution and the parent borrower.

(d) Payment of principal and interest

(1) Commencement of repayment

Repayment of principal on loans made under this section shall commence not later than 60

days after the date such loan is disbursed by the lender, subject to deferral during any period during which the parent meets the conditions required for a deferral under section 1077(a)(2)(C) or 1078(b)(1)(M) of this title.

(2) Capitalization of interest

Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the borrower.

(3) Subsidies prohibited

No payments to reduce interest costs shall be paid pursuant to section 1078(a) of this title on loans made pursuant to this section.

(4) Applicable rates of interest

Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 1077a of this title.

(5) Amortization

The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually, or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 1077a(c)(4) of this title.

(e) Refinancing

(1) Refinancing to secure combined payment

An eligible lender may at any time consolidate loans held by it which are made under this section to a borrower, including loans which were made under this section as in effect prior to October 17, 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported (if required by them) to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

(2) Refinancing to secure variable interest rate

An eligible lender may reissue a loan which was made under this section before July 1, 1987, or under this section as in effect prior to October 17, 1986, in order to permit the borrower to obtain the interest rate provided under section 1077a(c)(4) of this title. A lender offering to reissue a loan or loans for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan or loans, not more than one-half of which shall be paid to the guarantor of the loan being reissued to cover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

(3) Refinancing by discharge of previous loan

A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

(A) shall bear interest at the applicable rate of interest provided under section 1077a(c)(4) of this title;

(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (c)(5)(B) of this section);

(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

(4) Certification in lieu of promissory note presentation

Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

(5) Notification to borrowers of availability of refinancing options

Each holder of a loan made under this section or under this section as in effect prior to October 17, 1986, shall, not later than October 1, 1987, in the case of loans made before October 17, 1986, notify the borrower of such loan—

(A) of the refinancing options for which the borrower is eligible under this subsection;

(B) of those options which will be made available by the holder and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples; and

(C) that, with respect to any option that the holder will not make available, the hold-

er will, to the extent practicable, refer the borrower to an eligible lender offering such option.

(f) Verification of immigration status and social security number

A parent who wishes to borrow funds under this section shall be subject to verification of the parent's—

(1) immigration status in the same manner as immigration status is verified for students under section 1091(g) of this title; and

(2) social security number in the same manner as social security numbers are verified for students under section 1091(p) of this title.

(Pub. L. 89–329, title IV, § 428B, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1386; amended Pub. L. 100–50, § 10(*o*), (p)(2), (q), (r)(1), June 3, 1987, 101 Stat. 343, 344; Pub. L. 102–325, title IV, § 418, July 23, 1992, 106 Stat. 531; Pub. L. 103–66, title IV, § 4109(a), Aug. 10, 1993, 107 Stat. 369; Pub. L. 105–178, title VIII, § 8301(a)(2), June 9, 1998, 112 Stat. 497; Pub. L. 105–244, title IV, §§ 416(a)(2), 419, Oct. 7, 1998, 112 Stat. 1680, 1694.)

CODIFICATION

October 17, 1986, referred to in subsec. (e)(5), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 99–498 which enacted this section in the general revision of this part, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1078–2, Pub. L. 89–329, title IV, § 428B, as added Pub. L. 96–374, title IV, § 419, Oct. 3, 1980, 94 Stat. 1424; amended Pub. L. 97–35, title V, §§ 532(b)(3), 534(a)(2), (c)(1), (2), Aug. 13, 1981, 95 Stat. 452, 454; Pub. L. 98–79, § 12, Aug. 15, 1983, 97 Stat. 484, related to auxiliary loans to assist students, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 419(1), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''Parents of a dependent student, who do not have an adverse credit history as determined pursuant to regulations of the Secretary, shall be eligible to borrow funds under this section in amounts specified in subsection (b) of this section, and unless otherwise specified in subsections (c), (d), and (e) of this section, such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section, the terms 'student' and 'borrower' as used in this part shall include a parent borrower under this section.''

Subsec. (d)(4). Pub. L. 105–244, § 416(a)(2), substituted ''section 1077a'' for ''section 1077a(c)''.

Pub. L. 105–178 which directed substitution of ''section 1077a of this title for loans made under this section'' for ''section 1077a(c) of this title'' in ''section 428B(d)(4) (20 U.S.C. 1078–2(d)(4))'' could not be executed because it did not indicate what act was to be amended.

Subsec. (f). Pub. L. 105–244, § 419(2), added subsec. (f).

1993—Subsec. (c). Pub. L. 103–66 inserted ''shall be disbursed in accordance with the requirements of section 1078–7 of this title and'' after ''under this section''.

1992—Pub. L. 102–325, § 418(a), substituted ''Federal PLUS'' for ''PLUS'' in section catchline.

Subsec. (a). Pub. L. 102–325, § 418(b)(1), substituted ''subsections (c), (d), and (e)'' for ''subsections (c) and (d)'' and inserted '', who do not have an adverse credit history as determined pursuant to regulations of the Secretary,'' after ''a dependent student''.

Subsec. (b). Pub. L. 102–325, § 418(b)(2), struck out subsec. (b) designation and heading, redesignated par. (3) as subsec. (b), and struck out pars. (1) and (2) which set the annual limit on the amount parents may borrow for one student in any academic year at $4,000 and set the aggregate insured principal amount for insured loans at not to exceed $20,000.

Subsec. (c). Pub. L. 102–325, § 418(b)(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 102–325, § 418(c), (d), amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) read as follows:

''(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral (A) during any period during which the parent meets the conditions required for a deferral under clause (i), (viii), or (ix) of section 1077(a)(2)(C) or 1078(b)(1)(M) of this title; and (B) during any period during which the borrower has a dependent student for whom a loan obligation was incurred under this section and who meets the conditions required for a deferral under clause (i) of either such section.

''(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly or (B) be added to the principal amount of the loan on a quarterly basis by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.''

Pub. L. 102–325, § 418(b)(3), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 102–325, § 418(b)(3), redesignated subsec. (d) as (e).

1987—Subsec. (a). Pub. L. 100–50, § 10(*o*)(2)(A), struck out '', but such a parent borrower shall not be eligible for any deferment pursuant to section 1077(a)(2)(C) or 1078(b)(1)(M) of this title except for the deferments allowed (with respect to the student) under clauses (i), (viii), and (ix) of such sections'' after ''borrower under this section''.

Subsec. (b)(3). Pub. L. 100–50, § 10(p)(2), amended first sentence generally, substituting ''for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid'' for ''which would cause the combined loans of the parent and the student for any academic year to exceed the student's estimated cost of attendance minus such student's estimated financial assistance''.

Subsec. (c)(1). Pub. L. 100–50, § 10(*o*)(2)(B), struck out ''pursuant to sections 1077(a)(2)(C)(i), (viii), and (ix) and 1078(b)(1)(M)(i), (viii), and (ix) of this title'' after ''subject to deferral'' and inserted in lieu cls. (A) and (B).

Subsec. (c)(2). Pub. L. 100–50, § 10(*o*)(1), (2)(C), (q), in introductory provisions, struck out ''and interest'' after first reference to ''principal'', and substituted ''pursuant to paragraph (1) of this subsection'' for ''under sections 1077(a)(2)(C)(i) and 1078(b)(1)(M)(i) of this title'', and, in subpar. (A), inserted ''monthly or'' before ''quarterly''.

Subsec. (d)(1). Pub. L. 100–50, § 10(r)(1)(A), inserted ''at any time'' after ''eligible lender may'' in first sentence, substituted ''the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3)'' for ''the borrower complies with the requirements of paragraph (2)'' in second sentence, and inserted ''(if required by them)'' after ''shall be reported'' in third sentence.

Subsec. (d)(2). Pub. L. 100–50, § 10(r)(1)(B), inserted ''under this section before July 1, 1987, or'' before ''under this section'' and substituted ''to reissue a loan or loans'' for ''to reissue a loan'' and ''reissuing such loan or loans'' for ''reissuing such loan''.

Subsec. (d)(5). Pub. L. 100–50, § 10(r)(1)(C), substituted ''October 1, 1987'' for ''January 1, 1987'' and, in subpar. (B), inserted ''and of the practical consequences of such options in terms of interest rates and monthly and

total payments for a set of loan examples'' before semicolon at end.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 416(a)(2) of Pub. L. 105–244 applicable with respect to any loan made, insured, or guaranteed under this part for which the first disbursement is made on or after Oct. 1, 1998, and before July 1, 2003, except that such amendment is applicable with respect to any loan made under section 1078–3 of this title for which application is received by an eligible lender on or after Oct. 1, 1998, and before July 1, 2003, see section 416(c) of Pub. L. 105–244, set out as a note under section 1077a of this title.

Amendment by section 419 of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 4109(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section and section 1078–7 of this title] shall be effective with respect to loans for which the first disbursement is made on or after October 1, 1993.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in subsec. (b), relating to annual and aggregate loan limits, are applicable with respect to loans for which first disbursement is made on or after July 1, 1993, changes made in subsec. (a) with respect to use of credit histories are applicable with respect to loans for which first disbursement is made on or after July 1, 1993, and subsec. (c), as added by Pub. L. 102–325, relating to disbursement of Federal PLUS Loans, is applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

AMENDMENT OF NOTE OR OTHER WRITTEN EVIDENCE OF LOAN BY ELIGIBLE LENDER AT REQUEST OF BORROWER; CIRCUMSTANCES; DENIAL OF REQUEST

Section 10(r)(2) of Pub. L. 100–50 provided that: ''An eligible lender who has refinanced a loan or loans under section 428A(d) [former 20 U.S.C. 1078–1(d)] or 428B(d) [20 U.S.C. 1078–2(d)] between the date of enactment of the Higher Education Amendments of 1986 [Oct. 17, 1986] and July 1, 1987, may, at the request of a borrower or with the written consent of the borrower, amend the note or other written evidence of loan as necessary to comply with the requirements of such sections and section 427A(c)(4) [20 U.S.C. 1077a(c)(4)] as amended by this Act. Any borrower who is denied such a request shall be treated as eligible to obtain a loan from another lender under section 428A(d)(3) or 428B(d)(3), as applicable, for the purposes of discharging the loan from the original lender, and a borrower exercising this option shall not be subject to an additional insurance fee under section 428A(d)(3)(C) or 428B(d)(3)(C).''

§ 1078–3. Federal consolidation loans

(a) Agreements with eligible lenders

(1) Agreement required for insurance coverage

For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to eligible student loans, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) of this section with the following eligible lenders:

(A) the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title;

(B) State agencies described in subparagraphs (D) and (F) of section 1085(d)(1) of this title; and

(C) other eligible lenders described in subparagraphs (A), (B), (C), (E), and (J) of such section.

(2) Insurance coverage of consolidation loans

Except as provided in section 1079(e) of this title, no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2) of this section. Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 1078(c) of this title, but no payment shall be made with respect to such loans under section 1078(f) of this title to any such agency.

(3) Definition of eligible borrower

(A) For the purpose of this section, the term ''eligible borrower'' means a borrower who—

(i) is not subject to a judgment secured through litigation with respect to a loan under this subchapter and part C of subchapter I of chapter 34 of title 42 or to an order for wage garnishment under section 1095a of this title; and

(ii) at the time of application for a consolidation loan—

(I) is in repayment status;

(II) is in a grace period preceding repayment; or

(III) is a defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans.

(B)(i)[1] An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section, except that—

(I) an individual who receives eligible student loans after the date of receipt of the consolidation loan may receive a subsequent consolidation loan;

(II) loans received prior to the date of the consolidation loan may be added during the 180-day period following the making of the consolidation loan;

(III) loans received following the making of the consolidation loan may be added during the 180-day period following the making of the consolidation loan; and

(IV) loans received prior to the date of the first consolidation loan may be added to a subsequent consolidation loan.

(C)(i) A married couple, each of whom has eligible student loans, may be treated as if such couple were an individual borrowing under

[1] So in original. No cl. (ii) has been enacted.

subparagraphs (A) and (B) if such couple agrees to be held jointly and severally liable for the repayment of a consolidation loan, without regard to the amounts of the respective loan obligations that are to be consolidated, and without regard to any subsequent change that may occur in such couple's marital status.

(ii) Only one spouse in a married couple applying for a consolidation loan under this subparagraph need meet any of the requirements of subsection (b) of this section, except that each spouse shall—

(I) individually make the initial certification that no other application is pending in accordance with subsection (b)(1)(A) of this section; and

(II) agree to notify the holder concerning any change of address in accordance with subsection (b)(4) of this section.

(4) "Eligible student loans" defined

For the purpose of paragraph (1), the term ''eligible student loans'' means loans—

(A) made, insured, or guaranteed under this part, including loans on which the borrower has defaulted (but has made arrangements to repay the obligation on the defaulted loans satisfactory to the Secretary or guaranty agency, whichever insured the loans);

(B) made under part D of this subchapter;

(C) made under part C of this subchapter;

(D) made under subpart II of part A of title VII of the Public Health Service Act [42 U.S.C. 292q et seq.]; or

(E) made under subpart II of part B of title VIII of the Public Health Service Act [42 U.S.C. 297a et seq.].

(b) Contents of agreements, certificates of insurance, and loan notes

(1) Agreements with lenders

Any lender described in subparagraph (A), (B), or (C) of subsection (a)(1) of this section who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

(A) that, in the case of all lenders described in subsection (a)(1) of this section, the lender will make a consolidation loan to an eligible borrower (on request of that borrower) only if the borrower certifies that the borrower has no other application pending for a loan under this section and (i) the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, except that this clause shall not apply in the case of a borrower with multiple holders of loans under this part, or (ii) the borrower certifies that the borrower has sought and has been unable to obtain a consolidation loan with income-sensitive repayment terms from the holders of the outstanding loans of that borrower (which are so selected for consolidation);

(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c) of this section;

(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the annual or aggregate principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3) of this section, and (ii) which is equal to the sum of the unpaid principal and accrued unpaid interest and late charges of all eligible student loans received by the eligible borrower which are selected by the borrower for consolidation;

(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

(E) that the lender shall offer an income-sensitive repayment schedule, established by the lender in accordance with the regulations promulgated by the Secretary, to the borrower of any consolidation loan made by the lender on or after July 1, 1994; and

(F) such other terms and conditions as the Secretary or the guaranty agency may specifically require of the lender to carry out this section.

(2) Issuance of certificate of comprehensive insurance coverage

The Secretary shall issue a certificate of comprehensive insurance coverage under section 1079(b) of this title to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. The guaranty agency may issue a certificate of comprehensive insurance coverage to a lender with which it has an agreement under such paragraph. The Secretary shall not issue a certificate to a lender described in subparagraph (B) or (C) of subsection (a)(1) of this section unless the Secretary determines that such lender has first applied to, and has been denied a certificate of insurance by, the guaranty agency which insures the preponderance of its loans (by value).

(3) Contents of certificate

A certificate issued under paragraph (2) shall, at a minimum, provide—

(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured by the Secretary or the guaranty agency (whichever is applicable) against loss of principal and interest;

(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated—

(i) that the loan is a legal, valid, and binding obligation of the borrower;

(ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and

(iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

(C) the effective date and expiration date of the certificate;

(D) the aggregate amount to which the certificate applies;

(E) the reporting requirements of the Secretary on the lender and an identification of the office of the Department of Education or of the guaranty agency which will process claims and perform other related administrative functions;

(F) the alternative repayment terms which will be offered to borrowers by the lender;

(G) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of the certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

(H) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

(4) Terms and conditions of loans

A consolidation loan made pursuant to this section shall be insurable by the Secretary or a guaranty agency pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him or her would not, under applicable law, create a binding obligation, endorsement may be required;

(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section;

(C)(i) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid in accordance with clause (ii), during any period for which the borrower would be eligible for a deferral under section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment schedule pursuant to subsection (c)(2) of this section; and

(ii) provides that interest shall accrue and be paid during any such period—

(I) by the Secretary, in the case of a consolidation loan for which the application is received by an eligible lender before November 13, 1997, that consolidated only Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title;

(II) by the Secretary, in the case of a consolidation loan for which the application is received by an eligible lender on or after November 13, 1997, except that the Secretary shall pay such interest only on that portion of the loan that repays Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title or Federal Direct Stafford Loans for which the borrower received an interest subsidy under section 1087e of this title; or

(III) by the borrower, or capitalized, in the case of a consolidation loan other than a loan described in subclause (I) or (II);

(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 1080a of this title, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

(5) Direct loans

In the event that a borrower is unable to obtain a consolidation loan from a lender with an agreement under subsection (a)(1) of this section, or is unable to obtain a consolidation loan with income-sensitive repayment terms acceptable to the borrower from such a lender, the Secretary shall offer any such borrower who applies for it, a direct consolidation loan. Such direct consolidation loan shall, as requested by the borrower, be repaid either pursuant to income contingent repayment under part C of this subchapter or pursuant to any other repayment provision under this section. The Secretary shall not offer such loans if, in the Secretary's judgment, the Department of Education does not have the necessary origination and servicing arrangements in place for such loans.

(6) Nondiscrimination in loan consolidation

An eligible lender that makes consolidation loans under this section shall not discriminate against any borrower seeking such a loan—

(A) based on the number or type of eligible student loans the borrower seeks to consolidate, except that a lender is not required to consolidate loans described in subparagraph (D) or (E) of subsection (a)(4) of this section or subsection (d)(1)(C)(ii) of this section;

(B) based on the type or category of institution of higher education that the borrower attended;

(C) based on the interest rate to be charged to the borrower with respect to the consolidation loan; or

(D) with respect to the types of repayment schedules offered to such borrower.

(c) Payment of principal and interest

(1) Interest rate

(A) Notwithstanding subparagraphs (B) and (C), with respect to any loan made under this section for which the application is received by an eligible lender—

(i) on or after October 1, 1998, and before July 1, 2006, the applicable interest rate shall be determined under section 1077a(k)(4) of this title; or

(ii) on or after July 1, 2006, the applicable interest rate shall be determined under section 1077a(*l*)(3) of this title.

(B) A consolidation loan made before July 1, 1994, shall bear interest at an annual rate on

the unpaid principal balance of the loan that is equal to the greater of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent; or

(ii) 9 percent.

(C) A consolidation loan made on or after July 1, 1994, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the weighted average of the interest rates on the loans consolidated, rounded upward to the nearest whole percent.

(D) A consolidation loan for which the application is received by an eligible lender on or after November 13, 1997, and before October 1, 1998, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the rate specified in section 1077a(f) of this title, except that the eligible lender may continue to calculate interest on such a loan at the rate previously in effect and defer, until not later than April 1, 1998, the recalculation of the interest on such a loan at the rate required by this subparagraph if the recalculation is applied retroactively to the date on which the loan is made.

(2) Repayment schedules

(A) Notwithstanding any other provision of this part, to the extent authorized by its certificate of insurance under subsection (b)(2)(F) of this section and approved by the issuer of such certificate, the lender of a consolidation loan shall establish repayment terms as will promote the objectives of this section, which shall include the establishment of graduated or income-sensitive repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by such income-sensitive repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section, such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

(i) is less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;

(ii) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

(iii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

(iv) is equal to or greater than $20,000 but less than $40,000, then such consolidation loan shall be repaid in not more than 20 years;

(v) is equal to or greater than $40,000 but less than $60,000, then such consolidation loan shall be repaid in not more than 25 years; or

(vi) is equal to or greater than $60,000, then such consolidation loan shall be repaid in not more than 30 years.

(B) The amount outstanding on other student loans which may be counted for the purpose of subparagraph (A) may not exceed the amount of the consolidation loan.

(3) Additional repayment requirements

Notwithstanding paragraph (2)—

(A) a repayment schedule established with respect to a consolidation loan shall require that the minimum installment payment be an amount equal to not less than the accrued unpaid interest; and

(B) except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section, the lender of a consolidation loan may, with respect to repayment on the loan, when the amount of a monthly or other similar payment on the loan is not a multiple of $5, round the payment to the next highest whole dollar amount that is a multiple of $5.

(4) Commencement of repayment

Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D) of this section, discharged the liability of the borrower on the loans selected for consolidation.

(5) Insurance premiums prohibited

No insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the Secretary with respect to any such loan, but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan.

(d) Special program authorized

(1) General rule and definition of eligible student loan

(A) In general

Subject to the provisions of this subsection, the Secretary or a guaranty agency shall enter into agreements with eligible lenders described in subparagraphs (A), (B), and (C) of subsection (a)(1) of this section for the consolidation of eligible student loans.

(B) Applicability rule

Unless otherwise provided in this subsection, the agreements entered into under subparagraph (A) and the loans made under such agreements for the consolidation of eligible student loans under this subsection shall have the same terms, conditions, and benefits as all other agreements and loans made under this section.

(C) "Eligible student loans" defined

For the purpose of this subsection, the term ''eligible student loans'' means loans—

(i) of the type described in subparagraphs (A), (B), and (C) of subsection (a)(4) of this section; and

(ii) made under subpart I of part A of title VII of the Public Health Service Act [42 U.S.C. 292 et seq.].

(2) Interest rate rule

(A) In general

The portion of each consolidated loan that is attributable to an eligible student loan

described in paragraph (1)(C)(ii) shall bear interest at a rate not to exceed the rate determined under subparagraph (B).

(B) Determination of the maximum interest rate

For the 12-month period beginning after July 1, 1992, and for each 12-month period thereafter, beginning on July 1 and ending on June 30, the interest rate applicable under subparagraph (A) shall be equal to the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the quarter prior to July 1, for each 12-month period for which the determination is made, plus 3 percent.

(C) Publication of maximum interest rate

The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of such determination.

(3) Special rules

(A) No special allowance rule

No special allowance under section 1087–1 of this title shall be paid with respect to the portion of any consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(B) No interest subsidy rule

No interest subsidy under section 1078(a) of this title shall be paid on behalf of any eligible borrower for any portion of a consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

(C) Additional reserve rule

Notwithstanding any other provision of this chapter, additional reserves shall not be required for any guaranty agency with respect to a loan made under this subsection.

(D) Insurance rule

Any insurance premium paid by the borrower under subpart I of part A of title VII of the Public Health Service Act [42 U.S.C. 292 et seq.] with respect to a loan made under that subpart and consolidated under this subsection shall be retained by the student loan insurance fund established under section 710 of the Public Health Service Act [42 U.S.C. 292i].

(4) Regulations

The Secretary is authorized to promulgate such regulations as may be necessary to facilitate carrying out the provisions of this subsection.

(e) Termination of authority

The authority to make loans under this section expires at the close of September 30, 2004. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b) of this section. Loans made under this section which are insured by the Secretary shall be considered to be new loans made to students for the purpose of section 1074(a) of this title.

(f) Interest payment rebate fee

(1) In general

For any month beginning on or after October 1, 1993, each holder of a consolidation loan under this section for which the first disbursement was made on or after October 1, 1993, shall pay to the Secretary, on a monthly basis and in such manner as the Secretary shall prescribe, a rebate fee calculated on an annual basis equal to 1.05 percent of the principal plus accrued unpaid interest on such loan.

(2) Special rule

For consolidation loans based on applications received during the period from October 1, 1998 through January 31, 1999, inclusive, the rebate described in paragraph (1) shall be equal to 0.62 percent of the principal plus accrued unpaid interest on such loan.

(3) Deposit

The Secretary shall deposit all fees collected pursuant to subsection (a) of this section into the insurance fund established in section 1081 of this title.

(Pub. L. 89–329, title IV, § 428C, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1388; amended Pub. L. 100–50, § 10(s), June 3, 1987, 101 Stat. 345; Pub. L. 102–325, title IV, § 419, July 23, 1992, 106 Stat. 532; Pub. L. 102–408, title III, § 306(a), (b), Oct. 13, 1992, 106 Stat. 2084, 2086; Pub. L. 103–66, title IV, §§ 4046(a), (b)(2), 4106(a), Aug. 10, 1993, 107 Stat. 360, 363, 368; Pub. L. 103–208, § 2(c)(33)–(37), Dec. 20, 1993, 107 Stat. 2466; Pub. L. 103–382, title III, § 356, Oct. 20, 1994, 108 Stat. 3967; Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(b)(1)(A)(ii)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–283; Pub. L. 105–33, title VI, § 6104(3), Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–78, title VI, § 609(b)–(e), Nov. 13, 1997, 111 Stat. 1522, 1523; Pub. L. 105–244, title IV, §§ 416(b)(2), 420, Oct. 7, 1998, 112 Stat. 1682, 1695; Pub. L. 107–139, § 1(a)(2), Feb. 8, 2002, 116 Stat. 8.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsecs. (a)(4)(D), (E) and (d)(1)(C)(ii), (3)(D), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Subparts I and II of part A of title VII of the Act are classified generally to subpart I (§ 292 et seq.) and subpart II (§ 292q et seq.), respectively, of part A of subchapter V of chapter 6A of Title 42, The Public Health and Welfare. Subpart II of part B of title VIII of the Act, which was classified generally to subpart II (§ 297a et seq.) of part B of subchapter VI of chapter 6A of Title 42, was redesignated as part E of subchapter VI of chapter 6A of Title 42, by Pub. L. 105–392, title I, § 123(2), Nov. 13, 1998, 112 Stat. 3562. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

This chapter, referred to in subsec. (d)(3)(C), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Amendments by section 2(c)(33), (36) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325)

were executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1078–3, Pub. L. 89–329, title IV, § 428C, as added Pub. L. 99–272, title XVI, § 16017(a), Apr. 7, 1986, 100 Stat. 343, related to consolidation loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2002—Subsec. (c)(1)(A). Pub. L. 107–139 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''Notwithstanding subparagraphs (B) and (C), with respect to any loan made under this section for which the application is received by an eligible lender on or after October 1, 1998, and before July 1, 2003, the applicable interest rate shall be determined under section 1077a(k)(4) of this title.''

1998—Subsec. (a)(3). Pub. L. 105–244, § 420(a), amended heading, added subpars. (A) and (B), and struck out former subpars. (A) and (B) which defined the term ''eligible borrower'', provided for termination of individual's status as an eligible borrower, and provided for counting loans against certain limitations on aggregate indebtedness.

Subsec. (a)(4)(C). Pub. L. 105–244, § 420(b), added subpar. (C) and struck out former subpar. (C) which read as follows: ''made under part C of this subchapter, except that loans made under such part shall be eligible student loans only for consolidation loans for which the application is received by an eligible lender during the period beginning on November 13, 1997, and ending on October 1, 1998;''.

Subsec. (b)(1)(A)(i). Pub. L. 105–244, § 420(c)(1), inserted ''except that this clause shall not apply in the case of a borrower with multiple holders of loans under this part,'' after ''under this section,''.

Subsec. (b)(4)(C)(ii). Pub. L. 105–244, § 420(c)(2), inserted ''during any such period'' after ''and be paid'' in introductory provisions and struck out '', or on or after October 1, 1998,'' before ''that consolidated'' in subcl. (I) and ''and before October 1, 1998,'' before ''except that'' in subcl. (II).

Subsec. (b)(6)(A). Pub. L. 105–244, § 420(c)(3), inserted before semicolon at end '', except that a lender is not required to consolidate loans described in subparagraph (D) or (E) of subsection (a)(4) of this section or subsection (d)(1)(C)(ii) of this section''.

Subsec. (c)(1). Pub. L. 105–244, § 420(b)(2), amended heading, added subpar. (A), and struck out former subpar. (A) which read as follows: ''Consolidation loans made under this section shall bear interest at rates determined under subparagraph (B), (C), or (D). For the purposes of payment of special allowances under section 1087–1(b)(2) of this title, the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.''

Subsec. (e). Pub. L. 105–244, § 420(d), substituted ''September 30, 2004'' for ''September 30, 2002''.

Subsec. (f)(2), (3). Pub. L. 105–244, § 420(e), added par. (2) and redesignated former par. (2) as (3).

1997—Subsec. (a)(4)(C) to (E). Pub. L. 105–78, § 609(b), added subpar. (C) and redesignated former subpars. (C) and (D) as (D) and (E), respectively.

Subsec. (b)(4)(C)(ii)(I). Pub. L. 105–78, § 609(c)(1), (2), inserted ''for which the application is received by an eligible lender before November 13, 1997, or on or after October 1, 1998,'' after ''consolidation loan'' and struck out ''or'' at end.

Subsec. (b)(4)(C)(ii)(II), (III). Pub. L. 105–78, § 609(c)(3)–(5), added subcl. (II) and redesignated former subcl. (II) as (III) and inserted ''or (II)'' before semicolon at end.

Subsec. (b)(6). Pub. L. 105–78, § 609(d), added par. (6).

Subsec. (c)(1)(A). Pub. L. 105–78, § 609(e)(1), substituted ''subparagraph (B), (C), or (D)'' for ''subparagraph (B) or (D)''.

Subsec. (c)(1)(D). Pub. L. 105–78, § 609(e)(2), added subpar. (D).

Subsec. (e). Pub. L. 105–33 substituted ''September 30, 2002.'' for ''September 30, 1998.''

1996—Subsec. (a)(1)(A). Pub. L. 104–208 inserted ''or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title'' after ''Student Loan Marketing Association''.

1994—Subsec. (a)(4)(D). Pub. L. 103–382 added subpar. (D).

1993—Subsec. (a)(3). Pub. L. 103–66, § 4046(a)(1), amended heading.

Subsec. (a)(3)(A). Pub. L. 103–208, § 2(c)(33), substituted ''defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans'' for ''delinquent or defaulted borrower who will reenter repayment through loan consolidation''. See Codification note above.

Pub. L. 103–66, § 4046(a)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''For the purpose of this section, the term 'eligible borrower' means a borrower who, at the time of application for a consolidation loan—

''(i) has an outstanding indebtedness on eligible student loans, at the time of application for a consolidation loan, of not less than $7,500; and

''(ii) is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.''

Subsec. (a)(3)(B)(ii). Pub. L. 103–66, § 4046(b)(2), struck out at end ''Nothing in this section shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidated loans to receive, to maintain, or to make reports with respect to preexisting records relating to any eligible student loan (as defined under paragraph (4)) discharged by a borrower in receiving a consolidation loan.''

Subsec. (a)(4)(A). Pub. L. 103–208, § 2(c)(34), struck out before semicolon at end '', except for loans made to parent borrowers under section 1078–2 of this title as in effect prior to October 17, 1986''.

Subsec. (a)(4)(C). Pub. L. 103–208, § 2(c)(35), substituted ''part A'' for ''part C'' before ''of title VII of the Public Health Service Act''.

Subsec. (b)(1)(A), (E), (F). Pub. L. 103–66, § 4046(a)(2)(A), inserted ''with income-sensitive repayment terms'' after ''obtain a consolidation loan'' in subpar. (A)(ii), added subpar. (E), and redesignated former subpar. (E) as (F).

Subsec. (b)(4)(C). Pub. L. 103–66, § 4046(a)(2)(B), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period for which the borrower would be eligible for a deferral under section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;''.

Subsec. (b)(5). Pub. L. 103–66, § 4046(a)(2)(C), added par. (5).

Subsec. (c)(1)(B), (C). Pub. L. 103–66, § 4046(a)(3)(A), amended subpars. (B) and (C) generally. Prior to amendment, subpars. (B) and (C) read as follows:

''(B) Except as provided in subparagraph (C), a consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan which is equal to the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent.

''(C) A consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan equal to not less than 9 percent.''

Subsec. (c)(2)(A). Pub. L. 103–208, § 2(c)(36), inserted period at end of cl. (vi). See Codification note above.

Pub. L. 103–66, § 4046(a)(3)(B)(i), in introductory provisions substituted ''income-sensitive repayment schedules, established by the lender in accordance with the regulations of the Secretary. Except as required by

such income-sensitive repayment schedules, or by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section, such repayment terms'' for ''income sensitive repayment schedules. Such repayment terms'', added cl. (i), and redesignated former cls. (i) to (v) as (ii) to (vi), respectively.

Subsec. (c)(2)(B), (C). Pub. L. 103–66, § 4046(a)(3)(B)(ii), (iii), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''Unless a consolidation loan under subparagraph (A)(ii) will be used to discharge at least $5,000 of loans made under this part, such loan shall be repaid in accordance with subparagraph (A)(i).''

Subsec. (c)(3)(A). Pub. L. 103–208, § 2(c)(37), inserted ''be an amount'' before ''equal to''.

Subsec. (c)(3)(B). Pub. L. 103–66, § 4046(a)(3)(C), inserted ''except as required by the terms of repayment pursuant to income contingent repayment offered by the Secretary under subsection (b)(5) of this section,'' before ''the lender''.

Subsec. (f). Pub. L. 103–66, § 4106(a), added subsec. (f).

1992—Pub. L. 102–325, § 419(a), substituted ''Federal consolidation'' for ''Consolidation'' in section catchline.

Subsec. (a)(3)(A)(i). Pub. L. 102–325, § 419(b)(1)(A), substituted ''$7,500'' for ''$5,000''.

Subsec. (a)(3)(A)(ii). Pub. L. 102–325, § 419(b)(1)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''is in repayment status, or in a grace period preceding repayment, and is not delinquent with respect to any required payment on such indebtedness by more than 90 days.''

Subsec. (a)(3)(B). Pub. L. 102–325, § 419(c), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to eligible student loans received after the date of receipt of the consolidation loan. Loans made under this section shall, to the extent used to discharge loans made under this subchapter and part C of subchapter I of chapter 34 of title 42, be counted against the applicable limitations on aggregate indebtedness contained in sections 1075(a)(2), 1078(b)(1)(B), 1078–1(b)(2), and 1087dd(a)(2) of this title. Nothing in this subparagraph shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidation loans to receive, to maintain, or to make reports with respect to pre-existing records relating to any eligible student loan (as defined under subsection (a)(4) of this section) discharged by a borrower in receiving a consolidation loan.''

Subsec. (a)(3)(C). Pub. L. 102–325, § 419(d), added subpar. (C).

Subsec. (a)(4)(A). Pub. L. 102–325, § 419(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''made, insured, or guaranteed under this part, except for loans made to parent borrowers under section 1078–2 of this title, including loans made to parent borrowers under section 1078–2 of this title as in effect prior to October 17, 1986;''.

Subsec. (b)(4)(C). Pub. L. 102–325, § 419(e), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period for which the borrower would be eligible for a deferral under clause (i), (viii), or (ix) of section 1078(b)(1)(M) of this title, and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;''.

Subsec. (c)(2)(A). Pub. L. 102–325, § 419(f), substituted ''which shall include'' for ''which may include'' in first sentence, inserted second sentence, and struck out former second sentence which read as follows: ''Such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

''(i) is equal to or greater than $5,000 but less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;

''(ii) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

''(iii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

''(iv) is equal to or greater than $20,000 but less than $45,000, then such consolidation loan shall be repaid in not more than 20 years; or

''(v) is equal to or greater than $45,000, then such consolidation loan shall be repaid in not more than 25 years.''

Subsec. (d). Pub. L. 102–408, § 306(a), added subsec. (d). Former subsec. (d) redesignated (e).

Pub. L. 102–325, § 419(g), substituted ''September 30, 1998'' for ''September 30, 1992''.

Subsec. (e). Pub. L. 102–408, § 306(b), which directed the substitution of ''1997'' for ''1992'', could not be executed because ''1992'' did not appear in text subsequent to the amendment by Pub. L. 102–325, § 419(g). See above.

Pub. L. 102–408, § 306(a)(1), redesignated subsec. (d) as subsec. (e).

1987—Subsec. (a)(1)(C). Pub. L. 100–50, § 10(s)(1), which directed the amendment of subpar. (C) by substituting ''(C), (E), and (J)'' for ''(C) and (E)'', was executed by substituting the new language for ''(C), and (E)'', as the probable intent of Congress.

Subsec. (a)(3)(A). Pub. L. 100–50, § 10(s)(2), struck out cl. (iii) which read as follows: ''is not a parent borrower under section 1078–2 of this title.''

Subsec. (a)(3)(B). Pub. L. 100–50, § 10(s)(3), substituted ''eligible student loans received'' for ''loans received under this subchapter and part C of subchapter I of chapter 34 of title 42'', ''under this subchapter and part C of subchapter I of chapter 34 of title 42'' for ''under this part'', and '', 1078(b)(1)(B), 1078–1(b)(2), and 1087dd(a)(2) of this title'' for ''and 1078(b)(1)(B) of this title'', and inserted provision that nothing in subpar. (B) should be interpreted to authorize Secretary to require lenders, holders, or guarantors of consolidation loans to make reports with respect to pre-existing records relating to eligible student loans discharged by a borrower in receiving a consolidation loan.

Subsec. (a)(4)(A). Pub. L. 100–50, § 10(s)(4), inserted exception for loans made to parent borrowers under section 1078–2 of this title.

Subsec. (b)(1)(C). Pub. L. 100–50, § 10(s)(5), in cl. (i), substituted ''subsection (a)(3) of this section'' for ''subsection (a)(2) of this section'' and, in cl. (ii), substituted ''all eligible student loans received by the eligible borrower'' for ''all loans received by the eligible borrower under this subchapter and part C of subchapter I of chapter 34 of title 42''.

Subsec. (c)(2)(A)(v). Pub. L. 100–50, § 10(s)(6), substituted ''equal to or greater'' for ''more'' the first time appearing, as the probable intent of Congress.

Subsec. (c)(5). Pub. L. 100–50, § 10(s)(7), inserted '', but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan'' before period at end.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 416(b)(2) of Pub. L. 105–244 applicable with respect to any loan made, insured, or guaranteed under this part for which the first disbursement is made on or after Oct. 1, 1998, and before July 1, 2003, except that such amendment is applicable with respect to any loan made under this section for which application is received by an eligible lender on or after Oct. 1, 1998, and before July 1, 2003, see section 416(c) of Pub. L. 105–244, set out as a note under section 1077a of this title.

Amendment by section 420 of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(e) [title VI, § 602(b)(1)(B)] of div. A of Pub. L. 104–208 provided that: ''The amendments made by

this paragraph [amending this section and section 1085 of this title] shall take effect on the reorganization effective date as defined in section 440(h) of the Higher Education Act of 1965 [20 U.S.C. 1087–3(h)] (as added by subsection (a)).''

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Section 4046(c) of Pub. L. 103–66 provided that: ''The amendments made by this section [amending this section and section 1085 of this title] shall take effect on July 1, 1994, except that the amendments made by subsection (a)(2)(B) [amending this section] shall take effect upon enactment [Aug. 10, 1993].''

EFFECTIVE DATE OF 1992 AMENDMENTS

Section 306(c) of Pub. L. 102–408 provided that: ''The amendments made by this section [amending this section] take effect 60 days after the date of enactment of this Act [Oct. 13, 1992].''

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in this section, relating to consolidation loans, applicable with respect to loans for which the application is received by an eligible lender on or after Jan. 1, 1993, see section 432, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

PENDING APPLICANTS

Section 609(f) of Pub. L. 105–78 provided that: ''The consolidation loans authorized by the amendments made by this section [amending this section] shall be available notwithstanding any pending application by a student for a consolidation loan under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.), upon withdrawal of such application by the student at any time prior to receipt of such a consolidation loan.''

COST EVALUATION REPORT

Pub. L. 99–272, title XVI, § 16017(d), Apr. 7, 1986, 100 Stat. 348, provided that: ''The Secretary of Education shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this section [enacting former section 1078–3 of this title and amending former sections 1077, 1085, 1087–1, and 1087–2 of this title] and shall report to the Congress not later than June 30, 1988, on the findings and recommendations required by this subsection.''

§ 1078–4. Commingling of funds

Notwithstanding any other provision of this part regarding permissible uses of funds from any source, funds received by a guaranty agency under any provision of this part may be commingled with funds received under any other provision of this part and may be used to carry out the purposes of such other provision, except that—

(1) the total amount expended for the purposes of such other provision shall not exceed the amount the guaranty agency would otherwise be authorized to expend; and

(2) the authority to commingle such funds shall not relieve such agency of any accounting or auditing obligations under this part.

(Pub. L. 89–329, title IV, § 428D, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1393.)

§ 1078–5. Repealed. Pub. L. 102–164, title VI, § 605(b)(1), Nov. 15, 1991, 105 Stat. 1068

Section, Pub. L. 89–329, title IV, § 428E, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1393; amended Pub. L. 100–50, § 10(t), June 3, 1987, 101 Stat. 345, related to State garnishment law requirements.

§ 1078–6. Default reduction program

(a) Other repayment incentives

(1) Sale of loan

(A) Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon securing consecutive payments for 12 months of amounts owed on a loan for which the Secretary has made a payment under paragraph (1) of section 1078(c) of this title, the guaranty agency (pursuant to an agreement with the Secretary) or the Secretary shall, if practicable, sell the loan to an eligible lender. Such loan shall not be sold to an eligible lender who has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part. Neither the guaranty agency nor the Secretary shall demand from a borrower as monthly payment amounts referred to in this paragraph more than is reasonable and affordable based upon the borrower's total financial circumstances.

(B) An agreement between the guaranty agency and the Secretary for purposes of this paragraph shall provide—

(i) for the repayment by the agency to the Secretary of 81.5 percent of the amount of the principal balance outstanding at the time of such sale, multiplied by the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(ii) for the reinstatement by the Secretary (I) of the obligation to reimburse such agency for the amount expended by it in discharge of its insurance obligation under its loan insurance program, and (II) of the obligation to pay to the holder of such loan a special allowance pursuant to section 1087–1 of this title.

(C) A loan which does not meet the requirements of subparagraph (A) may also be eligible for sale under this paragraph upon a determination that the loan was in default due to clerical or data processing error and would not, in the absence of such error, be in a delinquent status.

(2) Use of proceeds of sales

Amounts received by the Secretary pursuant to the sale of such loans by a guaranty agency under paragraph (1) of this subsection shall be deducted from the calculations of the amount of reimbursement for which the agency is eligible under paragraph (1)(B)(ii) of this subsection for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

(3) Borrower eligibility

Any borrower whose loan is sold under paragraph (1) shall not be precluded by section 1091 of this title from receiving additional loans or grants under this subchapter and part C of subchapter I of chapter 34 of title 42 (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to such loan sale.

(4) Applicability of general loan conditions

A loan which is sold under paragraph (1) of this subsection shall, so long as the borrower continues to make scheduled repayments thereon, be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.

(b) Satisfactory repayment arrangements to renew eligibility

Each guaranty agency shall establish a program which allows a borrower with a defaulted loan or loans to renew eligibility for all title IV student financial assistance (regardless of whether the defaulted loan has been sold to an eligible lender) upon the borrower's payment of 6 consecutive monthly payments. The guaranty agency shall not demand from a borrower as a monthly payment amount under this subsection more than is reasonable and affordable based upon the borrower's total financial circumstances. A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.

(Pub. L. 89–329, title IV, § 428F, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1394; amended Pub. L. 100–50, § 10(u), June 3, 1987, 101 Stat. 346; Pub. L. 101–239, title II, § 2005(a), Dec. 19, 1989, 103 Stat. 2116; Pub. L. 102–325, title IV, § 420, July 23, 1992, 106 Stat. 534; Pub. L. 103–208, § 2(c)(38)–(40), Dec. 20, 1993, 107 Stat. 2466; Pub. L. 105–244, title IV, § 421, Oct. 7, 1998, 112 Stat. 1696.)

REFERENCES IN TEXT

Title IV, referred to in subsec. (b), means title IV of the Higher Education Act of 1965, Pub. L. 89–329, which is classified generally to this subchapter and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–244 substituted ''Satisfactory repayment arrangements to renew eligibility'' for ''Special rule'' in heading.

1993—Subsec. (a)(2). Pub. L. 103–208, § 2(c)(38), substituted ''paragraph (1) of this subsection'' for ''this paragraph'' and ''this subsection'' for ''this section''.

Subsec. (a)(4). Pub. L. 103–208, § 2(c)(39), substituted ''paragraph (1) of this subsection'' for ''this paragraph''.

Subsec. (b). Pub. L. 103–208, § 2(c)(40), inserted at end ''A borrower may only obtain the benefit of this subsection with respect to renewed eligibility once.''

1992—Subsec. (a). Pub. L. 102–325, § 420(1)–(3), redesignated subsec. (b) as (a), in par. (1)(A) substituted ''Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon'' for ''Upon'' and inserted provision at end that neither the guaranty agency nor the Secretary demand from the borrower as monthly payments more than is reasonable and affordable based upon the borrower's total financial circumstances, in par. (3) inserted ''or grants'' after ''loans'', and struck out former subsec. (a) which related to program requirements for the default reduction program.

Subsec. (b). Pub. L. 102–325, § 420(4), added subsec. (b). Former subsec. (b) redesignated (a).

1989—Pub. L. 101–239 amended section generally, substituting provisions relating to default reduction program for former provisions relating to rehabilitation of defaulted loans.

1987—Subsecs. (b), (c). Pub. L. 100–50 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''The loans which shall be eligible for rehabilitation under this section shall be only those loans which are made to borrowers who, at the time of default on the loan, are unemployed or institutionalized.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

PUBLICITY THROUGH COMMUNICATIONS MEDIA OF AVAILABILITY OF DEFAULT REDUCTION PROGRAM

Section 2005(b) of Pub. L. 101–239 provided that: ''The Secretary of Education shall, from funds available through student loan collections, commencing not less than 30 days before the beginning of the default reduction program required by the amendment made by this section [amending this section], and continuing throughout the duration of such program, widely publicize (through various communications media) the availability of the default reduction program.''

§ 1078–7. Requirements for disbursement of student loans

(a) Multiple disbursement required

(1) Two disbursements required

The proceeds of any loan made, insured, or guaranteed under this part that is made for any period of enrollment shall be disbursed in 2 or more installments, none of which exceeds one-half of the loan.

(2) Minimum interval required

The interval between the first and second such installments shall be not less than one-half of such period of enrollment, except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment.

(b) Disbursement and endorsement requirements

(1) First year students

The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of undergraduate education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be

presented by the institution to the student for endorsement until 30 days after the borrower begins a course of study, but may be delivered to the eligible institution prior to the end of that 30-day period.

(2) Other students

The proceeds of any loan made, insured, or guaranteed under this part that is made to any student other than a student described in paragraph (1) shall not be disbursed more than 30 days prior to the beginning of the period of enrollment for which the loan is made.

(c) Method of multiple disbursement

Disbursements under subsection (a) of this section—

(1) shall be made in accordance with a schedule provided by the institution (under section 1078(a)(2)(A)(i)(III)[1] of this title) that complies with the requirements of this section;

(2) may be made directly by the lender or, in the case of a loan under sections 1078 and 1078–1[1] of this title, may be disbursed pursuant to the escrow provisions of section 1078(i) of this title; and

(3) notwithstanding subsection (a)(2) of this section, may, with the permission of the borrower, be disbursed by the lender on a weekly or monthly basis, provided that the proceeds of the loan are disbursed in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made.

(d) Withholding of second disbursement

(1) Withdrawing students

A lender or escrow agent that is informed by the borrower or the institution that the borrower has ceased to be enrolled before the disbursement of the second or any succeeding installment shall withhold such disbursement. Any disbursement which is so withheld shall be credited to the borrower's loan and treated as a prepayment thereon.

(2) Students receiving over-awards

If the sum of a disbursement for any student and the other financial aid obtained by such student exceeds the amount of assistance for which the student is eligible under this subchapter and part C of subchapter I of chapter 34 of title 42, the institution such student is attending shall withhold and return to the lender or escrow agent the portion (or all) of such installment that exceeds such eligible amount, except that overawards permitted pursuant to section 2753(b)(4) of title 42 shall not be construed to be overawards for purposes of this paragraph. Any portion (or all) of a disbursement installment which is so returned shall be credited to the borrower's loan and treated as a prepayment thereon.

(e) Exclusion of consolidation and foreign study loans

The provisions of this section shall not apply in the case of a loan made under section 1078–3 of this title, made to a student to cover the cost of attendance at an eligible institution outside the United States, or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default rate (as calculated under section 1085(m) of this title) of less than 5 percent.

(f) Beginning of period of enrollment

For purposes of this section, a period of enrollment begins on the first day that classes begin for the applicable period of enrollment.

(g) Sales prior to disbursement prohibited

An eligible lender shall not sell or transfer a promissory note for any loan made, insured, or guaranteed under this part until the final disbursement of such loan has been made, except that the prohibition of this subsection shall not apply if—

(1) the sale of the loan does not result in a change in the identity of the party to whom payments will be made for the loan; and

(2) the first disbursement of such loan has been made.

(Pub. L. 89–329, title IV, § 428G, as added Pub. L. 101–239, title II, § 2004(a), Dec. 19, 1989, 103 Stat. 2115; amended Pub. L. 101–508, title III, § 3003(a), Nov. 5, 1990, 104 Stat. 1388–26; Pub. L. 102–325, title IV, § 421, July 23, 1992, 106 Stat. 534; Pub. L. 103–66, title IV, § 4109(b), Aug. 10, 1993, 107 Stat. 369; Pub. L. 103–208, § 2(c)(41), Dec. 20, 1993, 107 Stat. 2466; Pub. L. 105–244, title IV, § 422(a)–(c), Oct. 7, 1998, 112 Stat. 1696.)

REFERENCES IN TEXT

Section 1078(a)(2)(A)(i)(III) of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 105–244, title IV, § 417(a)(1)(A), Oct. 7, 1998, 112 Stat. 1682. Provisions similar to those contained in section 1078(a)(2)(A)(i)(III) are now contained in section 1078(a)(2)(A)(i)(II).

Section 1078–1 of this title, referred to in subsec. (c)(2), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

AMENDMENTS

1998—Subsec. (a)(3). Pub. L. 105–244, § 422(a), (d), temporarily added par. (3) which read as follows: ''An institution whose cohort default rate (as determined under section 1085(m) of this title) for each of the 3 most recent fiscal years for which data are available is less than 10 percent may disburse any loan made, insured, or guaranteed under this part in a single installment for any period of enrollment that is not more than 1 semester, 1 trimester, 1 quarter, or 4 months.'' See Effective and Termination Dates of 1998 Amendment note below.

Subsec. (b)(1). Pub. L. 105–244, § 422(b), (d), temporarily inserted at end ''An institution whose cohort default rate (as determined under section 1085(m) of this title) for each of the three most recent fiscal years for which data are available is less than 10 percent shall be exempt from the requirements of this paragraph.'' See Effective and Termination Dates of 1998 Amendment note below.

Subsec. (e). Pub. L. 105–244, § 422(c), substituted '', made to a student'' for ''or made to a student'' and inserted before the period at end '', or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default

[1] See References in Text note below.

rate (as calculated under section 1085(m) of this title) of less than 5 percent''.

1993—Subsec. (c)(3). Pub. L. 103–208 directed the substitution of ''disbursed by the lender'' for ''disbursed'' and was executed by making the substitution the first place ''disbursed'' appeared, to reflect the probable intent of Congress.

Subsec. (e). Pub. L. 103–66 substituted ''consolidation'' for ''PLUS, consolidation,'' in heading and ''section 1078–3'' for ''section 1078–2 or 1078–3'' in text.

1992—Subsec. (c)(3). Pub. L. 102–325, § 421(a), added par. (3).

Subsec. (d)(2). Pub. L. 102–325, § 421(b), inserted '', except that overawards permitted pursuant to section 2753(b)(4) of title 42 shall not be construed to be overawards for purposes of this paragraph'' before period at end of first sentence.

Subsec. (g). Pub. L. 102–325, § 421(c), added subsec. (g).

1990—Subsec. (b)(1). Pub. L. 101–508 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''The first installment of the proceeds of any loan made under section 1078–1 of this title that is made to a student borrower who has not successfully completed the first year of a program of undergraduate education shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until—

''(A) 30 days after the borrower begins a course of study; and

''(B) the institution certifies that the borrower continues to be enrolled and in attendance at the end of such 30-day period, and is maintaining satisfactory progress;

but may be disbursed to the eligible institution prior to the end of such 30-day period.''

EFFECTIVE AND TERMINATION DATES OF 1998 AMENDMENT

Amendment by section 422(c) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, § 422(d), Oct. 7, 1998, 112 Stat. 1696, provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall be effective during the period beginning on October 1, 1998, and ending on September 30, 2002.''

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103–66 effective with respect to loans for which the first disbursement is made on or after Oct. 1, 1993, see section 4109(c) of Pub. L. 103–66, set out as a note under section 1078–2 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3003(b) of Pub. L. 101–508 provided that: ''The amendment made by this section [amending this section] shall be effective for loans made on or after the date of enactment of this Act [Nov. 5, 1990] to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1991.''

EFFECTIVE DATE

Section applicable with respect to loans made to cover cost of instruction for periods of enrollment beginning on or after Jan. 1, 1990, see section 2004(c) of Pub. L. 101–239, set out as an Effective Date of 1989 Amendment note under section 1077 of this title.

§ 1078–8. Unsubsidized Stafford loans for middle-income borrowers

(a) In general

It is the purpose of this section to authorize insured loans under this part for borrowers who do not qualify for Federal interest subsidy payments under section 1078 of this title. Except as provided in this section, all terms and conditions for Federal Stafford loans established under section 1078 of this title shall apply to loans made pursuant to this section.

(b) Eligible borrowers

Any student meeting the requirements for student eligibility under section 1091 of this title (including graduate and professional students as defined in regulations promulgated by the Secretary) shall be entitled to borrow an unsubsidized Federal Stafford Loan if the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, has—

(1) determined and documented the student's need for the loan based on the student's estimated cost of attendance (as determined under section 1087*ll* of this title) and the student's estimated financial assistance, including a loan which qualifies for interest subsidy payments under section 1078 of this title; and

(2) provided the lender a statement—

(A) certifying the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c) of this section; and

(B) setting forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title.

(c) Determination of amount of loan

The determination of the amount of a loan by an eligible institution under subsection (b) of this section shall be calculated by subtracting from the estimated cost of attendance at the eligible institution any estimated financial assistance reasonably available to such student. An eligible institution may not, in carrying out the provisions of subsection (b) of this section, provide a statement which certifies the eligibility of any student to receive any loan under this section in excess of the amount calculated under the preceding sentence.

(d) Loan limits

(1) In general

Except as provided in paragraphs (2) and (3), the annual and aggregate limits for loans under this section shall be the same as those established under section 1078(b)(1) of this title, less any amount received by such student pursuant to the subsidized loan program established under section 1078 of this title.

(2) Annual limits for independent, graduate, and professional students

The maximum annual amount of loans under this section an independent student (or a student whose parents are unable to borrow under section 1078–2 of this title or the Federal Direct PLUS Loan Program) may borrow in any academic year (as defined in section 1088(a)(2) of this title) or its equivalent shall be the amount determined under paragraph (1), plus—

(A) in the case of such a student attending an eligible institution who has not com-

pleted such student's first 2 years of undergraduate study—

(i) $4,000, if such student is enrolled in a program whose length is at least one academic year in length; and

(ii) if such student is enrolled in a program of undergraduate education which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in clause (i) as the length of such program measured in semester, trimester, quarter, or clock hours bears to one academic year;

(B) in the case of a student at an eligible institution who has successfully completed such first and second years but has not successfully completed the remainder of a program of undergraduate education—

(i) $5,000; or

(ii) if such student is enrolled in a program of undergraduate education, the remainder of which is less than one academic year, the maximum annual loan amount that such student may receive may not exceed the amount that bears the same ratio to the amount specified in subclause (I) as such remainder measured in semester, trimester, quarter, or clock hours bears to one academic year;

(C) in the case of such a student who is a graduate or professional student attending an eligible institution, $10,000; and

(D) in the case of a student enrolled in coursework specified in sections 1091(b)(3)(B) and 1091(b)(4)(B) of this title—

(i) $4,000 for coursework necessary for enrollment in an undergraduate degree or certificate program, and, in the case of a student who has obtained a baccalaureate degree, $5,000 for coursework necessary for enrollment in a graduate or professional program; and

(ii) in the case of a student who has obtained a baccalaureate degree, $5,000 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary or secondary school;

except in cases where the Secretary determines,[1] that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit.

(3) Aggregate limits for independent, graduate, and professional students

The maximum aggregate amount of loans under this section a student described in paragraph (2) may borrow shall be the amount described in paragraph (1), adjusted to reflect the increased annual limits described in paragraph (2), as prescribed by the Secretary by regulation. Interest capitalized shall not be deemed to exceed such maximum aggregate amount.

(e) Payment of principal and interest

(1) Commencement of repayment

Repayment of principal on loans made under this section shall begin at the beginning of the repayment period described in section 1078(b)(7) of this title. Not less than 30 days prior to the anticipated commencement of such repayment period, the holder of such loan shall provide notice to the borrower that interest will accrue before repayment begins and of the borrower's option to begin loan repayment at an earlier date.

(2) Capitalization of interest

(A) Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title shall, if agreed upon by the borrower and the lender—

(i) be paid monthly or quarterly; or

(ii) be added to the principal amount of the loan by the lender only—

(I) when the loan enters repayment;

(II) at the expiration of a grace period, in the case of a loan that qualifies for a grace period;

(III) at the expiration of a period of deferment or forbearance; or

(IV) when the borrower defaults.

(B) The capitalization of interest described in subparagraph (A) shall not be deemed to exceed the annual insurable limit on account of the student.

(3) Subsidies prohibited

No payments to reduce interest costs shall be paid pursuant to section 1078(a) of this title on loans made pursuant to this section.

(4) Applicable rates of interest

Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 1077a of this title.

(5) Amortization

The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually; or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 1077a(c)(4) of this title.

(6) Repayment period

For purposes of calculating the repayment period under section 1078(b)(9) of this title,

[1] So in original. The comma probably should not appear.

such period shall commence at the time the first payment of principal is due from the borrower.

(7) Qualification for forbearance

A lender may grant the borrower of a loan under this section a forbearance for a period not to exceed 60 days if the lender reasonably determines that such a forbearance from collection activity is warranted following a borrower's request for forbearance, deferment, or a change in repayment plan, or a request to consolidate loans in order to collect or process appropriate supporting documentation related to the request. During any such period, interest on the loan shall accrue but not be capitalized.

(f) Repealed. Pub. L. 105–244, title IV, § 423(f), Oct. 7, 1998, 112 Stat. 1698

(g) Single application form and loan repayment schedule

A guaranty agency shall use a single application form and a single repayment schedule for subsidized Federal Stafford loans made pursuant to section 1078 of this title and for unsubsidized Federal Stafford loans made pursuant to this section.

(h) Insurance premium

Each State or nonprofit private institution or organization having an agreement with the Secretary under section 1078(b)(1) of this title may charge a borrower under this section an insurance premium equal to not more than 1.0 percent of the principal amount of the loan, if such premium will not be used for incentive payments to lenders.

(Pub. L. 89–329, title IV, § 428H, as added Pub. L. 102–325, title IV, § 422, July 23, 1992, 106 Stat. 535; amended Pub. L. 103–66, title IV, §§ 4047(a), 4102(b), Aug. 10, 1993, 107 Stat. 363, 366; Pub. L. 103–208, § 2(c)(42)–(45), Dec. 20, 1993, 107 Stat. 2466, 2467; Pub. L. 104–134, title I, § 101(d) [title V, § 514(a)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–245; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–244, title IV, § 423, Oct. 7, 1998, 112 Stat. 1696.)

CODIFICATION

Amendments by section 2(c)(42), (45) of Pub. L. 103–208 (which were effective as if included in Pub. L. 102–325) were executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–244, § 423(a), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''Any student meeting the requirements for student eligibility under section 1091 of this title (including graduate and professional students as defined in regulations promulgated by the Secretary) shall be entitled to borrow an unsubsidized Stafford loan. Such student shall provide to the lender a statement from the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, which—

''(1) sets forth such student's estimated cost of attendance (as determined under section 1087*ll* of this title);

''(2) sets forth such student's estimated financial assistance, including a loan which qualifies for subsidy payments under section 1078 of this title; and

''(3) certifies the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c) of this section.''

Subsec. (d)(2). Pub. L. 105–244, § 423(b)(1)(A), in introductory provisions, inserted ''(as defined in section 1088(a)(2) of this title)'' after ''academic year'' and struck out ''or in any period of 7 consecutive months, whichever is longer,'' after ''or its equivalent''.

Subsec. (d)(2)(A). Pub. L. 105–244, § 423(b)(1)(B), substituted ''length; and'' for ''length (as determined under section 1088 of this title);'' in cl. (i), added cl. (ii), and struck out former cls. (ii) and (iii) which read as follows:

''(ii) $2,500, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(iii) $1,500, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;''.

Subsec. (d)(2)(D). Pub. L. 105–244, § 423(b)(1)(C), (D), added subpar. (D).

Subsec. (d)(3). Pub. L. 105–244, § 423(b)(2), inserted at end ''Interest capitalized shall not be deemed to exceed such maximum aggregate amount.''

Subsec. (e)(2). Pub. L. 105–244, § 423(c), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.''

Subsec. (e)(6). Pub. L. 105–244, § 423(d), which directed substitution of ''repayment period under section 1078(b)(9) of this title'' for ''10 year repayment period under section 1078(b)(1)(D) of this title'', was executed by making the substitution for ''10-year repayment period under section 1078(b)(1)(D) of this title'' to reflect the probable intent of Congress.

Subsec. (e)(7). Pub. L. 105–244, § 423(e), added par. (7).

Subsec. (f). Pub. L. 105–244, § 423(f), struck out heading and text of subsec. (f) which provided for lenders to charge borrowers origination fees on loans.

1996—Subsec. (d)(2). Pub. L. 104–134 substituted semicolon for period at end of subpar. (C) and inserted concluding provisions.

1993—Subsec. (b). Pub. L. 103–66, § 4047(a)(1), inserted ''(including graduate and professional students as defined in regulations promulgated by the Secretary)'' in introductory provisions.

Subsec. (d). Pub. L. 103–66, § 4047(a)(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''The annual and aggregate limits for loans under this section shall be the same as those established under section 1078(b)(1) of this title, less any amount received by such student pursuant to the subsidized loan program established under section 1078 of this title.''

Subsec. (d)(2)(B). Pub. L. 103–208, § 2(c)(42), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''in the case of such a student attending an eligible institution who has completed the first 2 years of undergraduate study but who has not completed the remainder of a program of undergraduate study—

''(i) $5,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 1088 of this section);

''(ii) $3,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

''(iii) $1,675, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and''. See Codification note above.

Subsec. (e)(1). Pub. L. 103–208, § 2(c)(43), substituted ''shall begin at the beginning of the repayment period described in section 1078(b)(7) of this title.'' for ''shall commence 6 months after the month in which the student ceases to carry at least one-half the normal full-time workload as determined by the institution.'' and inserted at end ''Not less than 30 days prior to the anticipated commencement of such repayment period, the holder of such loan shall provide notice to the borrower that interest will accrue before repayment begins and of the borrower's option to begin loan repayment at an earlier date.''

Subsec. (e)(4). Pub. L. 103–208, § 2(c)(44), substituted ''section 1077a'' for ''section 1077a(e)''.

Subsec. (e)(5), (6). Pub. L. 103–66, § 4047(a)(3), added pars. (5) and (6).

Subsec. (f). Pub. L. 103–66, § 4102(b)(1)(A), substituted ''Origination fee'' for ''Insurance premium'' in section catchline.

Subsec. (f)(1). Pub. L. 103–66, § 4102(b)(1)(B), (C), struck out reference to insurance premium in heading and in text substituted ''an origination fee in the amount of 3.0 percent'' for ''a combined origination fee and insurance premium in the amount of 6.5 percent'' and struck out second sentence which read as follows: ''A guaranty agency may not charge an insurance premium on any loan made under this section.''

Subsec. (f)(2). Pub. L. 103–66, § 4102(b)(1)(D), substituted ''origination fee'' for ''combined fee and premium''.

Subsec. (f)(3). Pub. L. 103–66, § 4102(b)(1)(E), substituted ''origination fee'' for ''combined origination fee and insurance premium''.

Subsec. (f)(4). Pub. L. 103–66, § 4102(b)(1)(F), in heading substituted ''origination fee'' for ''insurance premium'' and in text substituted ''origination fees'' for ''combined origination fee and insurance premiums'' and ''to pay'' for ''and premiums to pay''.

Subsec. (f)(5). Pub. L. 103–66, § 4102(b)(1)(G), inserted ''origination fee and'' in heading and in text substituted ''do not exceed the combined origination fee under this subsection and the insurance premium under subsection (h) of this section, the Secretary is directed to lower the origination fee and insurance premium accordingly'' for ''do not exceed the 6.5 percent insurance premium, the Secretary is directed to lower the insurance premium accordingly''.

Subsec. (h). Pub. L. 103–208, § 2(c)(45), redesignated subsec. (*l*) as (h). See Codification note above.

Subsec. (*l*). Pub. L. 103–208, § 2(c)(45), redesignated subsec. (*l*) as (h). See Codification note above.

Pub. L. 103–66, § 4102(b)(2), added subsec. (*l*).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(d) [title V, § 514(b)] of Pub. L. 104–134 provided that: ''The amendments made by subsection (a) [amending this section] shall be effective for loans made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1996.''

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by section 2(c)(42)–(43)(A), (44), (45) of Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, and amendment by section 2(c)(43)(B) of Pub. L. 103–208 effective on and after Apr. 1, 1994, see section 5(a), (b)(5) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Section 4047(d) of Pub. L. 103–66 provided that: ''Except as otherwise provided herein [see section 4047(c) of Pub. L. 103–66, set out below], the amendments made by this section [amending this section and repealing section 1078–1 of this title] shall take effect on July 1, 1994.''

Amendment by section 4102(b) of Pub. L. 103–66 effective July 1, 1994, see section 4102(d) of Pub. L. 103–66, set out as a note under section 1078 of this title.

EFFECTIVE DATE

Section effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after Oct. 1, 1992, see section 432(a)(12) of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1078 of this title.

CONTINUING APPLICABILITY OF TERMS, CONDITIONS, AND BENEFITS OF LOANS

Section 4047(c) of Pub. L. 103–66 provided that: ''Notwithstanding the amendments made by this section [amending this section and repealing section 1078–1 of this section], with respect to loans provided under sections 428A [former 20 U.S.C. 1078–1] and 428H of the Act [20 U.S.C. 1078–8] (as such sections existed on the date preceding the date of enactment of this Act [Aug. 10, 1993]) the terms, conditions and benefits applicable to such loans under such sections shall continue to apply to such loans after the date of enactment of this Act.''

§ 1078–9. Special insurance and reinsurance rules

(a) Designation of lenders, servicers, and guaranty agencies

(1) Authority

Whenever the Secretary determines that an eligible lender, servicer, or guaranty agency has a compliance performance rating that equals or exceeds 97 percent, the Secretary shall designate the eligible lender, servicer, or guaranty agency, as the case may be, for exceptional performance. The Secretary shall notify each appropriate guaranty agency of the eligible lenders and servicers designated under this section.

(2) Compliance performance rating

For purposes of paragraph (1), a compliance performance rating is determined with respect to compliance with due diligence in the collection of loans under this part for each year for which the determination is made. Such rating is equal to the percent of all due diligence requirements applicable to each loan, on average, as established by the Secretary by regulation, with respect to—

(A) loans serviced during the period by the eligible lender or servicer; or

(B) loans on which loan collection was attempted by the guaranty agency.

(b) Payment to lenders and servicers

(1) 100 percent payment rule

Each guaranty agency shall pay each eligible lender or servicer (as agent for an eligible lender) designated under subsection (a) of this section 100 percent of the unpaid principal and interest of all loans for which claims are submitted for payment by that eligible lender or servicer for the one-year period following the receipt by the guaranty agency of the notification of designation under this section or until the guaranty agency receives notice from the Secretary that the designation of the lender or servicer under subsection (a) of this section has been revoked.

(2) Revocation authority

The Secretary shall revoke the designation of a lender or servicer under subsection (a) of

this section if any quarterly audit required under subsection (c)(5) of this section is not received by the Secretary by the date established by the Secretary or if the audit indicates the lender or servicer failed to maintain 97 percent or higher compliance with program regulations, as reflected in the performance of not less than 97 percent of all due diligence requirements applicable to each loan, on average, as established by the Secretary for the purpose of this section, for 2 consecutive months or 90 percent for 1 month.

(3) Documentation

Nothing in this section shall restrict or limit the authority of guaranty agencies to require the submission of claims documentation evidencing servicing performed on loans, except that the guaranty agency may not require greater documentation than that required for lenders and servicers not designated under subsection (a) of this section.

(4) Payments to guaranty agencies

The Secretary shall pay to each guaranty agency designated under subsection (a) of this section the appropriate percentage under this subsection for the 1-year period following the receipt by the guaranty agency of the notification of designation under subsection (a) of this section.

(c) Supervision of designated lenders and servicers

(1) Audits for lenders and servicers

Each eligible lender or servicer desiring a designation under subsection (a) of this section shall have a financial and compliance audit of the loan portfolio of such eligible lender or servicer conducted annually by a qualified independent organization from a list of qualified organizations promulgated by the Secretary in accordance with standards established by the Comptroller General and the Secretary. The standards shall measure the lender's or servicer's compliance with the due diligence standards and shall include a defined statistical sampling technique designed to measure the performance rating of the eligible lender or servicer for the purpose of this section. Each eligible lender or servicer shall submit the audit required by this section to the Secretary and to each appropriate guaranty agency.

(2) Additional information on lenders and servicers

Each appropriate guaranty agency shall provide the Secretary with such other information in its possession regarding an eligible lender or servicer desiring designation as may relate to the Secretary's determination under subsection (a) of this section, including but not limited to any information suggesting that the application of a lender or servicer for designation under subsection (a) of this section should not be approved.

(3) Secretary's determinations

The Secretary shall make the determination under subsection (a) of this section based upon the audits submitted under this section, such other information as provided by any guaranty agency under paragraph (2), and any information in the possession of the Secretary or submitted by any other agency or office of the Federal Government. If the results of the audit are not persuasively rebutted by such other information, the Secretary shall inform the eligible lender or servicer and the appropriate guaranty agency that its application for designation as an exceptional lender or servicer has been approved.

(4) Cost of audit

Each eligible lender or servicer shall pay for all the costs of the audits required under this section.

(5) Compliance audit

In order to maintain its status as an exceptional eligible lender or servicer, the lender or servicer shall undergo a quarterly compliance audit at the end of each quarter (other than the quarter in which status as an exceptional lender or servicer is established through a financial and compliance audit, as described in subsection (c)(1) of this section), and submit the results of such audit to the Secretary and such appropriate guaranty agency. The compliance audit will review compliance with due diligence requirements for the period since the last audit.

(6) Loss of designation

If the audit performed pursuant to paragraph (5) fails to meet the standards for designation as an exceptional lender or servicer under subsection (a)(1) of this section, the lender or servicer shall lose its designation as an exceptional lender or servicer. A lender or servicer receiving a compliance audit not meeting the standard for designation as an exceptional lender or servicer may reapply for designation under subsection (a) of this section at any time.

(7) Due diligence standards

Due diligence standards used for determining compliance under paragraph (5) shall be promulgated by the Secretary after consultation with lenders, guaranty agencies and servicers and shall consist of a list of specific elements for the Federal regulations selected to provide an indication of systems degradation.

(8) Additional revocation authority

Notwithstanding any other provision of this section, designation under subsection (a) of this section may be revoked at any time by the Secretary if the Secretary determines that the eligible lender or servicer has failed to maintain an overall level of regulatory compliance consistent with the audit submitted by the eligible lender or servicer under this section or if the Secretary believes the lender or servicer may have engaged in fraud in securing designation under subsection (a) of this section or is failing to service loans in accordance with program regulations.

(d) Supervision of designated guaranty agencies

(1) Audit of guaranty agencies

Each guaranty agency desiring a designation under subsection (a) of this section shall have

a financial and compliance audit of the defaulted loan portfolio of such guaranty agency conducted annually by a qualified independent organization or person from a list of qualified organizations or persons promulgated by the Secretary in accordance with standards established by the Comptroller General and the Secretary. The standards shall include defined statistical sampling techniques designed to measure the performance rating of the guaranty agency for the purpose of this section. Each guaranty agency shall submit the audit required by this paragraph to the Secretary.

(2) Quarterly sample audits

The Secretary may require quarterly sample audits as a means of determining continued qualification of the guaranty agency for designation as an exceptional guaranty agency.

(3) Secretary's determinations

The Secretary shall make the determination under subsection (a) of this section based upon the audits submitted under this section and other information in his possession. If the results of the audit are not persuasively rebutted by such other information, the Secretary shall inform the guaranty agency that its application for designation as an exceptional guaranty agency has been approved.

(4) Costs of audits

Each guaranty agency shall pay for all of the costs of the audits regulated by this section.

(5) Revocation for fraud

The Secretary may revoke the designation of a guaranty agency under subsection (a) of this section at any time if the Secretary has reason to believe the guaranty agency secured its designation under subsection (a) of this section through fraud or fails to comply with applicable regulations.

(6) Revocation based on performance

Designation as an exceptional guaranty agency may be revoked at any time by the Secretary upon 30 days notice and an opportunity for a hearing before the Secretary upon a finding by the Secretary that the guaranty agency has failed to maintain an acceptable overall level of regulatory compliance.

(e) Special rule

Reimbursements made by the Secretary on loans submitted for claim by an eligible lender or loan servicer designated for exceptional performance under this section shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, loan servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.

(f) Limitation

Nothing in this section shall be construed to affect the processing of claims on student loans of eligible lenders not subject to this paragraph.

(g) Claims

A lender, servicer, or guaranty agency designated under subsection (a) of this section failing to service loans or otherwise comply with applicable program regulations shall be considered in violation of section 3729 of title 31.

(h) Evaluation

Not later than 3 years after July 23, 1992, the Comptroller General shall submit to the Chairman of the Senate Labor and Human Resources Committee and the House Committee on Education and Labor, an evaluation of the provisions of this section including, but not limited to, the following:

(1) The effectiveness of due diligence performed by lenders and servicers receiving designation as exceptional lenders or servicers from the perspective of securing maximum collections from borrowers.

(2) A quantification of the dollar volume of claims that were paid to exceptional lenders and servicers that would not have been paid under applicable program provisions prior to the enactment of this section.

(3) An assessment of the impact of this section on the financial condition of guaranty agencies.

(4) An assessment of the savings to lenders, servicers, and guaranty agencies resulting from designation as exceptional performance.

(5) An identification of specific administration steps that lenders, servicers, and guaranty agencies do not have to perform as a result of designation as exceptional lenders, servicers, or guaranty agencies.

(6) A recommendation for program modifications applicable to all program participants based on the findings of the evaluation.

(7) A recommendation for modifications to this section and whether the program should be continued.

(i) Termination

After receipt of the study authorized in subsection (h) of this section, the Secretary may terminate such program if he determines such termination to be in the fiscal interest of the United States.

(j) Definitions

For the purpose of this section—

(1) the term ''due diligence requirements'' means the activities required to be performed by lenders on delinquent loans pursuant to regulations issued by the Secretary;

(2) the term ''eligible loan'' means a loan made, insured or guaranteed under this part;

(3) the term ''servicer'' means an entity servicing and collecting student loans which—

(A) has substantial experience in servicing and collecting consumer loans or student loans;

(B) has an independent financial audit annually which is furnished to the Secretary and any other parties designated by the Secretary;

(C) has business systems which are capable of meeting the requirements of this part;

(D) has adequate personnel who are knowledgeable about the student loan programs authorized by this part; and

(E) does not have any owner, majority shareholder, director, or officer of the entity who has been convicted of a felony.

(Pub. L. 89–329, title IV, § 428I, as added Pub. L. 102–325, title IV, § 422, July 23, 1992, 106 Stat. 536; amended Pub. L. 103–208, § 2(c)(46), Dec. 20, 1993, 107 Stat. 2467.)

CODIFICATION

July 23, 1992, referred to in subsec. (h), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 102–325 which enacted this section, to reflect the probable intent of Congress.

AMENDMENTS

1993—Subsec. (g). Pub. L. 103–208 substituted ''section 3729 of title 31'' for ''the Federal False Claims Act''.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§ 1078–10. Loan forgiveness for teachers

(a) Statement of purpose

It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

(b) Program authorized

The Secretary shall carry out a program, through the holder of the loan, of assuming the obligation to repay a qualified loan amount for a loan made under section 1078 or 1078–8 of this title, in accordance with subsection (c) of this section, for any new borrower on or after October 1, 1998, who—

(1) has been employed as a full-time teacher for 5 consecutive complete school years—

(A) in a school that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such schools; and

(B) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 7801 of this title;[1] and

(2) is not in default on a loan for which the borrower seeks forgiveness.

(c) Qualified loans amount

(1) In general

The Secretary shall repay not more than $5,000 in the aggregate of the loan obligation on a loan made under section 1078 or 1078–8 of this title that is outstanding after the completion of the fifth complete school year of teaching described in subsection (b)(1) of this section. No borrower may receive a reduction of loan obligations under both this section and section 1087j of this title.

(2) Treatment of consolidation loans

A loan amount for a loan made under section 1078–3 of this title may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 1078 or 1078–8 of this title for a borrower who meets the requirements of subsection (b) of this section, as determined in accordance with regulations prescribed by the Secretary.

(3) Additional amounts for teachers in mathematics, science, or special education

Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall repay under this section shall be not more than $17,500 in the case of—

(A) a secondary school teacher—

(i) who meets the requirements of subsection (b) of this section; and

(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

(B) an elementary school or secondary school teacher—

(i) who meets the requirements of subsection (b) of this section;

(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 1401 of this title); and

(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, is teaching children with disabilities that correspond with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.

(d) Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

(e) Construction

Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

(f) List

If the list of schools in which a teacher may perform service pursuant to subsection (b) of this section is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

[1] See References in Text note below.

(g) Additional eligibility provisions

(1) Continued eligibility

Any teacher who performs service in a school that—

(A) meets the requirements of subsection (b)(1)(A) of this section in any year during such service; and

(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan forgiveness pursuant to subsection (b) of this section.

(2) Prevention of double benefits

No borrower may, for the same service, receive a benefit under both this subsection and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

(h) "Year" defined

For purposes of this section, the term ''year'', where applied to service as a teacher, means an academic year as defined by the Secretary.

(Pub. L. 89–329, title IV, § 428J, as added Pub. L. 102–325, title IV, § 422, July 23, 1992, 106 Stat. 541; amended Pub. L. 103–82, title I, § 102(c)(2), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103–208, § 2(c)(47)–(51), Dec. 20, 1993, 107 Stat. 2467; Pub. L. 105–244, title IV, § 424, Oct. 7, 1998, 112 Stat. 1698; Pub. L. 108–409, § 3(a)(1)(A), (b)(1), Oct. 30, 2004, 118 Stat. 2300.)

REFERENCES IN TEXT

Section 7801 of this title, referred to in subsec. (b)(1)(B), was in the original ''section 9101 of the Elementary Secondary Education Act of 1965'', which was translated as meaning section 9101 of the Elementary and Secondary Education Act of 1965, to reflect the probable intent of Congress.

The National and Community Service Act of 1990, referred to in subsec. (g)(2), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§ 12601 et seq.) of chapter 129 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

AMENDMENTS

2004—Subsec. (b)(1). Pub. L. 108–409, § 3(a)(1)(A), added subpar. (B) and struck out former subpars. (B) and (C) which read as follows:

''(B) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed; and

''(C) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics, and other areas of the elementary school curriculum; and''.

Subsec. (c)(3). Pub. L. 108–409, § 3(b)(1), added par. (3).

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section authorized Secretary to carry out demonstration program for loan forgiveness for teachers, individuals performing national community service, and nurses.

1993—Subsec. (b)(1). Pub. L. 103–208, § 2(c)(47), substituted ''section'' for ''sections'' in introductory provisions.

Pub. L. 103–82, § 102(c)(2)(A), substituted ''October 1, 1989'' for ''October 1, 1992'' in introductory provisions.

Subsec. (b)(1)(B). Pub. L. 103–208, § 2(c)(48), substituted ''serves as a full-time volunteer'' for ''agrees in writing to volunteer for service''.

Subsec. (c)(1). Pub. L. 103–208, § 2(c)(49), substituted ''year of service'' for ''academic year'' wherever appearing.

Subsec. (c)(5). Pub. L. 103–82, § 102(c)(2)(B), added par. (5).

Subsec. (d). Pub. L. 103–208, § 2(c)(50), substituted ''to eligible'' for ''of eligibility'' in heading.

Subsec. (e). Pub. L. 103–208, § 2(c)(51), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''Each eligible individual desiring loan repayment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.''

EFFECTIVE DATE OF 2004 AMENDMENT; TRANSITION RULE

Pub. L. 108–409, § 3(a)(2), Oct. 30, 2004, 118 Stat. 2300, provided that:

''(A) RULE.—The amendments made by paragraph (1) of this subsection to sections 428J(b)(1) and 460(b)(1)(A) of the Higher Education Act of 1965 [sections 1078–10(b)(1) and 1087j(b)(1)(A) of this title] shall not be applied to disqualify any individual who, before the date of enactment of this Act [Oct. 30, 2004], commenced service that met and continues to meet the requirements of such sections as such sections were in effect on the day before the date of enactment of this Act.

''(B) RULE NOT APPLICABLE TO INCREASED QUALIFIED LOAN AMOUNTS.—Subparagraph (A) of this paragraph shall not apply for purposes of obtaining increased qualified loan amounts under sections 428J(c)(3) and 460(c)(3) of the Higher Education Act of 1965 [sections 1078–10(c)(3) and 1087j(c)(3) of this title] as added by subsection (b) of this section.''

Pub. L. 108–409, § 3(b)(3), Oct. 30, 2004, 118 Stat. 2301, as amended by Pub. L. 109–150, § 2(c)(1), Dec. 30, 2005, 119 Stat. 2884, provided that: ''The amendments made by this subsection [amending this section and section 1087j of this title] shall apply only with respect to eligible individuals who are new borrowers (as such term is defined in 103 of the Higher Education Act of 1965 (20 U.S.C. 1003)) on or after October 1, 1998, and before June 30, 2007.''

[Amendment by Pub. L. 109–150 effective as if enacted on Oct. 1, 2005, see section 2(d)(2) of Pub. L. 109–150, set out as an Effective Date of 2005 Amendment note under section 1087–1 of this title.]

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

INFORMATION ON BENEFITS TO RURAL SCHOOL DISTRICTS

Pub. L. 108–409, § 3(c), Oct. 30, 2004, 118 Stat. 2302, provided that: ''The Secretary shall—

''(1) notify local educational agencies eligible to participate in the Small Rural Achievement Program authorized under subpart 1 of part B of title VI of the Elementary and Secondary Education Act of 1965 [20

U.S.C. 7345 et seq.] of the benefits available under the amendments made by this section [amending this section and section 1087j of this title]; and

''(2) encourage such agencies to notify their teachers of such benefits.''

§ 1078–11. Loan forgiveness for child care providers

(a) Purpose

It is the purpose of this section—

(1) to bring more highly trained individuals into the early child care profession; and

(2) to keep more highly trained child care providers in the early child care field for longer periods of time.

(b) Definitions

In this section:

(1) Child care facility

The term ''child care facility'' means a facility, including a home, that—

(A) provides child care services; and

(B) meets applicable State or local government licensing, certification, approval, or registration requirements, if any.

(2) Child care services

The term ''child care services'' means activities and services provided for the education and care of children from birth through age 5 by an individual who has a degree in early childhood education.

(3) Degree

The term ''degree'' means an associate's or bachelor's degree awarded by an institution of higher education.

(4) Early childhood education

The term ''early childhood education'' means education in the areas of early child education, child care, or any other educational area related to child care that the Secretary determines appropriate.

(5) Institution of higher education

Notwithstanding section 1002 of this title, the term ''institution of higher education'' has the meaning given the term in section 1001 of this title.

(c) Demonstration program

(1) In general

The Secretary may carry out a demonstration program of assuming the obligation to repay, pursuant to subsection (d) of this section, a loan made, insured, or guaranteed under this part or part C of this subchapter (excluding loans made under sections 1078–2 and 1078–3 of this title or comparable loans made under part C of this subchapter) for any new borrower after October 7, 1998, who—

(A) completes a degree in early childhood education;

(B) obtains employment in a child care facility; and

(C) has worked full time for the 2 consecutive years preceding the year for which the determination is made as a child care provider in a low-income community.

(2) Low-income community

For the purposes of this subsection, the term ''low-income community'' means a community in which 70 percent of households within the community earn less than 85 percent of the State median household income.

(3) Award basis; priority

(A) Award basis

Subject to subparagraph (B), loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.

(B) Priority

The Secretary shall give priority in providing loan repayment under this section for a fiscal year to student borrowers who received loan repayment under this section for the preceding fiscal year.

(4) Regulations

The Secretary is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

(d) Loan repayment

(1) In general

The Secretary shall assume the obligation to repay—

(A) after the second consecutive year of employment described in subparagraphs (B) and (C) of subsection (c)(1) of this section, 20 percent of the total amount of all loans made after October 7, 1998, to a student under this part or part C of this subchapter;

(B) after the third consecutive year of such employment, 20 percent of the total amount of all such loans; and

(C) after each of the fourth and fifth consecutive years of such employment, 30 percent of the total amount of all such loans.

(2) Construction

Nothing in this section shall be construed to authorize the refunding of any repayment of a loan made under this part or part C of this subchapter.

(3) Interest

If a portion of a loan is repaid by the Secretary under this section for any year, the proportionate amount of interest on such loan which accrues for such year shall be repaid by the Secretary.

(4) Special rule

In the case where a student borrower who is not participating in loan repayment pursuant to this section returns to an institution of higher education after graduation from an institution of higher education for the purpose of obtaining a degree in early childhood education, the Secretary is authorized to assume the obligation to repay the total amount of loans made under this part or part C of this subchapter incurred for a maximum of two academic years in returning to an institution of higher education for the purpose of obtaining a degree in early childhood education. Such loans shall only be repaid for borrowers who qualify for loan repayment pursuant to the provisions of this section, and shall be repaid in accordance with the provisions of paragraph (1).

(5) Ineligibility of national service award recipients

No student borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

(e) Repayment to eligible lenders

The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of loans which are subject to repayment pursuant to this section for such year.

(f) Application for repayment

(1) In general

Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) Conditions

An eligible individual may apply for loan repayment under this section after completing each year of qualifying employment. The borrower shall receive forbearance while engaged in qualifying employment unless the borrower is in deferment while so engaged.

(g) Evaluation

(1) In general

The Secretary shall conduct, by grant or contract, an independent national evaluation of the impact of the demonstration program assisted under this section on the field of early childhood education.

(2) Competitive basis

The grant or contract described in subsection (b)[1] of this section shall be awarded on a competitive basis.

(3) Contents

The evaluation described in this subsection shall—

(A) determine the number of individuals who were encouraged by the demonstration program assisted under this section to pursue early childhood education;

(B) determine the number of individuals who remain employed in a child care facility as a result of participation in the program;

(C) identify the barriers to the effectiveness of the program;

(D) assess the cost-effectiveness of the program in improving the quality of—

(i) early childhood education; and

(ii) child care services;

(E) identify the reasons why participants in the program have chosen to take part in the program;

(F) identify the number of individuals participating in the program who received an associate's degree and the number of such individuals who received a bachelor's degree; and

(G) identify the number of years each individual participates in the program.

(4) Interim and final evaluation reports

The Secretary shall prepare and submit to the President and the Congress such interim reports regarding the evaluation described in this subsection as the Secretary deems appropriate, and shall prepare and so submit a final report regarding the evaluation by January 1, 2002.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title IV, § 428K, as added Pub. L. 105–244, title IV, § 425, Oct. 7, 1998, 112 Stat. 1699.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (d)(5), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§ 12601 et seq.) of chapter 129 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1079. Certificate of Federal loan insurance—effective date of insurance

(a) Loan-by-loan insurance

(1) Authority to issue certificates on application

If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Effectiveness of certificate

Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) of this section shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) of this section by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c) of this section.

[1] So in original. Probably should be a reference to paragraph (1).

(3) Contents of applications

An application submitted pursuant to subsection (a)(1) of this section shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c) of this section, and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

(b) Comprehensive insurance coverage certificate

(1) Establishment of system by regulation

In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a) of this section, the Secretary may, in accordance with regulations consistent with section 1074 of this title, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the United States from the risk of unreasonable loss and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

(2) Uncovered loans

If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 1074 of this title, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) of this section or by inclusion of such insurance on comprehensive coverage under the subsection for the period or periods in which such future loans or payments are made.

(c) Charges for Federal insurance

The Secretary shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 1080(a) of this title.

(d) Assignability of insurance

The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

(e) Consolidation not to affect insurance

The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a) of this section, the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b) of this section, the Secretary may amend that certificate accordingly.

(Pub. L. 89–329, title IV, § 429, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1395.)

PRIOR PROVISIONS

A prior section 1079, Pub. L. 89–329, title IV, § 429, Nov. 8, 1965, 79 Stat. 1243; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2123; Pub. L. 96–374, title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1503, related to certificates of Federal loan insurance, prior to the general revision of this part by Pub. L. 99–498.

§ 1080. Default of student under Federal loan insurance program

(a) Notice to Secretary and payment of loss

Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Secretary, and the Secretary shall if requested (at that time or after further collection efforts) by the beneficiary, or may on the Secretary's own motion,

if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The ''amount of the loss'' on any loan shall, for the purposes of this subsection and subsection (b) of this section, be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Secretary) to the date on which payment is authorized by the Secretary, reduced to the extent required by section 1075(b) of this title. Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan and shall be required to submit proof that the institution was contacted and other reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known). The Secretary shall make the determination required to carry out the provisions of this section not later than 90 days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of the due diligence investigation.

(b) Effect of payment of loss

Upon payment of the amount of the loss pursuant to subsection (a) of this section, the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs and collection costs, to the extent set forth in regulations issued by the Secretary) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such concerns or agencies in assisting the Secretary in making such recovery. Any contract under this subsection entered into by the Secretary shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

(c) Forbearance not precluded

Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary, or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance. Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan, including a forbearance during default, shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.

(d) Care and diligence required of holders

Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 1078(a)(4) of this title and section 1079(a)(3) of this title, or to pay the required Federal loan insurance premiums, the Secretary shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until the Secretary is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

(e) Default rate of lenders, holders, and guaranty agencies

(1) In general

The Secretary shall annually publish a list indicating the cohort default rate (determined in accordance with section 1085(m) of this title) for each originating lender, subsequent holder, and guaranty agency participating in the program assisted under this part and an average cohort default rate for all institutions of higher education within each State.

(2) Regulations

The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a cohort default rate through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

(3) Rate establishment and correction

The Secretary shall establish a cohort default rate for lenders, holders, and guaranty agencies (determined consistent with section 1085(m) of this title), except that the rate for lenders, holders, and guaranty agencies shall not reflect any loans issued in accordance with section 1078(j) of this title. The Secretary shall allow institutions, lenders, holders, and guaranty agencies the opportunity to correct such cohort default rate information.

(Pub. L. 89–329, title IV, § 430, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1397; amended Pub. L. 102–325, title IV, § 423, July 23, 1992, 106 Stat. 543; Pub. L. 105–244, title IV, § 426, Oct. 7, 1998, 112 Stat. 1702.)

PRIOR PROVISIONS

A prior section 1080, Pub. L. 89–329, title IV, § 430, Nov. 8, 1965, 79 Stat. 1244; Pub. L. 90–575, title I, § 113(b)(5), Oct. 16, 1968, 82 Stat. 1021; Pub. L. 92–318, title I, § 132B(c), June 23, 1972, 86 Stat. 262; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2125; Pub. L. 95–43, § 1(a)(33), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title IV, §§ 416(a)(1), (b), 422, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1420, 1421, 1432, 1503; Pub. L. 99–272, title XVI, §§ 16014(a)(2), 16022, Apr. 7, 1986, 100 Stat. 341, 349, related to default of student borrowers under Federal

loan insurance program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244 inserted ''the institution was contacted and other'' after ''submit proof that'' in third sentence.

1992—Subsec. (e). Pub. L. 102–325 added subsec. (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

STUDY OF FRAUD-BASED DEFENSES

Pub. L. 102–325, title XIV, §1403, July 23, 1992, 106 Stat. 817, directed Secretary of Education to conduct a study of impact of fraud-based defenses on Federal Family Education Loan Program and to submit a report to Congress on the study not later than 19 months after July 23, 1992, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

§ 1080a. Reports to credit bureaus and institutions of higher education

(a) Agreements to exchange information

For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 1078 of this title, the Secretary, each guaranty agency, eligible lender, and subsequent holder shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act [15 U.S.C. 1681 et seq.], such agreements may provide for timely response by the Secretary (concerning loans covered by Federal loan insurance), by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement), or to requests from such organizations for responses to objections raised by borrowers. Subject to the requirements of subsection (c) of this section, such agreements shall require the Secretary, the guaranty agency, eligible lender, or subsequent holder, as appropriate, to disclose to such organizations, with respect to any loan under this part that has not been repaid by the borrower—

(1) the total amount of loans made to any borrower under this part and the remaining balance of the loans;

(2) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 1080(a) of this title or the guaranty agency has made a payment to the previous holder of the loan; and

(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 1087 of this title.

(b) Additional information

Such agreements may also provide for the disclosure by such organizations to the Secretary or a guaranty agency, whichever insures or guarantees a loan, upon receipt of a notice under subsection (a)(2) of this section that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary, the guaranty agency, the eligible lender, or the subsequent holder in collecting the loan.

(c) Contents of agreements

Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

(1) no information is disclosed by the Secretary or the guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary or the guaranty agency has determined that disclosure would accomplish the purpose of this section;

(2) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary, the guaranty agency, eligible lender, or subsequent holder with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, or the guaranty agency, eligible lender, or subsequent holder whichever is applicable (A) shall not disclose any such information until the borrower has been notified that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his or her loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than 30 days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

(d) Contractor status of participants

A guaranty agency, eligible lender, or subsequent holder or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5.

(e) Disclosure to institutions

The Secretary and each guaranty agency, eligible lender, and subsequent holder of a loan are authorized to disclose information described in subsections (a) and (b) of this section concerning student borrowers to the eligible institutions such borrowers attend or previously attended. To further the purpose of this section, an eligible institution may enter into an arrangement with any or all of the holders of delinquent loans made to borrowers who attend or pre-

viously attended such institution for the purpose of providing current information regarding the borrower's location or employment or for the purpose of assisting the holder in contacting and influencing borrowers to avoid default.

(f) Duration of authority

Notwithstanding paragraphs (4) and (6)[1] of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's defaulted account on a loan guaranteed under this part until—

(1) 7 years from the date on which the Secretary or the agency paid a claim to the holder on the guaranty;

(2) 7 years from the date the Secretary, guaranty agency, eligible lender, or subsequent holder first reported the account to the consumer reporting agency; or

(3) in the case of a borrower who reenters repayment after defaulting on a loan and subsequently goes into default on such loan, 7 years from the date the loan entered default such subsequent time.

(Pub. L. 89–329, title IV, § 430A, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1398; amended Pub. L. 100–50, § 10(v), June 3, 1987, 101 Stat. 346; Pub. L. 102–325, title IV, § 424, July 23, 1992, 106 Stat. 543; Pub. L. 103–208, § 2(c)(52), Dec. 20, 1993, 107 Stat. 2467.)

REFERENCES IN TEXT

The Fair Credit Reporting Act, referred to in subsec. (a), is title VI of Pub. L. 90–321, as added by Pub. L. 91–508, title VI, § 601, Oct. 26, 1970, 84 Stat. 1127, as amended, which is classified generally to subchapter III (§ 1681 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

Paragraph (6) of subsection (a) of section 605 of the Fair Credit Reporting Act, referred to in subsec. (f), was redesignated paragraph (5) of subsection (a) of section 605 of the Act by Pub. L. 105–347, § 5(4), Nov. 2, 1998, 112 Stat. 3211.

PRIOR PROVISIONS

A prior section 1080a, Pub. L. 89–329, title IV, § 430A, as added Pub. L. 99–272, title XVI, § 16023, Apr. 7, 1986, 100 Stat. 349; amended Pub. L. 99–320, § 2(c), May 23, 1986, 100 Stat. 491, related to reports to credit bureaus and institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (f)(1). Pub. L. 103–208 substituted a semicolon for the comma at end.

1992—Subsec. (f). Pub. L. 102–325 struck out ''or'' at end of par. (1), added pars. (2) and (3), and struck out former par. (2) which read as follows: ''with regard to an account on a loan on which the Secretary or the guaranty agency has paid a claim but not reported the account to a consumer reporting agency on or before October 1, 1985, 7 years from that date.''

1987—Subsec. (e). Pub. L. 100–50 inserted sentence at end permitting an eligible institution to enter into arrangements with holders of delinquent loans made to borrowers for purpose of providing current information on borrower's location or employment or to assist holder in contacting and influencing borrower to avoid default.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1081. Insurance fund

(a) Establishment

There is hereby established a student loan insurance fund (hereinafter in this section called the ''fund'') which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by the Secretary under this part, or in connection with payments under a guaranty agreement under section 1078(c) of this title. All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with operations under this part, any excess advances under section 1072 of this title, and any other moneys, property, or assets derived by the Secretary from operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(b) Borrowing authority

If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this part, or in connection with any guaranty agreement made under section 1078(c) of this title, the Secretary is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be

[1] See References in Text note below.

issued under that chapter, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under the subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

(Pub. L. 89–329, title IV, § 431, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1400; amended Pub. L. 100–50, § 10(w), June 3, 1987, 101 Stat. 346.)

CODIFICATION

In subsec. (b), ''chapter 31 of title 31'' and ''that chapter'' substituted for ''the Second Liberty Bond Act, as amended'' and ''that Act, as amended'', respectively, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 1081, Pub. L. 89–329, title IV, § 431, Nov. 8, 1965, 79 Stat. 1245; Pub. L. 90–460, § 3(c), Aug. 3, 1968, 82 Stat. 638; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2126; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to a student loan insurance fund, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–50 substituted ''section 1072 of this title'' for ''section 1072(a)(4)(C) of this title''.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

FEDERAL FAMILY EDUCATION LOAN INSURANCE FUND

Pub. L. 105–244, title IV, § 434, Oct. 7, 1998, 112 Stat. 1711, provided that: ''Any funds in the insurance fund, as established under section 431 of the Higher Education Act of 1965 (20 U.S.C. 1081), on the date of enactment of this Act [Oct. 7, 1998] shall be transferred to and deposited in the Treasury. All funds received by the Secretary of Education under subsection (a) of such section after the date of enactment of this Act shall be deposited into the fund in accordance with such subsection.''

TRANSFER OF ASSETS AND LIABILITIES OF THE VOCATIONAL STUDENT LOAN INSURANCE FUND

All assets and liabilities of the vocational student loan insurance fund transferred to the student loan insurance fund, see section 116(c)(2) of Pub. L. 90–575, set out as a note under former section 981 et seq. of this title.

§ 1082. Legal powers and responsibilities

(a) General powers

In the performance of, and with respect to, the functions, powers, and duties, vested in him by this part, the Secretary may—

(1) prescribe such regulations as may be necessary to carry out the purposes of this part, including regulations applicable to third party servicers (including regulations concerning financial responsibility standards for, and the assessment of liabilities for program violations against, such servicers) to establish minimum standards with respect to sound management and accountability of programs under this part, except that in no case shall damages be assessed against the United States for the actions or inactions of such servicers;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under the Secretary's control and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28;

(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to the Secretary's obligations and rights to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this paragraph or pursuant to any other provision of this part may be modified by the Secretary, after notice and opportunity for a hearing, if the Secretary finds that the modification is necessary to protect the United States from the risk of unreasonable loss;

(4) subject to the specific limitations in this part, consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by the Secretary under this part;

(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guaranty agreement under section 1078(c) of this title; and

(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

(b) Financial operations responsibilities

The Secretary shall, with respect to the financial operations arising by reason of this part prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31. The transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 1078 of this title, and transactions related thereto and vouchers approved by the Secretary in connection with such

transactions, shall be final and conclusive upon all accounting and other officers of the Government.

(c) Data collection

(1) Collection by category of loan

(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Secretary and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

(C) The Secretary may designate such additional subcategories within the categories specified in subparagraph (B) of this paragraph as the Secretary deems appropriate.

(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

(2) Collection and reporting requirements

(A) The Secretary shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Secretary, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

(3) Institutional, public, or nonprofit lenders

For purposes of clarity in communications, the Secretary shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

(d) Delegation

(1) Regional offices

The functions of the Secretary under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional office of the Department.

(2) Delegable functions

The functions which may be delegated pursuant to this subsection are—

(A) reviewing applications for loan insurance under section 1079 of this title and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

(B) receiving claims for payments under section 1080(a) of this title, examining those claims, and pursuant to regulations of the Secretary, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Secretary issued under subsection (a) of this section), and recommending litigation with respect to any such claim.

(e) Use of information on borrowers

Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any guaranty agency having a guaranty agreement under section 1078(c)(1) of this title, any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.

(f) Audit of financial transactions

(1) Comptroller General and Inspector General authority

The Comptroller General and the Inspector General of the Department of Education shall each have the authority to conduct an audit of the financial transactions of—

(A) any guaranty agency operating under an agreement with the Secretary pursuant to section 1078(b) of this title;

(B) any eligible lender as defined in section 1085(d)(1) of this title;

(C) a representative sample of eligible lenders under this part, upon the request of the Committee on Education and the Workforce of the House of Representatives or the Committee on Labor and Human Resources of the Senate, with respect to the payment of the special allowance under section 1087–1 of this title in order to evaluate the program authorized by this part.

(2) Access to records

For the purpose of carrying out this subsection, the records of any entity described in subparagraph (A), (B), (C), or (D)[1] of paragraph (1) shall be available to the Comptroller General and the Inspector General of the Department of Education. For the purpose of section 716(c) of title 31, such records shall be considered to be records to which the Comptroller General has access by law, and for the purpose of section 6(a)(4) of the Inspector General Act of 1978, such records shall be considered to be records necessary in the performance of func-

[1] See References in Text note below.

tions assigned by that Act to the Inspector General.

(3) "Record" defined

For the purpose of this subsection, the term ''record'' includes any information, document, report, answer, account, paper, or other data or documentary evidence.

(4) Audit procedures

In conducting audits pursuant to this subsection, the Comptroller General and the Inspector General of the Department of Education shall audit the records to determine the extent to which they, at a minimum, comply with Federal statutes, and rules and regulations prescribed by the Secretary, in effect at the time that the record was made, and in no case shall the Comptroller General or the Inspector General apply subsequently determined standards, procedures, or regulations to the records of such agency, lender, or Authority.

(g) Civil penalties

(1) Authority to impose penalties

Upon determination, after reasonable notice and opportunity for a hearing, that a lender or a guaranty agency—

(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $25,000 for each violation, failure, or misrepresentation.

(2) Limitations

No civil penalty may be imposed under paragraph (1) of this subsection unless the Secretary determines that—

(A) the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from a violation, failure, or misrepresentation that is material; and

(B) the lender or guaranty agency knew or should have known that its actions violated or failed to carry out the provisions of this part or the regulations thereunder.

(3) Correction of failure

A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to notification by the Secretary under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial misrepresentation of the actual nature of the financial charges involved.

(4) Consideration as single violation

For the purpose of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency, and occurring prior to notification by the Secretary under that paragraph, shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both. The Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

(5) Assignees not liable for violations by others

If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

(6) Compromise

Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged, unless the lender or agency has, in the case of a final agency determination, commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding.

(h) Authority of the Secretary to impose and enforce limitations, suspensions, and terminations

(1) Imposition of sanctions

(A) If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that the eligible lender—

(i) has substantially failed—

(I) to exercise reasonable care and diligence in the making and collecting of loans under the provisions of this part,

(II) to make the reports or statements under section 1078(a)(4) of this title, or

(III) to pay the required loan insurance premiums to any guaranty agency, or

(ii) has engaged in—

(I) fraudulent or misleading advertising or in solicitations that have resulted in the making of loans insured or guaranteed under this part to borrowers who are ineligible; or

(II) the practice of making loans that violate the certification for eligibility provided in section 1078 of this title,

the Secretary shall limit, suspend, or terminate that lender from participation in the insurance programs operated by guaranty agencies under this part.

(B) The Secretary shall not lift any such limitation, suspension, or termination until the Secretary is satisfied that the lender's failure under subparagraph (A)(i) of this paragraph or practice under subparagraph (A)(ii) of this paragraph has ceased and finds that there are reasonable assurances that the lender will—

(i) exercise the necessary care and diligence,

(ii) comply with the requirements described in subparagraph (A)(i), or

(iii) cease to engage in the practices described in subparagraph (A)(ii),

as the case may be.

(2) Review of sanctions on lenders

(A) The Secretary shall review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 1078(b)(1)(U) of this title within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the lender. The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanction—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 1078(b)(1)(U) of this title shall be limited to—

(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

(ii) a determination as to whether the guaranty agency complied with section 1078(b)(1)(U) of this title and any notice and hearing requirements prescribed in regulations of the Secretary under this part.

(C) The Secretary shall not lift any such sanction until the Secretary is satisfied that the lender has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the lender will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such sanction.

(3) Review of sanctions on eligible institutions

(A) The Secretary shall review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 1078(b)(1)(T) of this title within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the institution. The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanctions—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 1078(b)(1)(T) of this title shall be limited to—

(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

(ii) a determination as to whether the guaranty agency complied with section 1078(b)(1)(T) of this title and any notice and hearing requirements prescribed in regulations of the Secretary under this part.

(C) The Secretary shall not lift any such sanction until the Secretary is satisfied that the institution has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the institution will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such sanction.

(i) Authority to sell defaulted loans

In the event that all other collection efforts have failed, the Secretary is authorized to sell defaulted student loans assigned to the United States under this part to collection agencies, eligible lenders, guaranty agencies, or other qualified purchaser on such terms as the Secretary determines are in the best financial interests of the United States. A loan may not be sold pursuant to this subsection if such loan is in repayment status.

(j) Authority of Secretary to take emergency actions against lenders

(1) Imposition of sanctions

If the Secretary—

(A) receives information, determined by the Secretary to be reliable, that a lender is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation;

(B) determines that immediate action is necessary to prevent misuse of Federal funds; and

(C) determines that the likelihood of loss outweighs the importance of following the limitation, suspension, or termination procedures authorized in subsection (h) of this section;

the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the lender (by registered mail, return receipt requested), take

emergency action to stop the issuance of guarantee commitments and the payment of interest benefits and special allowance to the lender.

(2) Length of emergency action

An emergency action under this subsection may not exceed 30 days unless a limitation, suspension, or termination proceeding is initiated against the lender under subsection (h) of this section before the expiration of that period.

(3) Opportunity to show cause

The Secretary shall provide the lender, if it so requests, an opportunity to show cause that the emergency action is unwarranted.

(k) Program of assistance for borrowers

(1) In general

The Secretary shall undertake a program to encourage corporations and other private and public employers, including the Federal Government, to assist borrowers in repaying loans received under this subchapter and part C of subchapter I of chapter 34 of title 42, including providing employers with options for payroll deduction of loan payments and offering loan repayment matching provisions as part of employee benefit packages.

(2) Publication

The Secretary shall publicize models for providing the repayment assistance described in paragraph (1) and each year select entities that deserve recognition, through means devised by the Secretary, for the development of innovative plans for providing such assistance to employees.

(3) Recommendation

The Secretary shall recommend to the appropriate committees in the Senate and House of Representatives changes to statutes that could be made in order to further encourage such efforts.

***(l)* Uniform administrative and claims procedures**

(1) In general

The Secretary shall, by regulation developed in consultation with guaranty agencies, lenders, institutions of higher education, secondary markets, students, third party servicers and other organizations involved in providing loans under this part, prescribe standardized forms and procedures regarding—

(A) origination of loans;
(B) electronic funds transfer;
(C) guaranty of loans;
(D) deferments;
(E) forbearance;
(F) servicing;
(G) claims filing;
(H) borrower status change; and
(I) cures.

(2) Special rules

(A) The forms and procedures described in paragraph (1) shall include all aspects of the loan process as such process involves eligible lenders and guaranty agencies and shall be designed to minimize administrative costs and burdens (other than the costs and burdens involved in the transition to new forms and procedures) involved in exchanges of data to and from borrowers, schools, lenders, secondary markets, and the Department.

(B) Nothing in this paragraph shall be construed to limit the development of electronic forms and procedures.

(3) Simplification requirements

Such regulations shall include—

(A) standardization of computer formats, forms design, and guaranty agency procedures relating to the origination, servicing, and collection of loans made under this part;

(B) authorization of alternate means of document retention, including the use of microfilm, microfiche, laser disc, compact disc, and other methods allowing the production of a facsimile of the original documents;

(C) authorization of the use of computer or similar electronic methods of maintaining records relating to the performance of servicing, collection, and other regulatory requirements under this chapter; and

(D) authorization and implementation of electronic data linkages for the exchange of information to and from lenders, guarantors, institutions of higher education, third party servicers, and the Department of Education for student status confirmation reports, claim filing, interest and special allowance billing, deferment processing, and all other administrative steps relating to loans made pursuant to this part where using electronic data linkage is feasible.

(4) Additional recommendations

The Secretary shall review regulations prescribed pursuant to paragraph (1) and seek additional recommendations from guaranty agencies, lenders, institutions of higher education, students, secondary markets, third party servicers and other organizations involved in providing loans under this part, not less frequently than annually, for additional methods of simplifying and standardizing the administration of the programs authorized by this part.

(m) Common forms and formats

(1) Common guaranteed student loan application form and promissory note

(A) In general

The Secretary, in cooperation with representatives of guaranty agencies, eligible lenders, and organizations involved in student financial assistance, shall prescribe common application forms and promissory notes, or master promissory notes, to be used for applying for loans under this part.

(B) Requirements

The forms prescribed by the Secretary shall—

(i) use clear, concise, and simple language to facilitate understanding of loan terms and conditions by applicants;

(ii) be formatted to require the applicant to clearly indicate a choice of lender; and[2]

[2] So in original. The ''; and'' probably should be a period.

(C) Free application form

For academic year 1999–2000 and succeeding academic years, the Secretary shall prescribe the form developed under section 1090 of this title as the application form under this part, other than for loans under sections 1078–2 and 1078–3 of this title.

(D) Master promissory note

(i) In general

The Secretary shall develop and require the use of master promissory note forms for loans made under this part and part C of this subchapter. Such forms shall be available for periods of enrollment beginning not later than July 1, 2000. Each form shall allow eligible borrowers to receive, in addition to initial loans, additional loans for the same or subsequent periods of enrollment through a student confirmation process approved by the Secretary. Such forms shall be used for loans made under this part or part C of this subchapter as directed by the Secretary.

(ii) Consultation

In developing the master promissory note under this subsection, the Secretary shall consult with representatives of guaranty agencies, eligible lenders, institutions of higher education, students, and organizations involved in student financial assistance.

(iii) Sale; assignment; enforceability

Notwithstanding any other provision of law, each loan made under a master promissory note under this subsection may be sold or assigned independently of any other loan made under the same promissory note and each such loan shall be separately enforceable in all Federal and State courts on the basis of an original or copy of the master promissory note in accordance with the terms of the master promissory note.

(E) Perfection of security interests in student loans

(i) In general

Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in loans made under this part, on behalf of any eligible lender (as defined in section 1085(d) of this title) shall attach, be perfected, and be assigned priority in the manner provided by the applicable State's law for perfection of security interests in accounts, as such law may be amended from time to time (including applicable transition provisions). If any such State's law provides for a statutory lien to be created in such loans, such statutory lien may be created by the entity or entities governed by such State law in accordance with the applicable statutory provisions that created such a statutory lien.

(ii) Collateral description

In addition to any other method for describing collateral in a legally sufficient manner permitted under the laws of the State, the description of collateral in any financing statement filed pursuant to this subparagraph shall be deemed legally sufficient if it lists such loans, or refers to records (identifying such loans) retained by the secured party or any designee of the secured party identified in such financing statement, including the debtor or any loan servicer.

(iii) Sales

Notwithstanding clauses (i) and (ii) and any provisions of any State law to the contrary, other than any such State's law providing for creation of a statutory lien, an outright sale of loans made under this part shall be effective and perfected automatically upon attachment as defined in the Uniform Commercial Code of such State.

(2) Common deferment form

The Secretary, in cooperation with representatives of guaranty agencies, institutions of higher education, and lenders involved in loans made under this part, shall prescribe a common deferment reporting form to be used for the processing of deferments of loans made under this subchapter and part C of subchapter I of chapter 34 of title 42.

(3) Common reporting formats

The Secretary shall promulgate standards including necessary rules, regulations (including the definitions of all relevant terms), and procedures so as to require all lenders and guaranty agencies to report information on all aspects of loans made under this part in uniform formats, so as to permit the direct comparison of data submitted by individual lenders, servicers, or guaranty agencies.

(4) Electronic forms

Nothing in this section shall be construed to limit the development and use of electronic forms and procedures.

(n) Default reduction management

(1) Authorization

There are authorized to be appropriated $25,000,000 for fiscal year 1999 and each of the four succeeding fiscal years, for the Secretary to expend for default reduction management activities for the purposes of establishing a performance measure that will reduce defaults by 5 percent relative to the prior fiscal year. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.

(2) Allowable activities

Allowable activities for which such funds shall be expended by the Secretary shall include the following: (A) program reviews; (B) audits; (C) debt management programs; (D) training activities; and (E) such other management improvement activities approved by the Secretary.

(3) Plan for use required

The Secretary shall submit a plan, for inclusion in the materials accompanying the President's budget each fiscal year, detailing the

expenditure of funds authorized by this section to accomplish the 5 percent reduction in defaults. At the conclusion of the fiscal year, the Secretary shall report the Secretary's findings and activities concerning the expenditure of funds and whether the performance measure was met. If the performance measure was not met, the Secretary shall report the following:

(A) why the goal was not met, including an indication of any managerial deficiencies or of any legal obstacles;

(B) plans and a schedule for achieving the established performance goal;

(C) recommended legislative or regulatory changes necessary to achieve the goal; and

(D) if the performance standard or goal is impractical or infeasible, why that is the case and what action is recommended, including whether the goal should be changed or the program altered or eliminated.

This report shall be submitted to the Appropriations Committees of the House of Representatives and the Senate and to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(*o*) Consequences of guaranty agency insolvency

In the event that the Secretary has determined that a guaranty agency is unable to meet its insurance obligations under this part, the holder of loans insured by the guaranty agency may submit insurance claims directly to the Secretary and the Secretary shall pay to the holder the full insurance obligation of the guaranty agency, in accordance with insurance requirements no more stringent than those of the guaranty agency. Such arrangements shall continue until the Secretary is satisfied that the insurance obligations have been transferred to another guarantor who can meet those obligations or a successor will assume the outstanding insurance obligations.

(p) Reporting requirement

All officers and directors, and those employees and paid consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, State licensing agencies or boards, and entities acting as secondary markets (including the Student Loan Marketing Association), who are engaged in making decisions as to the administration of any program or funds under this subchapter and part C of subchapter I of chapter 34 of title 42 or as to the eligibility of any entity or individual to participate under this subchapter and part C of subchapter I of chapter 34 of title 42, shall report to the Secretary, in such manner and at such time as the Secretary shall require, on any financial interest which such individual may hold in any other entity participating in any program assisted under this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89–329, title IV, § 432, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1401; amended Pub. L. 100–50, § 10(x), (y), June 3, 1987, 101 Stat. 346; Pub. L. 101–239, title II, § 2006(a), Dec. 19, 1989, 103 Stat. 2118; Pub. L. 102–325, title IV, § 425, July 23, 1992, 106 Stat. 543; Pub. L. 103–208, § 2(k)(2), (3), Dec. 20, 1993, 107 Stat. 2485; Pub. L. 104–66, title I, § 1042(e), Dec. 21, 1995, 109 Stat. 716; Pub. L. 105–244, title IV, § 427, Oct. 7, 1998, 112 Stat. 1702; Pub. L. 106–554, § 1(a)(1) [title III, § 311], Dec. 21, 2000, 114 Stat. 2763, 2763A–46.)

REFERENCES IN TEXT

Subparagraph (D) of paragraph (1) of subsec. (f), referred to in subsec. (f)(2), was repealed by Pub. L. 105–244, title IV, § 427(a)(3), Oct. 7, 1998, 112 Stat. 1702.

The Inspector General Act of 1978, referred to in subsec. (f)(2), is Pub. L. 95–452, Oct. 12, 1978, 92 Stat. 1101, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

This chapter, referred to in subsec. (*l*)(3)(C), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1082, Pub. L. 89–329, title IV, § 432, Nov. 8, 1965, 79 Stat. 1246; Pub. L. 90–460, § 3(d), Aug. 3, 1968, 82 Stat. 638; Pub. L. 93–604, title VII, § 705(a), Jan. 2, 1975, 88 Stat. 1964; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2127; Pub. L. 96–88, title III, § 301(b)(2), Oct. 17, 1979, 93 Stat. 678; Pub. L. 96–374, title IV, § 416(c), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1421, 1503; Pub. L. 99–272, title XVI, § 16024, Apr. 7, 1986, 100 Stat. 351, related to functions, powers, and duties of Secretary, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2000—Subsec. (m)(1)(D)(iv). Pub. L. 106–554, § 1(a)(1) [title III, § 311(1)], struck out heading and text of cl. (iv). Text read as follows: ''Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in loans made under this part created on behalf of any eligible lender as defined in section 1085(d) of this title may be perfected either through the taking of possession of such loans (which can be through taking possession of an original or copy of the master promissory note) or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts.''

Subsec. (m)(1)(E). Pub. L. 106–554, § 1(a)(1) [title III, § 311(2)], added subpar. (E).

1998—Subsec. (f)(1)(B). Pub. L. 105–244, § 427(a)(1), substituted ''section 1085(d)(1)'' for ''section 1085(d)(1)(D), (F), or (H)''.

Subsec. (f)(1)(C). Pub. L. 105–244, § 427(a)(2), substituted ''and the Workforce'' for ''and Labor'' and a period for ''; and'' at end.

Subsec. (f)(1)(D). Pub. L. 105–244, § 427(a)(3), struck out subpar. (D) which read as follows: ''any Authority required to file a plan for doing business under section 1087–1(d) of this title.''

Subsec. (k)(3). Pub. L. 105–244, § 427(b), substituted ''The Secretary'' for ''Within 1 year after July 23, 1992, the Secretary''.

Subsec. (m)(1)(A). Pub. L. 105–244, § 427(c)(1)(A), substituted ''common application forms and promissory notes, or master promissory notes,'' for ''a common application form and promissory note''.

Subsec. (m)(1)(B). Pub. L. 105–244, § 427(c)(1)(B), substituted ''The forms'' for ''The form'' in introductory provisions and struck out cl. (iii) which read as follows: ''permit, to the maximum extent practicable, application for any loan under this part.''

Subsec. (m)(1)(C). Pub. L. 105–244, § 427(c)(1)(C), amended heading and text of subpar. (C) generally. Prior to amendment, text read as follows: ''The Sec-

retary shall approve a form for use not later than 360 days after July 23, 1992.''

Subsec. (m)(1)(D). Pub. L. 105–244, § 427(c)(1)(D), amended heading and text of subpar. (D) generally. Prior to amendment, text read as follows: ''Nothing in this section shall be construed to limit the development of electronic forms and procedures.''

Subsec. (m)(4). Pub. L. 105–244, § 427(c)(2), added par. (4).

Subsec. (n)(1). Pub. L. 105–244, § 427(d)(1), substituted ''1999'' for ''1993''.

Subsec. (n)(3). Pub. L. 105–244, § 427(d)(2), substituted ''and the Workforce'' for ''and Labor'' in concluding provisions.

Subsec. (p). Pub. L. 105–244, § 427(e), struck out ''State postsecondary reviewing entities designated under subpart 1 of part G of this subchapter,'' after ''agencies or boards,''.

1995—Subsec. (b). Pub. L. 104–66 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''The Secretary shall, with respect to the financial operations arising by reason of this part—

''(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31; and

''(2) maintain with respect to insurance under this part an integral set of accounts and prepare financial statements in accordance with generally accepted accounting principles, which shall be audited annually by the General Accounting Office in conformity with generally accepted Government auditing standards except that the transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 1078 of this title, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.''

1993—Subsec. (h)(2)(A), (3)(A). Pub. L. 103–208 amended directory language of Pub. L. 102–325, § 425(d)(1). See 1992 Amendment notes below.

1992—Subsec. (a)(1). Pub. L. 102–325, § 425(a), inserted before semicolon at end '', including regulations applicable to third party servicers (including regulations concerning financial responsibility standards for, and the assessment of liabilities for program violations against, such servicers) to establish minimum standards with respect to sound management and accountability of programs under this part, except that in no case shall damages be assessed against the United States for the actions or inactions of such servicers''.

Subsecs. (a)(3), (g)(1). Pub. L. 102–325, § 425(b)(1), (2), struck out ''on the record'' after ''for a hearing''.

Subsec. (g)(2). Pub. L. 102–325, § 425(c)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''No civil penalty may be imposed under paragraph (1) of this subsection unless it is determined that the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from—

''(A)(i) a clear and consistent pattern or practice of violations, failures, or substantial misrepresentations in which the lender or guaranty agency did not maintain procedures reasonably adapted to avoid the violation, failure, or substantial misrepresentation;

''(ii) gross negligence; or

''(iii) willful actions on the part of the lender or guaranty agency; and

''(B) the violation, failure, or substantial misrepresentation is material.''

Subsec. (g)(3). Pub. L. 102–325, § 425(c)(2), substituted ''notification by the Secretary under that paragraph'' for ''the institution of an action under that paragraph''.

Subsec. (g)(4). Pub. L. 102–325, § 425(c)(3), inserted '', and occurring prior to notification by the Secretary under that paragraph,'' after ''guaranty agency'' and substituted ''or both. The'' for ''or both, and the''.

Subsec. (h)(2)(A). Pub. L. 102–325, § 425(d)(1), as amended by Pub. L. 103–208, § 2(k)(2), in second sentence substituted ''The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanction'' for ''The Secretary shall disqualify such lender from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification''.

Pub. L. 102–325, § 425(b)(3), in first sentence struck out '', in accordance with sections 556 and 557 of title 5,'' after ''The Secretary shall''.

Subsec. (h)(2)(B), (C). Pub. L. 102–325, § 425(d)(2), (3), added subpar. (B), redesignated former subpar. (B) as (C), and substituted ''sanction'' for ''disqualification'' in two places.

Subsec. (h)(3)(A). Pub. L. 102–325, § 425(d)(4), as amended by Pub. L. 103–208, § 2(k)(3), in second sentence substituted ''The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanctions'' for ''The Secretary shall disqualify such institution from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification''.

Pub. L. 102–325, § 425(b)(4), in first sentence struck out '', in accordance with sections 556 and 557 of title 5,'' after ''The Secretary shall''.

Subsec. (h)(3)(B), (C). Pub. L. 102–325, § 425(d)(5), (6), added subpar. (B), redesignated former subpar. (B) as (C), and substituted ''sanction'' for ''disqualification'' in two places.

Subsecs. (k) to (p). Pub. L. 102–325, § 425(e), added subsecs. (k) to (p).

1989—Subsec. (j). Pub. L. 101–239 added subsec. (j).

1987—Subsec. (f)(4). Pub. L. 100–50, § 10(x), added par. (4).

Subsec. (g)(2)(A)(i), (B). Pub. L. 100–50, § 10(y), substituted ''misrepresentation'' for ''representation''.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1083. Student loan information by eligible lenders

(a) Required disclosure before disbursement

Each eligible lender, at or prior to the time such lender disburses a loan that is insured or guaranteed under this part (other than a loan made under section 1078–3 of this title), shall provide thorough and accurate loan information on such loan to the borrower in simple and understandable terms. Any disclosure required by this subsection may be made by an eligible lend-

er by written or electronic means, including as part of the application material provided to the borrower, as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. Each lender shall provide to each borrower a telephone number, and may provide an electronic address, through which additional loan information can be obtained. The disclosure shall include—

(1) a statement prominently and clearly displayed and in bold print that the borrower is receiving a loan that must be repaid;

(2) the name of the eligible lender, and the address to which communications and payments should be sent;

(3) the principal amount of the loan;

(4) the amount of any charges, such as the origination fee and insurance premium, collected by the lender at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(5) the stated interest rate on the loan;

(6) the yearly and cumulative maximum amounts that may be borrowed;

(7) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(8) a statement as to the minimum and maximum repayment term which the lender may impose, and the minimum annual payment required by law;

(9) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(10) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(11) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);[1]

(12) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default will be reported to a credit bureau or credit reporting agency;

(13) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(14) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) Required disclosure before repayment

Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower by written or electronic means the information required under this subsection in simple and understandable terms. Each eligible lender shall provide to each borrower a telephone number, and may provide an electronic address, through which additional loan information can be obtained. For any loan made, insured, or guaranteed under this part, other than a loan made under section 1078–2 or 1078–3 of this title, such disclosure required by this subsection shall be made not less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower. The disclosure shall include—

(1) the name of the eligible lender, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan and of the availability and terms of such other options, except that such explanation is not required when the loan being made is a consolidation loan under section 1078–3 of this title;

(8) except as provided in subsection (e) of this section, the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) Cost of disclosure and consequences of nondisclosure

Such information shall be available without cost to the borrower. The failure of an eligible lender to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary under a contract of insurance or reinsurance, or the obligation of a guaranty agency under a contract of guaranty. Nothing in this section shall be construed as subjecting the lender to the Truth in Lending Act [15 U.S.C. 1601 et seq.] with regard to loans made under this part. The Secretary may limit, suspend, or terminate the continued participation of an eligible lender in making loans under

[1] See References in Text note below.

this part for failure by that lender to comply with this section.

(d) Separate statement

Each eligible lender shall, at the time such lender notifies a borrower of approval of a loan which is insured or guaranteed under this part, provide the borrower with a separate paper which summarizes (in plain English) the rights and responsibilities of the borrower with respect to the loan, including a statement of the consequences of defaulting on the loan and a statement that each borrower who defaults will be reported to a credit bureau. The requirement of this subsection shall be in addition to the information required by subsection (a) of this section.

(e) Special disclosure rules on SLS loans and PLUS loans and unsubsidized loans

Loans made under sections 1078–1,[2] 1078–2, and 1078–8 of this title shall not be subject to the disclosure of projected monthly payment amounts required under subsection (b)(8) of this section if the lender, in lieu of such disclosure, provides the borrower with sample projections of monthly repayment amounts assuming different levels of borrowing and interest accruals resulting from capitalization of interest while the borrower is in school. Such sample projections shall disclose the cost to the student of capitalizing—

(1) principal and interest; and

(2) interest only.

(Pub. L. 89–329, title IV, § 433, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1406; amended Pub. L. 100–50, § 10(z), June 3, 1987, 101 Stat. 346; Pub. L. 102–325, title IV, § 426, July 23, 1992, 106 Stat. 548; Pub. L. 103–208, § 2(c)(53), (54), (k)(4), Dec. 20, 1993, 107 Stat. 2468, 2485; Pub. L. 105–244, title IV, § 428, Oct. 7, 1998, 112 Stat. 1704.)

REFERENCES IN TEXT

Section 902 of the Department of Defense Authorization Act, 1981, referred to in subsec. (a)(11), is section 902 of Pub. L. 96–342, title IX, Sept. 8, 1980, 94 Stat. 1115, as amended, which was set out as a note under section 2141 of Title 10, Armed Forces, and was repealed by Pub. L. 99–145, title VI, § 671(a)(3), Nov. 8, 1985, 99 Stat. 663. See section 16302 of Title 10.

Truth in Lending Act, referred to in subsec. (c), is title I of Pub. L. 90–321, May 29, 1968, 82 Stat. 146, as amended, which is classified generally to subchapter I (§ 1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

Section 1078–1 of this title, referred to in subsec. (e), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

PRIOR PROVISIONS

A prior section 1083, Pub. L. 89–329, title IV, § 433, Nov. 8, 1965, 79 Stat. 1247; Pub. L. 90–575, title I, § 116(d), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 92–318, title I, § 132(c), June 23, 1972, 86 Stat. 261; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2129; Pub. L. 95–43, § 1(a)(34), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to requirements for institutional lenders, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1083a, Pub. L. 89–329, title IV, § 433A, as added Pub. L. 96–374, title IV, § 418, Oct. 3, 1980, 94 Stat. 1423; amended Pub. L. 97–301, § 13(a), Oct. 13, 1982, 96 Stat. 1404; Pub. L. 98–79, § 3(a), Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, title XVI, § 16012(c), Apr. 7, 1986, 100 Stat. 340, related to student loan information to be provided by eligible lenders, prior to the general revision of this part by Pub. L. 99–498. See section 1083 of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 428(a), amended heading and introductory provisions generally. Prior to amendment, introductory provisions read as follows: ''Each eligible lender shall, at or prior to the time such lender disburses a loan which is insured or guaranteed under this part (other than a loan made under section 1078–3 of this title), provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosure shall include—''.

Subsec. (b). Pub. L. 105–244, § 428(b), amended heading and introductory provisions generally. Prior to amendment, introductory provisions read as follows: ''Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower the information required under this subsection. For any loan made, insured, or guaranteed under this part, other than a loan made under section 1078–2 or 1078–3 of this title, such disclosure required by this subsection shall be made not less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower. The disclosure shall include—''.

1993—Subsec. (b). Pub. L. 103–208, § 2(c)(53), substituted ''30 days'' for ''60 days'' in introductory provisions.

Subsec. (e). Pub. L. 103–208, § 2(k)(4), amended directory language of Pub. L. 102–325, § 426(c). See 1992 Amendment note below.

Pub. L. 103–208, § 2(c)(54), substituted ''sections'' for ''section'' before ''1078–1''.

1992—Subsec. (a). Pub. L. 102–325, § 426(a), added par. (1) and redesignated former pars. (1) to (13) as (2) to (14), respectively.

Subsec. (b). Pub. L. 102–325, § 426(b)(1), in introductory provisions, inserted second sentence and struck out former second sentence which read as follows: ''Any disclosure required by this subsection may be made by an eligible lender either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower.''

Subsec. (b)(8). Pub. L. 102–325, § 426(b)(2), inserted ''except as provided in subsection (e) of this section,'' before ''the projected''.

Subsec. (e). Pub. L. 102–325, § 426(c), as amended by Pub. L. 103–208, § 2(k)(4), added subsec. (e).

1987—Subsec. (a). Pub. L. 100–50, § 10(z)(1), inserted ''(other than a loan made under section 1078–3 of this title)'' after ''this part'' in first sentence.

Subsec. (a)(8). Pub. L. 100–50, § 10(z)(2), added par. (8) and struck out former par. (8) which read as follows: ''a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, the projected level of indebtedness of the student based on a 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 4- or 5-year college career;''.

Subsec. (b)(7). Pub. L. 100–50, § 10(z)(3), inserted '', except that such explanation is not required when the loan being made is a consolidation loan under section 1078–3 of this title'' before semicolon at end.

[2] See References in Text note below.

Subsec. (d). Pub. L. 100–50, §10(z)(4), substituted ''notifies a borrower of approval of a loan'' for ''makes the first disbursement of a loan with respect to a borrower''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 2(c)(53) of Pub. L. 103–208 effective on and after 60 days after Dec. 20, 1993 and amendments by section 2(c)(54), (k)(4) of Pub. L. 103–208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, see section 5(a), (b)(4) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsecs. (a), (b), and (d) of this section applicable only with respect to loans disbursed on or after Jan. 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after Jan. 1, 1987, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

§ 1084. Participation by Federal credit unions in Federal, State, and private student loan insurance programs

Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the National Credit Union Administration, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 1078(a)(1)(B) of this title.

(Pub. L. 89–329, title IV, §434, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1408.)

PRIOR PROVISIONS

A prior section 1084, Pub. L. 89–329, title IV, §434, Nov. 8, 1965, 79 Stat. 1247; Pub. L. 90–575, title I, §116(b)(4), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 91–206, §6, Mar. 10, 1970, 84 Stat. 51; Pub. L. 92–318, title I, §132D(e), June 23, 1972, 86 Stat. 264; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2129; Pub. L. 95–630, title V, §502(a), Nov. 10, 1978, 92 Stat. 3681, related to participation by Federal credit unions in Federal, State, and private student loan insurance programs, prior to the general revision of this part by Pub. L. 99–498.

§ 1085. Definitions for student loan insurance program

As used in this part:

(a) Eligible institution

(1) In general

Except as provided in paragraph (2), the term ''eligible institution'' means an institution of higher education, as defined in section 1002 of this title, except that, for the purposes of sections 1077(a)(2)(C)(i) and 1078(b)(1)(M)(i) of this title, an eligible institution includes any institution that is within this definition without regard to whether such institution is participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and includes any institution ineligible for participation in any program under this part pursuant to paragraph (2) of this subsection.

(2) Ineligibility based on high default rates

(A) An institution whose cohort default rate is equal to or greater than the threshold percentage specified in subparagraph (B) for each of the three most recent fiscal years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and for the two succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after its submission. Such decision may permit the institution to continue to participate in a program under this part if—

(i) the institution demonstrates to the satisfaction of the Secretary that the Secretary's calculation of its cohort default rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold percentage specified in subparagraph (B);

(ii) there are exceptional mitigating circumstances within the meaning of paragraph (4); or

(iii) there are, in the judgment of the Secretary, other exceptional mitigating circumstances that would make the application of this paragraph inequitable.

During such appeal, the Secretary may permit the institution to continue to participate in a program under this part. If an institution continues to participate in a program under this part, and the institution's appeal of the loss of eligibility is unsuccessful, the institution shall be required to pay to the Secretary an amount equal to the amount of interest, special allowance, reinsurance, and any related payments made by the Secretary (or which the Secretary is obligated to make) with respect to loans made under this part to students attending, or planning to attend, that institution during the pendency of such appeal.

(B) For purposes of determinations under subparagraph (A), the threshold percentage is—

(i) 35 percent for fiscal year 1991 and 1992;

(ii) 30 percent for fiscal year 1993; and

(iii) 25 percent for any succeeding fiscal year.

(C) Until July 1, 1999, this paragraph shall not apply to any institution that is—

(i) a part B institution within the meaning of section 1061(2) of this title;

(ii) a tribally controlled community college within the meaning of section 1801(a)(4)[1] of title 25; or

(iii) a Navajo Community College under the Navajo Community College Act [25 U.S.C. 640a et seq.].

(D) Notwithstanding the first sentence of subparagraph (A), the Secretary shall restore the eligibility to participate in a program under subpart 1 of part A, part B, or part D of this subchapter of an institution that did not appeal its loss of eligibility within 30 days of receiving notification if the Secretary determines, on a case-by-case basis, that the institution's failure to appeal was substantially justified under the circumstances, and that—

(i) the institution made a timely request that the appropriate guaranty agency correct errors in the draft data used to calculate the institution's cohort default rate;

(ii) the guaranty agency did not correct the erroneous data in a timely fashion; and

(iii) the institution would have been eligible if the erroneous data had been corrected by the guaranty agency.

(3) Appeals based upon allegations of improper loan servicing

An institution that—

(A) is subject to loss of eligibility for the Federal Family Education Loan Program pursuant to paragraph (2)(A) of this subsection;

(B) is subject to loss of eligibility for the Federal Supplemental Loans for Students pursuant to section 1078–1(a)(2)[1] of this title; or

(C) is an institution whose cohort default rate equals or exceeds 20 percent for the most recent year for which data are available;

may include in its appeal of such loss or rate a defense based on improper loan servicing (in addition to other defenses). In any such appeal, the Secretary shall take whatever steps are necessary to ensure that such institution has access for a reasonable period of time, not to exceed 30 days, to a representative sample (as determined by the Secretary) of the relevant loan servicing and collection records used by a guaranty agency in determining whether to pay a claim on a defaulted loan or by the Department in determining an institution's default rate in the loan program under part C of this subchapter. The Secretary shall reduce the institution's cohort default rate to reflect the percentage of defaulted loans in the representative sample that are required to be excluded pursuant to subsection (m)(1)(B) of this section.

(4) Definition of mitigating circumstances

(A) For purposes of paragraph (2)(A)(ii), an institution of higher education shall be treated as having exceptional mitigating circumstances that make application of that paragraph inequitable if such institution, in the opinion of an independent auditor, meets the following criteria:

(i) For a 12-month period that ended during the 6 months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's cohort default rate is determined, at least two-thirds of the students enrolled on at least a half-time basis at the institution—

(I) are eligible to receive a Federal Pell Grant award that is at least equal to one-half the maximum Federal Pell Grant award for which a student would be eligible based on the student's enrollment status; or

(II) have an adjusted gross income that when added with the adjusted gross income of the student's parents (unless the student is an independent student), of less than the poverty level, as determined by the Department of Health and Human Services.

(ii) In the case of an institution of higher education that offers an associate, baccalaureate, graduate or professional degree, 70 percent or more of the institution's regular students who were initially enrolled on a full-time basis and were scheduled to complete their programs during the same 12-month period described in clause (i)—

(I) completed the educational programs in which the students were enrolled;

(II) transferred from the institution to a higher level educational program;

(III) at the end of the 12-month period, remained enrolled and making satisfactory progress toward completion of the student's educational programs; or

(IV) entered active duty in the Armed Forces of the United States.

(iii)(I) In the case of an institution of higher education that does not award a degree described in clause (ii), had a placement rate of 44 percent or more with respect to the institution's former regular students who—

(aa) remained in the program beyond the point the students would have received a 100 percent tuition refund from the institution;

(bb) were initially enrolled on at least a half-time basis; and

(cc) were originally scheduled, at the time of enrollment, to complete their educational programs during the same 12-month period described in clause (i).

(II) The placement rate shall not include students who are still enrolled and making satisfactory progress in the educational programs in which the students were originally enrolled on the date following 12 months after the date of the student's last date of attendance at the institution.

(III) The placement rate is calculated by determining the percentage of all those former regular students who—

(aa) are employed, in an occupation for which the institution provided training, on the date following 12 months after the date of their last day of attendance at the institution;

(bb) were employed, in an occupation for which the institution provided training,

[1] See References in Text note below.

for at least 13 weeks before the date following 12 months after the date of their last day of attendance at the institution; or

(cc) entered active duty in the Armed Forces of the United States.

(IV) The placement rate shall not include as placements a student or former student for whom the institution is the employer.

(B) For purposes of determining a rate of completion and a placement rate under this paragraph, a student is originally scheduled, at the time of enrollment, to complete the educational program on the date when the student will have been enrolled in the program for the amount of time normally required to complete the program. The amount of time normally required to complete the program for a student who is initially enrolled full-time is the period of time specified in the institution's enrollment contract, catalog, or other materials, for completion of the program by a full-time student. For a student who is initially enrolled less than full-time, the period is the amount of time it would take the student to complete the program if the student remained enrolled at that level of enrollment throughout the program.

(5) Reduction of default rates at certain minority institutions

(A) Beneficiaries of exception required to establish management plan

After July 1, 1999, any institution that has a cohort default rate that equals or exceeds 25 percent for each of the three most recent fiscal years for which data are available and that relies on the exception in subparagraph (B) to continue to be an eligible institution shall—

(i) submit to the Secretary a default management plan which the Secretary, in the Secretary's discretion, after consideration of the institution's history, resources, dollars in default, and targets for default reduction, determines is acceptable and provides reasonable assurance that the institution will, by July 1, 2004, have a cohort default rate that is less than 25 percent;

(ii) engage an independent third party (which may be paid with funds received under section 1059d of this title or part B of subchapter III of this chapter) to provide technical assistance in implementing such default management plan; and

(iii) provide to the Secretary, on an annual basis or at such other intervals as the Secretary may require, evidence of cohort default rate improvement and successful implementation of such default management plan.

(B) Discretionary eligibility conditioned on improvement

Notwithstanding the expiration of the exception in paragraph (2)(C), the Secretary may, in the Secretary's discretion, continue to treat an institution described in subparagraph (A) of this paragraph as an eligible institution for each of the 1-year periods beginning on July 1 of 1999 through 2003, only if the institution submits by the beginning of such period evidence satisfactory to the Secretary that—

(i) such institution has complied and is continuing to comply with the requirements of subparagraph (A); and

(ii) such institution has made substantial improvement, during each of the preceding 1-year periods, in the institution's cohort default rate.

(6) Participation rate index

(A) In general

An institution that demonstrates to the Secretary that the institution's participation rate index is equal to or less than 0.0375 for any of the 3 most recent fiscal years for which data is available shall not be subject to paragraph (2). The participation rate index shall be determined by multiplying the institution's cohort default rate for loans under this part or part C of this subchapter, or weighted average cohort default rate for loans under this part and part C of this subchapter, by the percentage of the institution's regular students, enrolled on at least a half-time basis, who received a loan made under this part or part C of this subchapter for a 12-month period ending during the 6 months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's cohort default rate is determined.

(B) Data

An institution shall provide the Secretary with sufficient data to determine the institution's participation rate index within 30 days after receiving an initial notification of the institution's draft cohort default rate.

(C) Notification

Prior to publication of a final cohort default rate for an institution that provides the data described in subparagraph (B), the Secretary shall notify the institution of the institution's compliance or noncompliance with subparagraph (A).

(b), (c) Repealed. Pub. L. 102–325, title IV, § 427(b)(1), (c), July 23, 1992, 106 Stat. 549

(d) Eligible lender

(1) In general

Except as provided in paragraphs (2) through (6), the term ''eligible lender'' means—

(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, a stock savings bank, or a credit union which—

(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless (I) it is a bank which is wholly owned by a State, or a bank which is subject to examination and supervision by an

agency of the United States, makes student loans as a trustee pursuant to an express trust, operated as a lender under this part prior to January 1, 1975, and which meets the requirements of this provision prior to July 23, 1992, (II) it is a single wholly owned subsidiary of a bank holding company which does not have as its primary consumer credit function the making or holding of loans made to students under this part, or (III) it is a bank (as defined in section 1813(a)(1) of title 12) that is a wholly owned subsidiary of a nonprofit foundation, the foundation is described in section 501(c)(3) of title 26 and exempt from taxation under section 501(1) of such title, and the bank makes loans under this part only to undergraduate students who are age 22 or younger and has a portfolio of such loans that is not more than $5,000,000;

(B) a pension fund as defined in the Employee Retirement Income Security Act [29 U.S.C. 1001 et seq.];

(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

(E) an eligible institution which meets the requirements of paragraphs (2) through (5) of this subsection;

(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title, or an agency of any State functioning as a secondary market;

(G) for purposes of making loans under sections 1078–1(d),[1] 1078–2(d), 1078–3, and 1087–2(q) of this title, the Student Loan Marketing Association or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title;

(H) for purposes of making loans under sections 1078(h) and 1078(j) of this title, a guaranty agency;

(I) a Rural Rehabilitation Corporation, or its successor agency, which has received Federal funds under Public Law 499, Eighty-first Congress (64 Stat. 98 (1950));

(J) for purpose of making loans under section 1078–3 of this title, any nonprofit private agency functioning in any State as a secondary market; and

(K) a consumer finance company subsidiary of a national bank which, as of October 7, 1998, through one or more subsidiaries: (i) acts as a small business lending company, as determined under regulations of the Small Business Administration under section 120.470 of title 13, Code of Federal Regulations (as such section is in effect on October 7, 1998); and (ii) participates in the program authorized by this part pursuant to subparagraph (C), provided the national bank and all of the bank's direct and indirect subsidiaries taken together as a whole, do not have, as their primary consumer credit function, the making or holding of loans made to students under this part.

(2) Additional requirements of eligible institutions

To be an eligible lender under this part, an eligible institution—

(A) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

(B) shall not be a home study school;

(C) shall make loans to not more than 50 percent of the undergraduate students at the institution;

(D) shall not make a loan, other than a loan to a graduate or professional student, unless the borrower has previously received a loan from the school or has been denied a loan by an eligible lender;

(E) shall not have a cohort default rate (as defined in subsection (m) of this section) greater than 15 percent; and

(F) shall use the proceeds from special allowance payments and interest payments from borrowers for need-based grant programs, except for reasonable reimbursement for direct administrative expenses;

except that the requirements of subparagraphs (C) and (D) shall not apply with respect to loans made, and loan commitments made, after October 17, 1986, and prior to July 1, 1987.

(3) Disqualification for high default rates

The term ''eligible lender'' does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Secretary determines, after notice and opportunity for a hearing, that for each of 2 consecutive years, 15 percent or more of the total amount of such loans as are described in section 1078(a)(1) of this title made by the institution with respect to students at that institution and repayable in each such year, are in default, as defined in subsection (m) of this section.

(4) Waiver of disqualification

Whenever the Secretary determines that—

(A) there is reasonable possibility that an eligible institution may, within 1 year after a determination is made under paragraph (3), improve the collection of loans described in section 1078(a)(1) of this title, so that the application of paragraph (3) would be a hardship to that institution, or

(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Secretary shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this para-

graph shall be made by the Secretary prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Secretary grants a waiver pursuant to this paragraph, the Secretary shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

(5) Disqualification for use of certain incentives

The term ''eligible lender'' does not include any lender that the Secretary determines, after notice and opportunity for a hearing, has after October 17, 1986—

(A) offered, directly or indirectly, points, premiums, payments, or other inducements, to any educational institution or individual in order to secure applicants for loans under this part;

(B) conducted unsolicited mailings to students of student loan application forms, except to students who have previously received loans under this part from such lender;

(C) offered, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product; or

(D) engaged in fraudulent or misleading advertising.

It shall not be a violation of this paragraph for a lender to provide assistance to institutions of higher education comparable to the kinds of assistance provided to institutions of higher education by the Department of Education.

(6) Rebate fee requirement

To be an eligible lender under this part, an eligible lender shall pay rebate fees in accordance with section 1078–3(f) of this title.

(e) Line of credit

The term ''line of credit'' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(f) Due diligence

The term ''due diligence'' requires the utilization by a lender, in the servicing and collection of loans insured under this part, of servicing and collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

(g), (h) Repealed. Pub. L. 102–325, title IV, § 427(f), July 23, 1992, 106 Stat. 550

(i) Holder

The term ''holder'' means an eligible lender who owns a loan.

(j) Guaranty agency

The term ''guaranty agency'' means any State or nonprofit private institution or organization with which the Secretary has an agreement under section 1078(b) of this title.

(k) Insurance beneficiary

The term ''insurance beneficiary'' means the insured or its authorized representative assigned in accordance with section 1079(d) of this title.

***(l)* Default**

Except as provided in subsection (m) of this section, the term ''default'' includes only such defaults as have existed for (1) 270 days in the case of a loan which is repayable in monthly installments, or (2) 330 days in the case of a loan which is repayable in less frequent installments.

(m) Cohort default rate

(1) In general

(A) Except as provided in paragraph (2), the term ''cohort default rate'' means, for any fiscal year in which 30 or more current and former students at the institution enter repayment on loans under section 1078, 1078–1,[2] or 1078–8 of this title received for attendance at the institution, the percentage of those current and former students who enter repayment on such loans (or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans) received for attendance at that institution in that fiscal year who default before the end of the following fiscal year. The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate.

(B) In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance. In considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, the Secretary shall exclude, from the calculation of the number of students who entered repayment and from the calculation of the number of students who default, any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate.

(C) For any fiscal year in which fewer than 30 of the institution's current and former students enter repayment, the term ''cohort default rate'' means the percentage of such current and former students who entered repayment on such loans (or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans) in any of the three most recent fiscal years, who default before the end of the fiscal year immediately following the year in which they entered repayment.

(2) Special rules

(A) In the case of a student who has attended and borrowed at more than one school, the

[2] See References in Text note below.

student (and such student's subsequent repayment or default) is attributed to each school for attendance at which the student received a loan that entered repayment in the fiscal year.

(B) A loan on which a payment is made by the school, such school's owner, agent, contractor, employee, or any other entity or individual affiliated with such school, in order to avoid default by the borrower, is considered as in default for purposes of this subsection.

(C) Any loan which has been rehabilitated before the end of such following fiscal year is not considered as in default for the purposes of this subsection. The Secretary may require guaranty agencies to collect data with respect to defaulted loans in a manner that will permit the identification of any defaulted loan for which (i) the borrower is currently making payments and has made not less than 6 consecutive on-time payments by the end of such following fiscal year, and (ii) a guaranty agency has renewed the borrower's title IV eligibility as provided in section 1078–6(b) of this title.

(D) For the purposes of this subsection, a loan made in accordance with section 1078–1[2] of this title (or the portion of a loan made under section 1078–3 of this title that is used to repay a loan made under section 1078–1[2] of this title) shall not be considered to enter repayment until after the borrower has ceased to be enrolled in a course of study leading to a degree or certificate at an eligible institution on at least a half-time basis (as determined by the institution) and ceased to be in a period of forbearance based on such enrollment. Each eligible lender of a loan made under section 1078–1[2] of this title (or a loan made under section 1078–3 of this title a portion of which is used to repay a loan made under section 1078–1[2] of this title) shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this subsection, and the guaranty agency shall provide such information to the Secretary.

(3) Regulations to prevent evasions

The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

(4) Collection and reporting of cohort default rates

(A) The Secretary shall collect data from all insurers under this part and shall publish not less often than once every fiscal year a report showing default data for each category of institution, including (i) 4-year public institutions, (ii) 4-year private institutions, (iii) 2-year public institutions, (iv) 2-year private institutions, (v) 4-year proprietary institutions, (vi) 2-year proprietary institutions, and (vii) less than 2-year proprietary institutions.

(B) The Secretary may designate such additional subcategories within the categories specified in subparagraph (A) as the Secretary deems appropriate.

(C) The Secretary shall publish not less often than once every fiscal year a report showing default data for each institution for which a cohort default rate is calculated under this subsection.

(D) The Secretary shall publish the report described in subparagraph (C) by September 30 of each year.

(n) Repealed. Pub. L. 102–325, title IV, § 427(f), July 23, 1992, 106 Stat. 550

(*o*) Economic hardship

(1) In general

For purposes of this part and part D of this subchapter, a borrower shall be considered to have an economic hardship if—

(A) such borrower is working full-time and is earning an amount which does not exceed the greater of—

(i) the minimum wage rate described in section 206 of title 29; or

(ii) an amount equal to 100 percent of the poverty line for a family of 2 as determined in accordance with section 9902(2) of title 42;

(B) such borrower is working full-time and has a Federal educational debt burden that equals or exceeds 20 percent of such borrower's adjusted gross income, and the difference between such borrower's adjusted gross income minus such burden is less than 220 percent of the greater of—

(i) the annual earnings of an individual earning the minimum wage under section 206 of title 29; or

(ii) the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 9902(2) of title 42) applicable to a family of two; or

(C) such borrower meets such other criteria as are established by the Secretary by regulation in accordance with paragraph (2).

(2) Considerations

In establishing criteria for purposes of paragraph (1)(C), the Secretary shall consider the borrower's income and debt-to-income ratio as primary factors.

(Pub. L. 89–329, title IV, § 435, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1408; amended Pub. L. 100–50, § 10(aa), June 3, 1987, 101 Stat. 347; Pub. L. 101–239, title II, §§ 2003(a)(2), 2007(a), Dec. 19, 1989, 103 Stat. 2113, 2120; Pub. L. 101–508, title III, § 3004(a), Nov. 5, 1990, 104 Stat. 1388–26; Pub. L. 101–542, title III, § 301, Nov. 8, 1990, 104 Stat. 2387; Pub. L. 102–26, § 2(a)(1), Apr. 9, 1991, 105 Stat. 123; Pub. L. 102–325, title IV, §§ 416(e)(2), 427(a), (b)(1), (c)–(g), July 23, 1992, 106 Stat. 519, 549, 550; Pub. L. 103–66, title IV, §§ 4046(b)(1), 4106(b), Aug. 10, 1993, 107 Stat. 362, 368; Pub. L. 103–208, § 2(c)(55)–(62), Dec. 20, 1993, 107 Stat. 2468, 2469; Pub. L. 103–235, § 1, Apr. 28, 1994, 108 Stat. 381; Pub. L. 103–382, title III, § 357, Oct. 20, 1994, 108 Stat. 3967; Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(b)(1)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–283; Pub. L. 105–244, title I, § 102(b)(2), title IV, § 429(a)–(c)(1), (d), title IX, § 901(d), Oct. 7,

1998, 112 Stat. 1622, 1704–1709, 1828; Pub. L. 106–554, §1(a)(1) [title III, §§308(a), 312], Dec. 21, 2000, 114 Stat. 2763, 2763A–45, 2763A–46.)

REFERENCES IN TEXT

Section 1801(a)(4) of title 25, referred to in subsec. (a)(2)(C)(ii), was amended by Pub. L. 105–244, title IX, §901(b)(5), Oct. 7, 1998, 112 Stat. 1828, and, as so amended, no longer defines the term ''tribally controlled community college''.

The Navajo Community College Act, referred to in subsec. (a)(2)(C)(iii), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 640a of Title 25 and Tables.

The Employee Retirement Income Security Act, referred to in subsec. (d)(1)(B), probably means the Employee Retirement Income Security Act of 1974, Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended, which is classified principally to chapter 18 (§1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

Section 1078–1 of this title, referred to in subsecs. (a)(3)(B), (d)(1)(G), and (m)(1)(A), (2)(D), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691.

Public Law 499, Eighty-first Congress (64 Stat. 98 (1950)), referred to in subsec. (d)(1)(I), is act May 3, 1950, ch. 152, 64 Stat. 98, known as the Rural Rehabilitation Corporation Trust Liquidation Act, which was classified to sections 440 to 444 of former Title 40, Public Buildings, Property, and Works, and as notes set out under section 1001 of Title 7, Agriculture, and section 440 of former Title 40, and was omitted from the Code.

Title IV, referred to in subsec. (m)(2)(C), means title IV of the Higher Education Act of 1965, Pub. L. 89–329, which is classified generally to this subchapter and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1085, Pub. L. 89–329, title IV, §435, Nov. 8, 1965, 79 Stat. 1247; Pub. L. 89–698, title II, §204, Oct. 29, 1966, 80 Stat. 1072; Pub. L. 90–575, title I, §§116(a), 118(a), Oct. 16, 1968, 82 Stat. 1023, 1026; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2130; Pub. L. 95–43, §1(a)(35), (36), June 15, 1977, 91 Stat. 216; Pub. L. 96–374, title IV, §§413(e), 421(e)(2), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1418, 1432, 1503; Pub. L. 99–272, title XVI, §§16017(b)(2), 16020, Apr. 7, 1986, 100 Stat. 347, 349, defined terms used in this part, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2000—Subsec. (a)(2)(D). Pub. L. 106–554, §1(a)(1) [title III, §308(a)], added subpar. (D).

Subsec. (a)(5)(A)(i). Pub. L. 106–554, §1(a)(1) [title III, §312(1)], substituted ''July 1, 2004,'' for ''July 1, 2002,''.

Subsec. (a)(5)(B). Pub. L. 106–554, §1(a)(1) [title III, §312(2)], substituted ''1999 through 2003'' for ''1999, 2000, and 2001'' in introductory provisions.

1998—Subsec. (a)(1). Pub. L. 105–244, §102(b)(2), substituted ''section 1002'' for ''section 1088''.

Subsec. (a)(2)(A). Pub. L. 105–244, §429(a)(1)(A)(i), (ii), struck out ''or'' at end of cl. (i), added cls. (ii) and (iii), and struck out former cl. (ii) which read as follows: ''there are, in the judgment of the Secretary, exceptional mitigating circumstances that would make the application of this paragraph inequitable.''

Pub. L. 105–244, §429(a)(1)(A)(iii), inserted at end of concluding provisions ''If an institution continues to participate in a program under this part, and the institution's appeal of the loss of eligibility is unsuccessful, the institution shall be required to pay to the Secretary an amount equal to the amount of interest, special allowance, reinsurance, and any related payments made by the Secretary (or which the Secretary is obligated to make) with respect to loans made under this part to students attending, or planning to attend, that institution during the pendency of such appeal.''

Subsec. (a)(2)(C). Pub. L. 105–244, §429(a)(1)(B), substituted ''July 1, 1999,'' for ''July 1, 1998,'' in introductory provisions.

Subsec. (a)(2)(C)(ii). Pub. L. 105–244, §901(d), made technical amendment to reference in original act which appears in text as reference to section 1801(a)(4) of title 25.

Subsec. (a)(3). Pub. L. 105–244, §429(a)(2), in concluding provisions, inserted ''for a reasonable period of time, not to exceed 30 days,'' after ''access'' and substituted ''used by a guaranty agency in determining whether to pay a claim on a defaulted loan or by the Department in determining an institution's default rate in the loan program under part C of this subchapter'' for ''of the affected guaranty agencies and loan servicers for a reasonable period of time, not to exceed 30 days''.

Subsec. (a)(4) to (6). Pub. L. 105–244, §429(a)(3), added pars. (4) to (6).

Subsec. (d)(1)(A)(ii)(III). Pub. L. 105–244, §429(b)(1)(A), added subcl. (III).

Subsec. (d)(1)(K). Pub. L. 105–244, §429(b)(1)(B)–(D), added subpar. (K).

Subsec. (d)(5). Pub. L. 105–244, §429(b)(2), inserted concluding provisions.

Subsec. (*l*). Pub. L. 105–244, §429(c)(1), substituted ''270 days'' for ''180 days'' and ''330 days'' for ''240 days''.

Subsec. (m)(1)(B). Pub. L. 105–244, §429(d)(1), substituted ''insurance. In considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, the Secretary shall exclude, from the calculation of the number of students who entered repayment and from the calculation of the number of students who default,'' for ''insurance, and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, exclude''.

Subsec. (m)(2)(C). Pub. L. 105–244, §429(d)(2), inserted at end ''The Secretary may require guaranty agencies to collect data with respect to defaulted loans in a manner that will permit the identification of any defaulted loan for which (i) the borrower is currently making payments and has made not less than 6 consecutive on-time payments by the end of such following fiscal year, and (ii) a guaranty agency has renewed the borrower's title IV eligibility as provided in section 1078–6(b) of this title.''

Subsec. (m)(4)(D). Pub. L. 105–244, §429(d)(3), added subpar. (D).

1996—Subsec. (d)(1)(F). Pub. L. 104–208, §101(e) [title VI, §602(b)(1)(A)(i)], inserted ''or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title,'' after ''Student Loan Marketing Association''.

Subsec. (d)(1)(G). Pub. L. 104–208, §101(e) [title VI, §602(b)(1)(A)(ii)], inserted ''or the Holding Company of the Student Loan Marketing Association, including any subsidiary of the Holding Company, created pursuant to section 1087–3 of this title'' after ''Student Loan Marketing Association''.

1994—Subsec. (a)(2)(C). Pub. L. 103–235 substituted ''July 1, 1998'' for ''July 1, 1994''.

Subsec. (*o*)(1). Pub. L. 103–382, §357(1)–(3), struck out ''or'' at end of subpar. (A), added subpar. (B), and redesignated former subpar. (B) as (C).

Subsec. (*o*)(2). Pub. L. 103–382, §357(4), substituted ''(1)(C)'' for ''(1)(B)''.

1993—Subsec. (a)(3). Pub. L. 103–208, §2(c)(55), added par. (3).

Subsec. (d)(1). Pub. L. 103–66, §4106(b)(1), in par. (1) substituted ''through (6)'' for ''through (5)'' in introductory provisions.

Subsec. (d)(2). Pub. L. 103–208, § 2(c)(57), realigned margins of closing provisions.

Subsec. (d)(2)(D). Pub. L. 103–208, § 2(c)(56), substituted ''lender;'' for ''lender; and''.

Subsec. (d)(3). Pub. L. 103–208, § 2(c)(58), substituted ''subsection (m)'' for ''subsection (*o*)''.

Subsec. (d)(6). Pub. L. 103–66, § 4106(b)(2), added par. (6).

Subsec. (m)(1). Pub. L. 103–66, § 4046(b)(1)(C), which directed the insertion in par. (1)(D) of ''(or the portion of a loan made under section 1078–3 of this title that is used to repay a loan made under such section)'' after ''section 1078–1 of this title'' the first place it appears, and ''(or a loan made under section 1078–3 of this title a portion of which is used to repay a loan made under such section)'' after ''section 1078–1 of this title'' the second place it appears, could not be executed because subsec. (m)(1) does not contain a subpar. (D).

Subsec. (m)(1)(A). Pub. L. 103–208, § 2(c)(60)(A), inserted at end ''The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate.''

Pub. L. 103–208, § 2(c)(59), substituted ''section 1078, 1078–1, or 1078–8'' for ''section 1078 or 1078–1''.

Pub. L. 103–66, § 4046(b)(1)(A), inserted ''(or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans)'' after ''on such loans''.

Subsec. (m)(1)(B). Pub. L. 103–208, § 2(c)(60)(B), substituted ''and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3) of this section, exclude any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate.'' for ''and, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.''

Subsec. (m)(1)(C). Pub. L. 103–66, § 4046(b)(1)(B), inserted ''(or on the portion of a loan made under section 1078–3 of this title that is used to repay any such loans)'' after ''on such loans''.

Subsec. (m)(2)(D). Pub. L. 103–208, § 2(c)(61), inserted ''(or the portion of a loan made under section 1078–3 of this title that is used to repay a loan made under section 1078–1 of this title)'' after ''in accordance with section 1078–1 of this title'', and ''(or a loan made under section 1078–3 of this title a portion of which is used to repay a loan made under section 1078–1 of this title)'' after ''a loan made under section 1078–1 of this title''.

Subsec. (m)(4). Pub. L. 103–208, § 2(c)(62), added par. (4).

1992—Subsec. (a)(1). Pub. L. 102–325, § 427(a)(1), added par. (1) and struck out former par. (1) which read as follows: ''Subject to subsection (n) of this section, the term 'eligible institution' means—

''(A) an institution of higher education;

''(B) a vocational school; or

''(C) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Secretary for the purpose of this part,

except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 1078(a)(1), 1078–1, or 1078–2 of this title at that institution or school.''

Subsec. (a)(2). Pub. L. 102–325, § 427(a)(3), struck out ''and'' at end of subpar. (B)(i), substituted ''fiscal year 1993; and'' for ''any succeeding fiscal year.'' in subpar. (B)(ii), and added subpar. (B)(iii).

Pub. L. 102–325, § 427(a)(1), (2), redesignated par. (3) as (2) and struck out former par. (2) which required Secretary to establish criteria for qualifying foreign medical schools as ''eligible institutions''.

Subsec. (a)(3). Pub. L. 102–325, § 427(a)(2), redesignated par. (3) as (2).

Subsec. (b). Pub. L. 102–325, § 427(b)(1), struck out subsec. (b) which defined ''institution of higher education''.

Subsec. (c). Pub. L. 102–325, § 427(c), struck out subsec. (c) which defined ''vocational school''.

Subsec. (d)(1)(A). Pub. L. 102–325, § 427(d)(1), in introductory provisions, struck out ''a trust company,'' after ''stock savings bank,'' and in cl. (ii), inserted at end of subcl. (I) ''or a bank which is subject to examination and supervision by an agency of the United States, makes student loans as a trustee pursuant to an express trust, operated as a lender under this part prior to January 1, 1975, and which meets the requirements of this provision prior to July 23, 1992, or'' and substituted a semicolon for ''or (III) it is a trust company which makes student loans as a trustee pursuant to an express trust and which operated as a lender under this part prior to January 1, 1981;''.

Subsec. (d)(2)(E), (F). Pub. L. 102–325, § 427(d)(2), added subpars. (E) and (F).

Subsec. (f). Pub. L. 102–325, § 427(e), inserted ''servicing and'' before ''collection practices''.

Subsecs. (g), (h). Pub. L. 102–325, § 427(f), struck out subsec. (g) which defined ''temporarily totally disabled'' and subsec. (h) which defined ''parental leave''.

Subsec. (m). Pub. L. 102–325, § 427(g), amended subsec. (m) generally, revising and restating as pars. (1) to (3) provisions formerly contained in a single paragraph.

Subsec. (n). Pub. L. 102–325, § 427(f), struck out subsec. (n) which related to impact of loss of accreditation on certification or recertification as an eligible institution.

Subsec. (*o*). Pub. L. 102–325, § 416(e)(2), added subsec. (*o*).

1991—Subsec. (c)(1). Pub. L. 102–26 substituted ''or who are beyond the age of compulsory school attendance in the State in which the institution is located'' for ''and who have the ability to benefit (as determined by the institution under section 1088(d) of this title) from the training offered by such institution;''.

1990—Subsec. (a)(3). Pub. L. 101–508 added par. (3).

Subsec. (*l*). Pub. L. 101–542, § 301(1), substituted ''Except as provided in subsection (m) of this section, the term'' for ''The term''.

Subsec. (m). Pub. L. 101–542, § 301(2), inserted after first sentence ''In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance, and, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.''

1989—Subsec. (a)(1). Pub. L. 101–239, § 2007(a)(1), substituted ''Subject to subsection (n) of this section, the term'' for ''The term''.

Subsec. (m). Pub. L. 101–239, § 2003(a)(2), added subsec. (m).

Subsec. (n). Pub. L. 101–239, § 2007(a)(2), added subsec. (n).

1987—Subsec. (b)(3). Pub. L. 100–50, § 10(aa)(1), inserted '', or in the case of a hospital or health care facility, which provides training of not less than one year for graduates of accredited health professions programs, leading to a degree or certificate upon completion of such training'' before semicolon at end.

Subsec. (d)(1)(J). Pub. L. 100–50, § 10(aa)(2), added subpar. (J).

Subsec. (d)(2). Pub. L. 100–50, § 10(aa)(3), added subpars. (C) and (D) and inserted concluding provision that the requirements of subpars. (C) and (D) not apply with respect to loans made, and loan commitments made, after Oct. 17, 1986, and prior to July 1, 1987.

Subsec. (g)(2). Pub. L. 100–50, § 10(aa)(4), added par. (2) and struck out former par. (2) which read as follows:

''Such term when used with respect to the disabled dependent of a single parent borrower means a dependent who, by reason of injury or illness, cannot be expected to be able to attend school or to be gainfully employed during a period of injury or illness of not less than 3 months and who during such period requires continuous nursing or similar services.''

Subsec. (h). Pub. L. 100–50, §10(aa)(5), struck out ''Definition of'' before ''Parental'' in heading.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(1) [title III, §308(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–45, provided that: ''The amendment made by subsection (a) of this section [amending this section] shall be effective for cohort default rate calculations for fiscal years 1997 and 1998.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by sections 102(b)(2) and 429(a), (b), (d) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, §429(c)(2), Oct. 7, 1998, 112 Stat. 1708, provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to loans for which the first day of delinquency occurs on or after the date of enactment of this Act [Oct. 7, 1998].''

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective on reorganization effective date as defined in section 1087–3(h) of this title, see section 101(e) [title VI, §602(b)(1)(B)] of Pub. L. 104–208, set out as a note under section 1078–3 of this title.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendments by section 2(c)(55), (60)(B) of Pub. L. 103–208 applicable with respect to determination (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year, amendments by section 2(c)(56)–(58), (61) of Pub. L. 103–208 effective, except as otherwise provided, as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, amendment by section 2(c)(59) of Pub. L. 103–208 effective on and after 30 days after Dec. 20, 1993, amendment by section 2(c)(60)(A) of Pub. L. 103–208 effective on and after Oct. 1, 1994, and amendment by section 2(c)(62) effective on and after Dec. 20, 1993, see section 5(a), (b)(2), (3), (7), (8) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by section 4046(b)(1) of Pub. L. 103–66 effective July 1, 1994, see section 4046(c) of Pub. L. 103–66, set out as a note under section 1078–3 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 2(d)(1) of Pub. L. 102–26 provided that: ''The amendments made by this section [amending this section and sections 1078–1, 1088, 1091, 1094, and 1141 of this title] shall apply to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3004(d) of Pub. L. 101–508 provided that: ''The amendments made by this section [amending this section, section 1078 of this title, and provisions set out as a note under section 1078–1 of this title] shall be effective July 1, 1991, except that the amendment made by subsection (b) [amending section 1078 of this title] shall be effective upon enactment.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsec. (d)(5) of this section effective 30 days after Oct. 17, 1986, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

DEFINITION OF INSTITUTION OF HIGHER EDUCATION

Section 427(b)(2) of Pub. L. 102–325 provided that: ''With respect to reference in any other provision of law to the definition of institution of higher education contained in section 435(b) of the Act [former 20 U.S.C. 1085(b)], such provision shall be deemed to refer to section 481(a) of the Act [former 20 U.S.C. 1088(a)].''

§ 1086. Delegation of functions

(a) In general

An eligible lender or guaranty agency that contracts with another entity to perform any of the lender's or agency's functions under this subchapter and part C of subchapter I of chapter 34 of title 42, or otherwise delegates the performance of such functions to such other entity—

(1) shall not be relieved of the lender's or agency's duty to comply with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42; and

(2) shall monitor the activities of such other entity for compliance with such requirements.

(b) Special rule

A lender that holds a loan made under this part in the lender's capacity as a trustee is responsible for complying with all statutory and regulatory requirements imposed on any other holder of a loan made under this part.

(Pub. L. 89–329, title IV, §436, as added Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1413; amended Pub. L. 105–244, title IV, §430, Oct. 7, 1998, 112 Stat. 1709.)

PRIOR PROVISIONS

A prior section 1086, Pub. L. 89–329, title IV, §436, as added Pub. L. 89–752, §12, Nov. 3, 1966, 80 Stat. 1244; amended Pub. L. 90–575, title I, §116(b)(5), Oct. 16, 1968, 82 Stat. 1024; Pub. L. 94–482, title I, §127(a), Oct. 12, 1976, 90 Stat. 2132; Pub. L. 96–374, title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to a District of Columbia student loan insurance program, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section authorized establishment of a District of Columbia student loan insurance program.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1087. Repayment by Secretary of loans of bankrupt, deceased, or disabled borrowers; treatment of borrowers attending closed schools or falsely certified as eligible to borrow

(a) Repayment in full for death and disability

If a student borrower who has received a loan described in subparagraph (A) or (B) of section 1078(a)(1) of this title dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(b) Payment of claims on loans in bankruptcy

The Secretary shall pay to the holder of a loan described in section 1078(a)(1)(A) or (B), 1078–1,[1] 1078–2, 1078–3, or 1078–8 of this title, the amount of the unpaid balance of principal and interest owed on such loan—

(1) when the borrower files for relief under chapter 12 or 13 of title 11;

(2) when the borrower who has filed for relief under chapter 7 or 11 of such title commences an action for a determination of dischargeability under section 523(a)(8)(B) of such title; or

(3) for loans described in section 523(a)(8)(A) of such title, when the borrower files for relief under chapter 7 or 11 of such title.

(c) Discharge

(1) In general

If a borrower who received, on or after January 1, 1986, a loan made, insured, or guaranteed under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable to complete the program in which such student is enrolled due to the closure of the institution or if such student's eligibility to borrow under this part was falsely certified by the eligible institution, or if the institution failed to make a refund of loan proceeds which the institution owed to such student's lender, then the Secretary shall discharge the borrower's liability on the loan (including interest and collection fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against the institution and its affiliates and principals or settle the loan obligation pursuant to the financial responsibility authority under subpart 3 of part G of this subchapter. In the case of a discharge based upon a failure to refund, the amount of the discharge shall not exceed that portion of the loan which should have been refunded. The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate annually as to the dollar amount of loan discharges attributable to failures to make refunds.

(2) Assignment

A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund up to the amount discharged against the institution and its affiliates and principals.

(3) Eligibility for additional assistance

The period of a student's attendance at an institution at which the student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) Special rule

A borrower whose loan has been discharged pursuant to this subsection shall not be precluded from receiving additional grants, loans, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for which the borrower would be otherwise eligible (but for the default on such discharged loan). The amount discharged under this subsection shall be treated the same as loans under section 1087ee(a)(5) of this title.

(5) Reporting

The Secretary shall report to credit bureaus with respect to loans which have been discharged pursuant to this subsection.

(d) Repayment of loans to parents

If a student on whose behalf a parent has received a loan described in section 1078–2 of this title dies, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(Pub. L. 89–329, title IV, § 437, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1414; amended Pub. L. 102–325, title IV, § 428, July 23, 1992, 106 Stat. 551; Pub. L. 103–208, § 2(c)(63)–(65), Dec. 20, 1993, 107 Stat. 2469; Pub. L. 105–244, title IV, § 431, Oct. 7, 1998, 112 Stat. 1709.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (b), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

PRIOR PROVISIONS

A prior section 1087, Pub. L. 89–329, title IV, § 437, as added Pub. L. 90–575, title I, § 113(a), Oct. 16, 1968, 82 Stat. 1020; amended Pub. L. 92–318, title I, § 132D(a), June 23, 1972, 86 Stat. 263; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2133; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to repayment of loans by Secretary, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (c)(1). Pub. L. 105–244 inserted ''or if the institution failed to make a refund of loan proceeds which the institution owed to such student's lender,'' after ''falsely certified by the eligible institution,'' and inserted at end ''In the case of a discharge based upon a failure to refund, the amount of the discharge shall not exceed that portion of the loan which should have been refunded. The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate annually as to the dollar amount of loan discharges attributable to failures to make refunds.''

1993—Subsec. (b). Pub. L. 103–208, § 2(c)(63), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''If the collection of a loan described in subparagraph (A) or (B) of section 1078(a)(1) of this title or sections 1078–1, 1078–2, 1078–3, or 1078–8 of this title is stayed in any action under title 11, the Secretary shall repay the unpaid balance of principal and interest owed on the loan.''

Subsec. (c)(1). Pub. L. 103–208, § 2(c)(64), substituted ''If a borrower'' for ''If a student borrower'', ''under this part and the student borrower, or the student on whose behalf a parent borrowed, is unable'' for ''under this part is unable'', and ''in which such student is enrolled'' for ''in which the borrower is enrolled''.

Subsec. (c)(4). Pub. L. 103–208, § 2(c)(65), inserted at end ''The amount discharged under this subsection

[1] See References in Text note below.

shall be treated the same as loans under section 1087ee(a)(5) of this title.''

1992—Pub. L. 102–325 amended section generally, substituting subsecs. (a) to (d) for former subsecs. (a) and (b) which related to repayment by Secretary of loans of bankrupt, deceased, or disabled borrowers.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§ 1087–0. Repealed. Pub. L. 105–244, title IV, § 432, Oct. 7, 1998, 112 Stat. 1710

Section, Pub. L. 89–329, title IV, § 437A, as added Pub. L. 102–325, title IV, § 429, July 23, 1992, 106 Stat. 552; amended Pub. L. 103–208, § 2(c)(66)–(68), Dec. 20, 1993, 107 Stat. 2469, related to debt management options.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1087–1. Special allowances

(a) Findings

In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious, and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

(b) Computation and payment

(1) Quarterly payment based on unpaid balance

A special allowance shall be paid for each of the 3-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(2) Rate of special allowance

(A) Subject to subparagraphs (B), (C), (D), (E), (F), (G), (H), and (I) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.10 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 1077a(f) of this title.

(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under title 26 shall be one-half the quarterly rate of the special allowance established under subparagraph (A), except that, in determining the rate for the purpose of this clause, subparagraph (A)(iii) shall be applied by substituting ''3.5 percent'' for ''3.10 percent''. Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

(ii) The quarterly rate of the special allowance set under clause (i) of this subparagraph shall not be less than 9.5 percent minus the applicable interest rate on such loans, divided by 4.

(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with subsection (d) of this section.

(iv) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance for holders of loans which are financed with funds obtained by the holder from the issuance of obligations originally issued on or after October 1, 1993, or refunded after September 30, 2004, and before April 1, 2006, the income from which is excluded from gross income under title 26, shall be the quarterly rate of the special allowance established under subparagraph (A), (E), (F), (G), (H), or (I) as the case may be. Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interest or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds.

(v) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, or paragraph (4), as the case may be, for a holder of loans that—

(I) were made or purchased with funds—

(aa) obtained from the issuance of obligations the income from which is excluded from gross income under title 26 and which obligations were originally issued before October 1, 1993; or

(bb) obtained from collections or default reimbursements on, or interest or other income pertaining to, eligible loans made or purchased with funds described in division (aa), or from income on the investment of such funds; and

(II) are—

(aa) financed by such an obligation that, after September 30, 2004, and before April 1, 2006, has matured or been retired or defeased;

(bb) refinanced after September 30, 2004, and before April 1, 2006, with funds obtained from a source other than funds described in subclause (I) of this clause; or

(cc) sold or transferred to any other holder after September 30, 2004, and before April 1, 2006.

(C)(i) In the case of loans made before October 1, 1992, pursuant to section 1078–1[1] or 1078–2 of this title for which the interest rate is determined under section 1077a(c)(4) of this title, a special allowance shall not be paid unless the rate determined for any 12-month period under subparagraph (B) of such section exceeds 12 percent.

(ii) Subject to subparagraphs (G), (H), and (I) in the case of loans disbursed on or after October 1, 1992, pursuant to section 1078–1[1] or 1078–2 of this title for which the interest rate is determined under section 1077a(c)(4) of this title, a special allowance shall not be paid unless the rate determined for any 12-month period under section 1077a(c)(4)(B) of this title exceeds—

(I) 11 percent in the case of a loan under section 1078–1[1] of this title; or

(II) 10 percent in the case of a loan under section 1078–2 of this title.

(D)(i) In the case of loans made or purchased directly from funds loaned or advanced pursuant to a qualified State obligation, subparagraph (A)(iii) shall be applied by substituting ''3.5 percent'' for ''3.10 percent''.

(ii) For the purpose of division (i) of this subparagraph, the term ''qualified State obligation'' means—

(I) an obligation of the Maine Educational Loan Marketing Corporation to the Student Loan Marketing Association pursuant to an agreement entered into on January 31, 1984; or

(II) an obligation of the South Carolina Student Loan Corporation to the South Carolina National Bank pursuant to an agreement entered into on July 30, 1986.

(E) In the case of any loan for which the applicable rate of interest is described in section 1077a(g)(2) of this title, subparagraph (A)(iii) shall be applied by substituting ''2.5 percent'' for ''3.10 percent''.

(F) Subject to paragraph (4), the special allowance paid pursuant to this subsection on loans for which the applicable rate of interest is determined under section 1077a(h) of this title shall be computed (i) by determining the applicable bond equivalent rate of the security with a comparable maturity, as established by the Secretary, (ii) by subtracting the applicable interest rates on such loans from such applicable bond equivalent rate, (iii) by adding 1.0 percent to the resultant percent, and (iv) by dividing the resultant percent by 4. If such computation produces a number less than zero, such loans shall be subject to section 1077a(f) of this title.

(G) LOANS DISBURSED BETWEEN JULY 1, 1998, AND OCTOBER 1, 1998.—

(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, shall be computed—

(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

(III) by adding 2.8 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section 1077a(j)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''2.2 percent'' for ''2.8 percent''.

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, and for which the applicable rate of interest is described in section 1077a(j)(3) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''3.1 percent'' for ''2.8 percent'', subject to clause (v) of this subparagraph.

(iv) CONSOLIDATION LOANS.—This subparagraph shall not apply in the case of any consolidation loan.

(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 1078–2 of this title and disbursed on or after July 1, 1998, and before October 1, 1998, for which the interest rate is determined under 1077a(j)(3) of this title, a special allowance shall not be paid for such loan for such[2] unless the rate determined under subparagraph (A) of such section (without regard to subparagraph (B) of such section) exceeds 9.0 percent.

(H) LOANS DISBURSED ON OR AFTER OCTOBER 1, 1998, AND BEFORE JANUARY 1, 2000.—

(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after Octo-

[1] See References in Text note below.

[2] So in original.

ber 1, 1998, and before January 1, 2000, shall be computed—

(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

(III) by adding 2.8 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, and for which the applicable rate of interest is described in section 1077a(k)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''2.2 percent'' for ''2.8 percent''.

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before January 1, 2000, and for which the applicable rate of interest is described in section 1077a(k)(3) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''3.1 percent'' for ''2.8 percent'', subject to clause (v) of this subparagraph.

(iv) CONSOLIDATION LOANS.—In the case of any consolidation loan for which the application is received by an eligible lender on or after October 1, 1998, and before January 1, 2000, and for which the applicable interest rate is determined under section 1077a(k)(4) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''3.1 percent'' for ''2.8 percent'', subject to clause (vi) of this subparagraph.

(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 1078–2 of this title and first disbursed on or after October 1, 1998, and before January 1, 2000, for which the interest rate is determined under section 1077a(k)(3) of this title, a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless, on the June 1 preceding such July 1—

(I) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1 (as determined by the Secretary for purposes of such section); plus

(II) 3.1 percent,

exceeds 9.0 percent.

(vi) LIMITATION ON SPECIAL ALLOWANCES FOR CONSOLIDATION LOANS.—In the case of consolidation loans made under section 1078–3 of this title and for which the application is received on or after October 1, 1998, and before January 1, 2000, for which the interest rate is determined under section 1077a(k)(4) of this title, a special allowance shall not be paid for such loan during any 3-month period ending March 31, June 30, September 30, or December 31 unless—

(I) the average of the bond equivalent rate of 91-day Treasury bills auctioned for such 3-month period; plus

(II) 3.1 percent,

exceeds the rate determined under section 1077a(k)(4) of this title.

(I) LOANS DISBURSED ON OR AFTER JANUARY 1, 2000.—

(i) IN GENERAL.—Notwithstanding subparagraphs (G) and (H), but subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after January 1, 2000, shall be computed—

(I) by determining the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period;

(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

(III) by adding 2.34 percent to the resultant percent; and

(IV) by dividing the resultant percent by 4.

(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan—

(I) for which the first disbursement is made on or after January 1, 2000, and before July 1, 2006, and for which the applicable rate of interest is described in section 1077a(k)(2) of this title; or

(II) for which the first disbursement is made on or after July 1, 2006, and for which the applicable rate of interest is described in section 1077a(*l*)(1) of this title, but only with respect to (aa) periods prior to the beginning of the repayment period of the loan; or (bb) during the periods in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1077(a)(2)(C) or 1078(b)(1)(M) of this title;

clause (i)(III) of this subparagraph shall be applied by substituting ''1.74 percent'' for ''2.34 percent''.

(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after January 1, 2000, and for which the applicable rate of interest is described in section 1077a(k)(3) or (*l*)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''2.64 percent'' for ''2.34 percent'', subject to clause (v) of this subparagraph.

(iv) CONSOLIDATION LOANS.—In the case of any consolidation loan for which the application is received by an eligible lender on or after January 1, 2000, and for which the applicable interest rate is determined under section 1077a(k)(4) or (*l*)(3) of this title, clause (i)(III) of this subparagraph shall be applied by substituting ''2.64 percent'' for ''2.34 percent'', subject to clause (vi) of this subparagraph.

(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS BEFORE JULY 1, 2006.—In the case

of PLUS loans made under section 1078–2 of this title and first disbursed on or after January 1, 2000, and before July 1, 2006, for which the interest rate is determined under section 1077a(k)(3) of this title, a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless, on the June 1 preceding such July 1—

(I) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1 (as determined by the Secretary for purposes of such section); plus

(II) 3.1 percent,

exceeds 9.0 percent.

(vi) LIMITATION ON SPECIAL ALLOWANCES FOR CONSOLIDATION LOANS.—In the case of consolidation loans made under section 1078–3 of this title and for which the application is received on or after January 1, 2000, for which the interest rate is determined under section 1077a(k)(4) or (*l*)(3) of this title, a special allowance shall not be paid for such loan during any 3-month period ending March 31, June 30, September 30, or December 31 unless—

(I) the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period; plus

(II) 2.64 percent,

exceeds the rate determined under section 1077a(k)(4) or (*l*)(3) of this title, whichever is applicable.

(vii) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS ON OR AFTER JULY 1, 2006.—In the case of PLUS loans made under section 1078–2 of this title and first disbursed on or after July 1, 2006, for which the interest rate is determined under section 1077a(*l*)(2) of this title, a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless—

(I) the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial), as published by the Board of Governors of the Federal Reserve System in Publication H–15 (or its successor), for the last calendar week ending on or before such July 1; plus

(II) 2.64 percent,

exceeds 9.0 percent.

(3) Contractual right of holders to special allowance

The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. The special allowance determined for any such 3-month period shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established by regulations promulgated under this section.

(4) Penalty for late payment

(A) If payments of the special allowances payable under this section or of interest payments under section 1078(a) of this title with respect to a loan have not been made within 30 days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the 31st day after the receipt of such request for payment from the holder, or (ii) the 31st day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

(5) "Eligible loan" defined

As used in this section, the term ''eligible loan'' means a loan—

(A)(i) on which a portion of the interest is paid on behalf of the student and for the student's account to the holder of the loan under section 1078(a) of this title;

(ii) which is made under section 1078–1,[3] 1078–2, 1078–3, 1078–8, or 1087–2(*o*) of this title; or

(iii) which was made prior to October 1, 1981; and

(B) which is insured under this part, or made under a program covered by an agreement under section 1078(b) of this title.

As used in this section, the term ''eligible loan'' includes all loans subject to section 1078–9 of this title.

(6) Regulation of time and manner of payment

The Secretary shall pay the holder of an eligible loan, at such time or times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as the Secretary may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

(7) Use of average quarterly balance

The Secretary shall permit lenders to calculate interest benefits and special allowance through the use of the average quarterly balance method until July 1, 1988.

[3] See References in Text note below.

(c) Origination fees from students

(1) Deduction from interest and special allowance subsidies

(A) Notwithstanding subsection (b) of this section, the Secretary shall collect the amount the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection—

(i) by reducing the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder; or

(ii) directly from the holder of the loan, if the lender fails or is not required to bill the Secretary for interest and special allowance or withdraws from the program with unpaid loan origination fees.

(B) If the Secretary collects the origination fee under this subsection through the reduction of interest and special allowance, and the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.

(2) Amount of origination fees

Subject to paragraph (6) of this subsection, with respect to any loan (including loans made under section 1078–8 of this title, but excluding loans made under sections 1078–3 and 1087–2(*o*) of this title) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after August 13, 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower. Except as provided in paragraph (8), a lender that charges an origination fee under this paragraph shall assess the same fee to all student borrowers.

(3) Relation to applicable interest

Such origination fee shall not be taken into account for purposes of determining compliance with section 1077a of this title.

(4) Disclosure required

The lender shall disclose to the borrower the amount and method of calculating the origination fee.

(5) Prohibition on department compelling origination fee collections by lenders

Nothing in this subsection shall be construed to permit the Secretary to require any lender that is making loans that are insured or guaranteed under this part, but for which no amount will be payable for interest under section 1078(a)(3)(A) of this title or for special allowances under subsection (b) of this section, to collect any origination fee or to submit the sums collected as origination fees to the United States. The Secretary shall, not later than January 1, 1987, return to any such lender any such sums collected before October 17, 1986, together with interest thereon.

(6) SLS and PLUS loans

With respect to any loans made under section 1078–1[4] or 1078–2 of this title on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 3.0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

(7) Distribution of origination fees

All origination fees collected pursuant to this section on loans authorized under section 1078–1[4] or 1078–2 of this title shall be paid to the Secretary by the lender and deposited in the fund authorized under section 1081 of this title.

(8) Exception

Notwithstanding paragraph (2), a lender may assess a lesser origination fee for a borrower demonstrating greater financial need as determined by such borrower's adjusted gross family income.

(d) Loan fees from lenders

(1) Deduction from interest and special allowance subsidies

(A) In general

Notwithstanding subsection (b) of this section, the Secretary shall collect a loan fee in an amount determined in accordance with paragraph (2)—

(i) by reducing the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder of a loan; or

(ii) directly from the holder of the loan, if the lender—

(I) fails or is not required to bill the Secretary for interest and special allowance payments; or

(II) withdraws from the program with unpaid loan fees.

(B) Special rule

If the Secretary collects loan fees under this subsection through the reduction of interest and special allowance payments, and the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount of such loan fees, then the Secretary shall deduct the amount of the loan fee balance from the amount of interest and special allowance payments that would otherwise be payable, in subsequent quarterly increments until the balance has been deducted.

(2) Amount of loan fees

With respect to any loan under this part for which the first disbursement was made on or

[4] See References in Text note below.

after October 1, 1993, the amount of the loan fee which shall be deducted under paragraph (1) shall be equal to 0.50 percent of the principal amount of the loan.

(3) Distribution of loan fees

The Secretary shall deposit all fees collected pursuant to paragraph (3) into the insurance fund established in section 1081 of this title.

(e) Nondiscrimination

In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under title 26, to be eligible to receive a special allowance under subsection (b)(2) of this section on any such loans, the Authority shall not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, disability status, income, attendance at a particular eligible institution within the area served by the Authority, length of the borrower's educational program, or the borrower's academic year in school.

(f) Regulations to prevent denial of loans to eligible students

The Secretary shall adopt or amend appropriate regulations pertaining to programs carried out under this part to prevent, where practicable, any practices which the Secretary finds have denied loans to a substantial number of eligible students.

(Pub. L. 89–329, title IV, § 438, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1414; amended Pub. L. 100–50, § 10(d)(2), (bb), (cc), June 3, 1987, 101 Stat. 342, 347; Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, § 430, July 23, 1992, 106 Stat. 553; Pub. L. 103–66, title IV, §§ 4102(a), 4103, 4105, 4111, Aug. 10, 1993, 107 Stat. 366, 367, 368, 370; Pub. L. 105–178, title VIII, § 8301(b), June 9, 1998, 112 Stat. 497; Pub. L. 105–244, title IV, §§ 416(b)(1), (3), 433(a)–(d)(1), Oct. 7, 1998, 112 Stat. 1680, 1682, 1710, 1711; Pub. L. 106–170, title IV, § 409(a), Dec. 17, 1999, 113 Stat. 1914; Pub. L. 107–139, § 2, Feb. 8, 2002, 116 Stat. 10; Pub. L. 108–409, § 2, Oct. 30, 2004, 118 Stat. 2299; Pub. L. 109–150, § 2(b), (c)(2), Dec. 30, 2005, 119 Stat. 2884.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsecs. (b)(2)(C), (5)(A)(ii) and (c)(6), (7), was repealed by Pub. L. 103–66, title IV, § 4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, § 418, Oct. 7, 1998, 112 Stat. 1691.

PRIOR PROVISIONS

A prior section 1087–1, Pub. L. 89–329, title IV, § 438, as added Pub. L. 92–318, title I, § 132E(a), June 23, 1972, 86 Stat. 264; amended Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2133; Pub. L. 95–43, § 1(a)(37), June 15, 1977, 91 Stat. 216; Pub. L. 96–49, § 5(c)(1), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, §§ 420(a), 451(d), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1425, 1458, 1503; Pub. L. 97–35, title V, §§ 532(b)(4), 534(b), 536(a), Aug. 13, 1981, 95 Stat. 452, 454, 455; Pub. L. 98–79, § 7(a), (c), Aug. 15, 1983, 97 Stat. 482, 483; Pub. L. 99–272, title XVI, §§ 16013(d), 16017(b)(3), (c), Apr. 7, 1986, 100 Stat. 340, 347, related to special allowances, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1087–1a, Pub. L. 96–374, title IV, § 420(b), Oct. 3, 1980, 94 Stat. 1427, related to eligibility for special allowances covering loans made or purchased with funds obtained from Authorities issuing tax exempt obligations, and established requirement relating to plans for doing business, prior to repeal by Pub. L. 98–79, § 7(b), Aug. 15, 1983, 97 Stat. 483.

AMENDMENTS

2005—Subsec. (b)(2)(B). Pub. L. 109–150, § 2(c)(2), amended directory language of Pub. L. 108–409, § 2. See 2004 Amendment note below.

Subsec. (b)(2)(B)(iv), (v)(II). Pub. L. 109–150, § 2(b), substituted ''April 1, 2006'' for ''January 1, 2006'' wherever appearing.

2004—Subsec. (b)(2)(B). Pub. L. 108–409, § 2, as amended by Pub. L. 109–150, substituted ''this clause'' for ''this division'' in cl. (i) and ''clause (i) of this subparagraph'' for ''division (i) of this subparagraph'' in cl. (ii), inserted ''or refunded after September 30, 2004, and before January 1, 2006,'' after ''October 1, 1993,'' in cl. (iv), and added cl. (v).

2002—Subsec. (b)(2)(I). Pub. L. 107–139, § 2(1), struck out '', AND BEFORE JULY 1, 2003'' after ''JANUARY 1, 2000'' in heading.

Subsec. (b)(2)(I)(i). Pub. L. 107–139, § 2(2), struck out ''and before July 1, 2003,'' after ''January 1, 2000,'' in introductory provisions.

Subsec. (b)(2)(I)(ii). Pub. L. 107–139, § 2(3), added cl. (ii) and struck out heading and text of former cl. (ii). Text read as follows: ''In the case of any loan for which the first disbursement is made on or after January 1, 2000, and before July 1, 2003, and for which the applicable rate of interest is described in section 1077a(k)(2) of this title, clause (i)(III) of this subparagraph shall be applied by substituting '1.74 percent' for '2.34 percent'.''

Subsec. (b)(2)(I)(iii). Pub. L. 107–139, § 2(2), (4), struck out ''and before July 1, 2003,'' after ''January 1, 2000,'' and inserted ''or (*l*)(2)'' after ''section 1077a(k)(3)''.

Subsec. (b)(2)(I)(iv). Pub. L. 107–139, § 2(2), (5), inserted ''or (*l*)(3)'' after ''section 1077a(k)(4)'' and struck out ''and before July 1, 2003,'' after ''January 1, 2000,''.

Subsec. (b)(2)(I)(v). Pub. L. 107–139, § 2(6), inserted ''BEFORE JULY 1, 2006'' after ''PLUS LOANS'' in heading and substituted ''July 1, 2006,'' for ''July 1, 2003,'' in introductory provisions.

Subsec. (b)(2)(I)(vi). Pub. L. 107–139, § 2(2), (7), in introductory provisions, struck out ''and before July 1, 2003,'' after ''January 1, 2000,'' and inserted ''or (*l*)(3)'' after ''section 1077a(k)(4)'', and in concluding provisions, substituted ''section 1077a(k)(4) or (*l*)(3) of this title, whichever is applicable'' for ''section 1077a(k)(4) of this title''.

Subsec. (b)(2)(I)(vii). Pub. L. 107–139, § 2(8), added cl. (vii).

1999—Subsec. (b)(2)(A). Pub. L. 106–170, § 409(a)(1), substituted ''(G), (H), and (I)'' for ''(G), and (H)'' in first sentence.

Subsec. (b)(2)(B)(iv). Pub. L. 106–170, § 409(a)(2), substituted ''(G), (H), or (I)'' for ''(G), or (H)'' in first sentence.

Subsec. (b)(2)(C)(ii). Pub. L. 106–170, § 409(a)(3), substituted ''(G), (H), and (I)'' for ''(G) and (H)'' in introductory provisions.

Subsec. (b)(2)(H). Pub. L. 106–170, § 409(a)(4), (5), substituted ''JANUARY 1, 2000'' for ''JULY 1, 2003'' in subpar. heading and ''January 1, 2000'' for ''July 1, 2003'' in text wherever appearing.

Subsec. (b)(2)(I). Pub. L. 106–170, § 409(a)(6), added subpar. (I).

1998—Subsec. (b)(2)(A). Pub. L. 105–244, § 416(b)(3)(A), substituted ''(F), (G), and (H)'' for ''(F), and (G)''.

Pub. L. 105–178, § 8301(b)(2)(A), substituted ''(E), (F), and (G)'' for ''(E), and (F)''.

Subsec. (b)(2)(B)(iv). Pub. L. 105–244, § 416(b)(3)(B), substituted ''(F), (G), or (H)'' for ''(F), or (G)''.

Pub. L. 105–178, § 8301(b)(2)(B), substituted ''(E), (F), or (G)'' for ''(E), or (F)''.

Subsec. (b)(2)(C)(ii). Pub. L. 105–244, § 416(b)(3)(C), substituted ''subparagraphs (G) and (H)'' for ''subparagraph (G)''.

Pub. L. 105–178, § 8301(b)(2)(C), substituted ''Subject to subparagraph (G), in the case'' for ''In the case''.

Subsec. (b)(2)(G). Pub. L. 105–178, § 8301(b)(1), added subpar. (G).

Subsec. (b)(2)(H). Pub. L. 105–244, § 416(b)(1), added subpar. (H).

Subsec. (c)(1). Pub. L. 105–244, § 433(a), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: ''Notwithstanding subsection (b) of this section, the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by the amount which the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.''

Subsec. (c)(2). Pub. L. 105–244, § 433(b)(1), substituted ''(including loans made under section 1078–8 of this title, but excluding'' for ''(other than'' and inserted at end ''Except as provided in paragraph (8), a lender that charges an origination fee under this paragraph shall assess the same fee to all student borrowers.''

Subsec. (c)(8). Pub. L. 105–244, § 433(b)(2), added par. (8).

Subsec. (d)(1). Pub. L. 105–244, § 433(c), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: ''Notwithstanding subsection (b) of this section, the Secretary shall reduce the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, to any holder of a loan by a loan fee in an amount determined in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 1078(a)(3)(A) of this title and subsection (b) of this section, respectively, is less than the amount of such loan fee, then the Secretary shall deduct such excess amount from subsequent quarters' payments until the total amount has been deducted.''

Subsec. (e). Pub. L. 105–244, § 433(d)(1), amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) related to lending from proceeds of tax exempt obligations.

1993—Subsec. (b)(2)(A). Pub. L. 103–66, § 4111(1), substituted ''subparagraphs (B), (C), (D), (E), and (F)'' for ''subparagraphs (B), (C), and (D)'' and ''section 1077a(f)'' for ''section 1077a(e)''.

Subsec. (b)(2)(B)(iv). Pub. L. 103–66, § 4105, added cl. (iv).

Subsec. (b)(2)(E), (F). Pub. L. 103–66, § 4111(2), added subpars. (E) and (F).

Subsec. (c). Pub. L. 103–66, § 4102(a)(1), inserted ''from students'' after ''origination fees'' in heading.

Subsec. (c)(2). Pub. L. 103–66, § 4102(a)(2)(A), substituted ''sections 1078–3 and 1087–2(*o*)'' for ''sections 1078–1, 1078–2, 1078–3, and 1087–2(*o*)'' and ''3.0 percent'' for ''5 percent''.

Subsec. (c)(6). Pub. L. 103–66, § 4102(a)(2)(B), substituted ''3.0 percent'' for ''5 percent''.

Subsecs. (d) to (f). Pub. L. 103–66, § 4103, added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1992—Subsec. (b)(2)(A). Pub. L. 102–325, § 430(a)(1), (2), substituted ''3.10'' for ''3.25'' and inserted at end ''If such computation produces a number less than zero, such loans shall be subject to section 1077a(e) of this title.''

Subsec. (b)(2)(B)(i). Pub. L. 102–325, § 430(a)(3), substituted ''3.10'' for ''3.25''.

Subsec. (b)(2)(B)(ii). Pub. L. 102–325, § 430(a)(4), added cl. (ii) and struck out former cl. (ii) which read as follows: ''The rate set under division (i) shall not be less than (I) 2.5 percent per year in the case of loans for which the applicable interest rate is 7 percent per year, (II) 1.5 percent per year in the case of loans for which the applicable interest rate is 8 percent per year, or (III) 0.5 percent in the case of loans for which the applicable rate is 9 percent per year.''

Subsec. (b)(2)(C). Pub. L. 102–325, § 430(a)(5), designated existing provision as cl. (i), inserted ''before October 1, 1992,'' after ''made'', and added cl. (ii).

Subsec. (b)(2)(D)(i). Pub. L. 102–325, § 430(a)(6), substituted ''3.10'' for ''3.25''.

Subsec. (b)(5). Pub. L. 102–325, § 430(c), inserted closing provision which defined ''eligible loan'' as used in this section to include all loans subject to section 1078–9 of this title.

Subsec. (b)(5)(A)(ii). Pub. L. 102–325, § 430(b), inserted ''1078–8,'' after ''1078–3,''.

Subsec. (c)(2). Pub. L. 102–325, § 430(d)(1), substituted ''Subject to paragraph (6) of this subsection, with'' for ''With''.

Subsec. (c)(6), (7). Pub. L. 102–325, § 430(d)(2), added pars. (6) and (7).

Subsec. (d)(2)(C). Pub. L. 102–325, § 430(e), struck out ''or discount'' after ''premium''.

1988—Subsecs. (b)(2)(B)(i), (d)(1), (3). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (b)(2)(B)(iii). Pub. L. 100–50, § 10(bb)(1), substituted ''subsection (d) of this section'' for ''subsection (c) of this section''.

Subsec. (b)(2)(C). Pub. L. 100–50, § 10(d)(2), substituted ''12 percent'' for ''12.5 percent''.

Subsec. (b)(7). Pub. L. 100–50, § 10(bb)(2), added par. (7).

Subsec. (d)(4)(C). Pub. L. 100–50, § 10(cc), struck out '', as evidenced by the information submitted under paragraph (2)(G) of this subsection'' after ''fiscal year''.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–150, § 2(d), Dec. 30, 2005, 119 Stat. 2884, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and provisions set out as notes under sections 1001 and 1078–10 of this title] are effective upon enactment [Dec. 30, 2005].

''(2) EXCEPTION.—The amendment made by subsection (c)(1) [amending provisions set out as a note under section 1078–10 of this title] shall take effect as if enacted on October 1, 2005.''

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–170, title IV, § 409(b), Dec. 17, 1999, 113 Stat. 1916, provided that: ''Subparagraph (I) of section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)) as added by subsection (a) of this section shall apply with respect to any payment pursuant to such section with respect to any 3-month period beginning on or after January 1, 2000, for loans for which the first disbursement is made after such date.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 416(b)(1) and (3) of Pub. L. 105–244 applicable with respect to any loan made, insured, or guaranteed under this part for which the first disbursement is made on or after Oct. 1, 1998, and before July 1, 2003, except that such amendment is applicable with respect to any loan made under section 1078–3 of this title for which application is received by an eligible lender on or after Oct. 1, 1998, and before July 1, 2003, see section 416(c) of Pub. L. 105–244, set out as a note under section 1077a of this title.

Amendment by section 433(a)–(c) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, § 433(d)(2), Oct. 7, 1998, 112 Stat. 1711, provided that: ''The amendment made by paragraph (1) [amending this section] shall be effective as of the date the plan required by section 438(e)(1) [subsec. (e)(1) of this section] (as such section was in effect prior to such amendment) was approved by the Secretary or the Governor (whichever was the case). No Authority shall have a right or cause of action against the Secretary for any amounts paid to or offset by the Secretary pursuant to a final settlement agreement entered into prior to July 1, 1998, resolving any audit or program review findings alleging violations of any provision of section 438(e) (as in effect prior to such amendment).''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 4102(a) of Pub. L. 103–66 effective July 1, 1994, see section 4102(d) of Pub. L. 103–66, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to loans for which first disbursement is made on or after Oct. 1, 1992, see section 432(a)(13) of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, with subsec. (b) of this section effective with respect to loans disbursed on or after 30 days after Oct. 17, 1986, or made to cover the costs of instruction for periods of enrollment beginning on or after 30 days after Oct. 17, 1986, and subsec. (d) of this section effective 30 days after Oct. 17, 1986, see section 402(b) of Pub. L. 99–498, set out as a note under section 1071 of this title.

§ 1087–2. Student Loan Marketing Association

(a) Purpose

The Congress hereby declares that it is the purpose of this section (1) to establish a private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for student loans, including loans which are insured by the Secretary under this part or by a guaranty agency, and which will provide liquidity for student loan investments; (2) in order to facilitate secured transactions involving student loans, to provide for perfection of security interests in student loans either through the taking of possession or by notice filing; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.

(b) Establishment

(1) In general

There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the ''Association''). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Association in such other place or places as it may deem necessary or appropriate for the conduct of its business.

(2) Exemption from State and local taxes

The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(3) Appropriations authorized for establishment

There is hereby authorized to be appropriated to the Secretary $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 percent, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

(c) Board of Directors

(1) Composition of Board; Chairman

(A) The Association shall have a Board of Directors which shall consist of 21 persons, 7 of whom shall be appointed by the President and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f) of this section. Commencing with the annual shareholders meeting to be held in 1993—

(i) 7 of the elected directors shall be affiliated with an eligible institution; and

(ii) 7 of the elected directors shall be affiliated with an eligible lender.

(B) The President shall designate 1 of the directors to serve as Chairman.

(2) Terms of appointed and elected members

The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after

the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

(3) Affiliated members

For the purpose of this subsection, the references to a director ''affiliated with the eligible institution'' or a director ''affiliated with an eligible lender'' means an individual who is, or within 5 years of election to the Board has been, an employee, officer, director, or similar official of—

(A) an eligible institution or an eligible lender;

(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

(C) a State agency, authority, instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

(4) Meetings and functions of the Board

The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.

(d) Authority of Association

(1) In general

The Association is authorized, subject to the provisions of this section—

(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a guaranty agency;

(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a guaranty agency or by an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title;

(C) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, improvement, or purchase at institutions of higher education of any of the following facilities (including the underlying property) and materials (including related equipment, instrumentation, and furnishings) at an eligible institution of higher education:

(i) educational and training facilities;

(ii) housing for students and faculties, dining halls, student unions, and facilities specifically designed to promote fitness and health for students, faculty, and staff or for physical education courses; and

(iii) library facilities, including the acquisition of library materials at institutions of higher education;

except that not more than 30 percent of the value of transactions entered into under this subparagraph shall involve transactions of the types described in clause (ii);

(D) to undertake a program of loan insurance pursuant to agreements with the Secretary under section 1078 of this title, and except with respect to loans under subsection (*o*) of this section or under section 1078–3 of this title, the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no guaranty agency is capable of or willing to provide a program of loan insurance for such borrowers; and

(E) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students, except that—

(i) in carrying out all such activities the purpose shall always be to provide secondary market and other support for lending programs offered by other organizations and not to replace or compete with such other programs;

(ii) nothing in this subparagraph (E) shall be deemed to authorize the Association to acquire, own, operate, or control any bank, savings and loan association, savings bank or credit union; and

(iii) not later than 30 days prior to the initial implementation of a program undertaken pursuant to this subparagraph (E), the Association shall advise the Chairman and the Ranking Member on the Committee on Labor and Human Resources of the Senate and the Chairman and the Ranking Member of the Committee on Education and Labor of the House of Representatives in writing of its plans to offer such program and shall provide information relating to the general terms and conditions of such program.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (3) of this subsection to the same extent as a warehousing advance made on the security of insured loans.

(2) Warehousing advances

Any warehousing advance made under paragraph (1)(A) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed, or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) market-

able obligations issued, guaranteed, or insured by any agency, instrumentality, or corporation of the United States for which the credit of such agency, instrumentality, or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (B) and (C) shall be invested in additional insured student loans.

(3) Perfection of security interests in student loans

Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 1085(a) of this title may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts.

(4) Form of securities

Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.

(5) Restrictions on facilities and housing activities

Not less than 75 percent of the aggregate dollar amount of obligations bought, sold, held, insured, underwritten, and otherwise supported in accordance with the authority contained in paragraph (1)(C) shall be obligations which are listed by a nationally recognized statistical rating organization at a rating below the second highest rating of such organization.

(e) Advances to lenders that do not discriminate

The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) of this section only after the Association is assured that the lender (1) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $75,000,000 in deposits, and (2) does not discriminate on the basis of race, sex, color, creed, or national origin.

(f) Stock of the Association

(1) Voting common stock

The Association shall have voting common stock having such par value as may be fixed by its Board of Directors from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors.

(2) Number of shares; transferability

The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any voting common stock issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(3) Dividends

To the extent that net income is earned and realized, subject to subsection (g)(2) of this section, dividends may be declared on voting common stock by the Board of Directors. Such dividends as may be declared by the Board of Directors shall be paid to the holders of outstanding shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

(4) Single class of voting common stock

As of the effective date of the Higher Education Amendments of 1992, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.

(g) Preferred stock

(1) Authority of Board

The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(2) Rights of preferred stock

The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend

is due on any share of preferred stock and has not been paid.

(3) Preference on termination of business

In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(h) Debt obligations

(1) Approval by Secretaries of Education and the Treasury

The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank. To the extent that the average outstanding amount of the obligations owned by the Association pursuant to the authority contained in subsection (d)(1)(B) and (C) of this section and as to which the income is exempt from taxation under title 26 does not exceed the average stockholders' equity of the Association, the interest on obligations issued under this paragraph shall not be deemed to be interest on indebtedness incurred or continued to purchase or carry obligations for the purpose of section 265 of title 26.

(2) Guarantee of debt

The Secretary is authorized, prior to October 1, 1984, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury. Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.

(3) Borrowing authority to meet guarantee obligations

To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under that chapter are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

(4) Action on request for guarantees

Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than 60 days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

(5) Authority of Treasury to purchase debt

The Secretary of the Treasury is authorized to purchase any obligations issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, as now or hereafter in force, and the purposes for which securities may be issued under chapter 31 of title 31, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of

the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(6) Sale of debt to Federal Financing Bank

Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 1078 or 1079 of this title, to the Federal Financing Bank.

(7) Offset fee

(A) The Association shall pay to the Secretary, on a monthly basis, an offset fee calculated on an annual basis in an amount equal to 0.30 percent of the principal amount of each loan made, insured or guaranteed under this part that the Association holds (except for loans made pursuant to section 1078–3 of this title, subsection (*o*) of this section, or subsection (q) of this section) and that was acquired on or after August 10, 1993.

(B) If the Secretary determines that the Association has substantially failed to comply with subsection (q) of this section, subparagraph (A) shall be applied by substituting ''1.0 percent'' for ''0.3 percent''.

(C) The Secretary shall deposit all fees collected pursuant to this paragraph into the insurance fund established in section 1081 of this title.

(i) General corporate powers

The Association shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) Accounting, auditing, and reporting

The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(k) Report on audits by Treasury

A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary, and to the Association.

(*l*) Lawful investment instruments; effect of and exemptions from other laws

All obligations issued by the Association including those made under subsection (d)(4) of this section shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the

meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 355(2) of title 12, be deemed to be an agency of the United States. The obligations of the Association shall be deemed to be obligations of the United States for the purpose of section 3124 of title 31. For the purpose of the distribution of its property pursuant to section 726 of title 11, the Association shall be deemed a person within the meaning of such title. The priority established in favor of the United States by section 3713 of title 31 shall not establish a priority over the indebtedness of the Association issued or incurred on or before September 30, 1992. The Federal Reserve Banks are authorized to act as depositaries, custodians, or fiscal agents, or a combination thereof, for the Association in the general performance of its powers under this section.

(m) Preparation of obligations

In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations. The Secretary of the Treasury is authorized to promulgate regulations on behalf of the Association so that the Association may utilize the book-entry system of the Federal Reserve Banks.

(n) Report on operations and activities

The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year.

(*o*) Loan consolidations

(1) In general

The Association or its designated agent may, upon request of a borrower, consolidate loans received under this subchapter and part C of subchapter I of chapter 34 of title 42 in accordance with section 1078–3 of this title.

(2) Use of existing agencies as agent

The Association in making loans pursuant to this subsection in any State served by a guaranty agency or an eligible lender in a State described in section 1085(d)(1)(D) or (F) of this title may designate as its agent such agency or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency or lender.

(p) Advances for direct loans by guaranty agencies

(1) In general

The Association shall make advances in each fiscal year from amounts available to it to each guaranty agency and eligible lender described in subsection 1078(h)(1) of this title which has an agreement with the Association which sets forth that advances are necessary to enable such agency or lender to make student loans in accordance with section 1078(h) of this title and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency or lender. Advances made under this subsection shall not be subject to subsection (d)(2) of this section.

(2) Limitation

No advance may be made under this subsection unless the guaranty agency or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

(q) Lender-of-last-resort

(1) Action at request of Secretary

(A) Whenever the Secretary determines that eligible borrowers are seeking and are unable to obtain loans under this part, the Association or its designated agent shall, not later than 90 days after August 10, 1993, begin making loans to such eligible borrowers in accordance with this subsection at the request of the Secretary. The Secretary may request that the Association make loans to borrowers within a geographic area or for the benefit of students attending institutions of higher education that certify, in accordance with standards established by the Secretary, that their students are seeking and unable to obtain loans.

(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 1079 of this title with a certificate of comprehensive insurance coverage provided for under section 1079(b)(1) of this title or by a guaranty agency under paragraph (2)(A) of this subsection.

(2) Issuance and coverage of loans

(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the guaranty agency in a State, or an eligible lender in a State described in section 1085(d)(1)(D) of this title, determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent shall begin making such loans to borrowers in such State or within an area of such State in accordance with this subsection at the request of the Secretary.

(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 1078(b) of this title. For loans insured by such agency, the agency shall pro-

vide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

(3) Termination of lending

The Association or its designated agent shall cease making loans under this subsection at such time as the Secretary determines that the conditions which caused the implementation of this subsection have ceased to exist.

(r) Safety and soundness of Association

(1) Reports by the Association

The Association shall promptly furnish to the Secretary of Education and Secretary of the Treasury copies of all—

(A) periodic financial reports publicly distributed by the Association;

(B) reports concerning the Association that are received by the Association and prepared by nationally recognized statistical rating organizations; and

(C)(i) financial statements of the Association within 45 days of the end of each fiscal quarter; and

(ii) reports setting forth the calculation of the capital ratio of the Association within 45 days of the end of each fiscal quarter.

(2) Audit by Secretary of the Treasury

(A) The Secretary of the Treasury may—

(i) appoint and fix the compensation of such auditors and examiners as may be necessary to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing the Association's financial safety and soundness and to determine whether the requirements of this section and section 1087–3 of this title are being met; and

(ii) obtain the services of such experts as the Secretary of the Treasury determines necessary and appropriate, as authorized by section 3109 of title 5, to assist in determining the condition of the Association for the purpose of assessing the Association's financial safety and soundness, and to determine whether the requirements of this section and section 1087–3 of this title are being met.

(B) Each auditor appointed under this paragraph shall conduct an audit of the Association to the extent requested by the Secretary of the Treasury and shall prepare and submit a report to the Secretary of the Treasury concerning the results of such audit. A copy of such report shall be furnished to the Association and the Secretary of Education on the date on which it is delivered to the Secretary of the Treasury.

(C) The Association shall provide full and prompt access to the Secretary of the Treasury to its books and records and other information requested by the Secretary of the Treasury.

(D) ANNUAL ASSESSMENT.—

(i) IN GENERAL.—For each fiscal year beginning on or after October 1, 1996, the Secretary of the Treasury may establish and collect from the Association an assessment (or assessments) in amounts sufficient to provide for reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 1087–3 of this title during such fiscal year. In no event may the total amount so assessed exceed, for any fiscal year, $800,000, adjusted for each fiscal year ending after September 30, 1997, by the ratio of the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) for the final month of the fiscal year preceding the fiscal year for which the assessment is made to the Consumer Price Index for All Urban Consumers for September 1997.

(ii) DEPOSIT.—Amounts collected from assessments under this subparagraph shall be deposited in an account within the Treasury of the United States as designated by the Secretary of the Treasury for that purpose. The Secretary of the Treasury is authorized and directed to pay out of any funds available in such account the reasonable costs and expenses of carrying out the duties of the Secretary of the Treasury under this section and section 1087–3 of this title. None of the funds deposited into such account shall be available for any purpose other than making payments for such costs and expenses.

(E) OBLIGATION TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—

(i) IN GENERAL.—The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

(I) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

(II) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

(ii) SUMMARY REPORTS.—The Secretary of the Treasury may require summary reports of such information to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and clause (i), require the Association to make reports concerning the activities of any associated person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

(iii) DEFINITION.—For purposes of this subparagraph, the term ''associated person'' means any person, other than a natural person, directly or indirectly controlling, controlled by, or under common control with the Association.

(F) COMPENSATION OF AUDITORS AND EXAMINERS.—

(i) RATES OF PAY.—Rates of basic pay for all auditors and examiners appointed pursuant to subparagraph (A) may be set and adjusted by the Secretary of the Treasury without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5.

(ii) COMPARABILITY.—

(I) IN GENERAL.—Subject to section 5373 of title 5, the Secretary of the Treasury may provide additional compensation and benefits to auditors and examiners appointed pursuant to subparagraph (A) if the same type of compensation or benefits are then being provided by any agency referred to in section 1833b of title 12 or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation.

(II) CONSULTATION.—In setting and adjusting the total amount of compensation and benefits for auditors and examiners appointed pursuant to subparagraph (A), the Secretary of the Treasury shall consult with, and seek to maintain comparability with, the agencies referred to in section 1833b of title 12.

(3) Monitoring of safety and soundness

The Secretary of the Treasury shall conduct such studies as may be necessary to monitor the financial safety and soundness of the Association. In the event that the Secretary of the Treasury determines that the financial safety and soundness of the Association is at risk, the Secretary of the Treasury shall inform the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education of such determination and identify any corrective actions that should be taken to ensure the safety and soundness of the Association.

(4) Capital standard

If the capital ratio is less than 2 percent and is greater than or equal to 1.75 percent at the end of the Association's most recent calendar quarter the Association shall, within 60 days of such occurrence, submit to the Secretary of the Treasury a capital restoration plan, in reasonable detail, that the Association believes is adequate to cause the capital ratio to equal or exceed 2 percent within 36 months.

(5) Capital restoration plan

(A) Submission, approval, and implementation

The Secretary of the Treasury and the Association shall consult with respect to any capital restoration plan submitted pursuant to paragraph (4) and the Secretary of the Treasury shall approve such plan (or a modification thereof accepted by the Association) or disapprove such plan within 30 days after such plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a capital restoration plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan to the best of its ability.

(B) Disapproval

If the Secretary of the Treasury does not approve a capital restoration plan as provided in subparagraph (A), then not later than the earlier of the date the Secretary of the Treasury disapproves of such plan by written notice to the Association or the expiration of the 30-day consideration period referred to in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall submit the Association's capital restoration plan, in the form most recently proposed to the Secretary of the Treasury by the Association, together with a report on the Secretary of the Treasury's reasons for disapproval of such plan and an alternative capital restoration plan, to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury.

(C) Association implementation and response

Upon receipt of the submission by the Association, the Association shall forthwith proceed with diligence to implement the most recently proposed capital restoration plan of the Association. The Association, within 30 days after receipt from the Secretary of the Treasury of such submission, shall submit to such Chairmen and ranking minority members a written response to such submission, setting out fully the nature and extent of the Association's agreement or the disagreement with the Secretary of the Treasury with respect to the capital restoration plan submitted to the Secretary of the Treasury and any findings of the Secretary of the Treasury.

(6) Substantial capital ratio reduction

(A) Additional plan required

If the capital ratio is less than 1.75 percent and is greater than or equal to 1 percent at the end of the Association's most recent calendar quarter, the Association shall submit to the Secretary of the Treasury within 60 days after such occurrence a capital restoration plan (or an appropriate modification of any plan previously submitted or approved under paragraph (4)) to increase promptly its capital ratio to equal or exceed 1.75 percent. The Secretary of the Treasury and the Asso-

ciation shall consult with respect to any plan or modified plan submitted pursuant to this paragraph. The Secretary of the Treasury shall approve such plan or modified plan (or a modification thereof accepted by the Association) or disapprove such plan or modified plan within 30 days after such plan or modified plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a plan or modified plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan or modified plan to the best of the Association's ability.

(B) Disapproval

If the Secretary of the Treasury disapproves a capital restoration plan or modified plan submitted pursuant to subparagraph (A), then, not later than the earlier of the date the Secretary of the Treasury disapproves of such plan or modified plan (by written notice to the Association) or the expiration of the 30-day consideration period described in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall prepare and submit an alternative capital restoration plan, together with a report on his reasons for disapproval of the Association's plan or modified plan, to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate and to the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury. The Association, within 5 days after receipt from the Secretary of the Treasury of such submission, shall submit to the Chairmen and ranking minority members of such Committees, and the Secretary of the Treasury, a written response to such submission, setting out fully the nature and extent of the Association's agreement or disagreement with the Secretary of the Treasury with respect to the disapproved plan and the alternative plan of the Secretary of the Treasury and any findings of the Secretary of the Treasury.

(C) Review by Congress; Association implementation

Congress shall have 60 legislative days after the date on which Congress receives the alternative plan under subparagraph (B) from the Secretary of the Treasury to review such plan. If Congress does not take statutory action with respect to any such plan within such 60-day period, the Association shall immediately proceed with diligence to implement the alternative capital restoration plan of the Secretary of the Treasury under subparagraph (B). If Congress is out of session when any such alternative plan is received, such 60-day period shall begin on the first day of the next session of Congress.

(7) Actions by Secretary of the Treasury

If the capital ratio of the Association does not equal or exceed 1.75 percent at the end of the Association's most recent calendar quarter, the Secretary of the Treasury may, until the capital ratio equals or exceeds 1.75 percent, take any one or more of the following actions:

(A) Limit increase in liabilities

Limit any increase in, or order the reduction of, any liabilities of the Association, except as necessary to fund student loan purchases and warehousing advances.

(B) Restrict growth

Restrict or eliminate growth of the Association's assets, other than student loans purchases and warehousing advances.

(C) Restrict distributions

Restrict the Association from making any capital distribution.

(D) Require issuance of new capital

Require the Association to issue new capital in any form and in any amount sufficient to restore at least a 1.75 percent capital ratio.

(E) Limit executive compensation

Prohibit the Association from increasing for any executive officer any compensation including bonuses at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months and prohibiting the Board from adopting any new employment severance contracts.

(8) Critical capital standard

(A) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has already submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall forthwith proceed with diligence to implement the most recently proposed plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

(B) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has not submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall—

(i) within 14 days of such occurrence submit a capital restoration plan to the Secretary of the Treasury which the Association believes is adequate to cause the capital ratio to equal or exceed 2 percent within 60 months; and

(ii) forthwith proceed with diligence to implement such plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

(C) Immediately upon a determination under subparagraph (A) or (B) to implement a cap-

ital restoration plan, the Secretary of the Treasury shall submit the capital restoration plan to be implemented to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education.

(9) Additional reports to committees

The Association shall submit a copy of its capital restoration plan, modifications proposed to the Secretary of the Treasury, and proposed modifications received from the Secretary of the Treasury to the Congressional Budget Office and Government Accountability Office upon their submission to the Secretary of the Treasury or receipt from the Secretary of the Treasury. Notwithstanding any other provision of law, the Congressional Budget Office and Government Accountability Office shall maintain the confidentiality of information received pursuant to the previous sentence. In the event that the Secretary of the Treasury does not approve a capital restoration plan as provided in paragraph (5)(A) or (6)(A), or in the event that a capital restoration plan is modified by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8), the Congressional Budget Office and Government Accountability Office shall each submit a report within 30 days of the Secretary of the Treasury's submission to the Chairmen and ranking minority members as required in paragraphs (5)(B), (6)(B), and (8)(C) to such Chairmen and ranking members—

(A) analyzing the financial condition of the Association;

(B) analyzing the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8);

(C) analyzing the impact of the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the impact of the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8), and analyzing the impact of the recommendations made pursuant to subparagraph (D) of this paragraph, on—

(i) the ability of the Association to fulfill its purpose and authorized activities as provided in this section, and

(ii) the operation of the student loan programs; and

(D) recommending steps which the Association should take to increase its capital ratio without impairing its ability to perform its purpose and authorized activities as provided in this section.

(10) Review by Secretary of Education

The Secretary of Education shall review the Secretary of the Treasury's submission required pursuant to paragraph (5)(B), (6)(B), or (8) and shall submit a report within 30 days to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor—

(A) describing any administrative or legislative provisions governing the student loan programs which contributed to the decline in the Association's capital ratio; and

(B) recommending administrative and legislative changes in the student loan programs to maintain the orderly operation of such programs and to enable the Association to fulfill its purpose and authorized activities consistent with the capital ratio specified in paragraph (4).

(11) Safe harbor

The Association shall be deemed in compliance with the capital ratios described in paragraphs (4) and (6)(A) if the Association is rated in 1 of the 2 highest full rating categories (such categories to be determined without regard to designations within categories) by 2 nationally recognized statistical rating organizations, determined without regard to the Association's status as a federally chartered corporation.

(12) Treatment of confidential information

Notwithstanding any other provision of law, the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the Government Accountability Office shall not disclose any information treated as confidential by the Association or the Association's associated persons and obtained pursuant to this subsection. Nothing in this paragraph shall authorize the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the Government Accountability Office to withhold information from Congress, or prevent the Secretary of Education, the Congressional Budget Office, and the Government Accountability Office from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States. For purposes of section 552 of title 5, this paragraph shall be considered a statute described in subsection (b)(3) of such section 552.

(13) Enforcement of safety and soundness requirements

The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

(14) Actions by Secretary

(A) In general

For any fiscal quarter ending after January 1, 2000, the Association shall have a capital ratio of at least 2.25 percent. The Secretary of the Treasury may, whenever such capital ratio is not met, take any one or more of the actions described in paragraph (7), except that—

(i) the capital ratio to be restored pursuant to paragraph (7)(D) shall be 2.25 percent; and

(ii) if the relevant capital ratio is in excess of or equal to 2 percent for such quarter, the Secretary of the Treasury shall defer taking any of the actions set forth in paragraph (7) until the next succeeding quarter and may then proceed with any such action only if the capital ratio of the Association remains below 2.25 percent.

(B) Applicability

The provisions of paragraphs (4), (5), (6), (8), (9), (10), and (11) shall be of no further application to the Association for any period after January 1, 2000.

(15) Definitions

As used in this subsection:

(A) The term ''nationally recognized statistical rating organization'' means any entity recognized as such by the Securities and Exchange Commission.

(B) The term ''capital ratio'' means the ratio of total stockholders' equity, as shown on the Association's most recent quarterly consolidated balance sheet prepared in the ordinary course of its business, to the sum of—

(i) the total assets of the Association, as shown on the balance sheet prepared in the ordinary course of its business; and

(ii) 50 percent of the credit equivalent amount of the following off-balance sheet items of the Association as of the date of such balance sheet—

(I) all financial standby letters of credit and other irrevocable guarantees of the repayment of financial obligations of others; and

(II) all interest rate contracts and exchange rate contracts, including interest exchange agreements, floor, cap, and collar agreements and similar arrangements.

For purposes of this subparagraph, the calculation of the credit equivalent amount of the items set forth in clause (ii) of this subparagraph, the netting of such items and eliminations for the purpose of avoidance of double-counting of such items shall be made in accordance with the measures for computing credit conversion factors for off-balance sheet items for capital maintenance purposes established for commercial banks from time to time by the Federal Reserve Board, but without regard to any risk weighting provisions in such measures.

(C) The term ''legislative days'' means only days on which either House of Congress is in session.

(16) Dividends

The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards set forth in this section.

(17) Certification prior to payment of dividend

Prior to the payment of any dividend under paragraph (16), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (16) and shall provide copies of all calculations needed to make such certification.

(s) Charter sunset

(1) Application of provisions

This subsection applies beginning 18 months and one day after September 30, 1996, if no reorganization of the Association occurs in accordance with the provisions of section 1087–3 of this title.

(2) Sunset plan

(A) Plan submission by the Association

Not later than July 1, 2007, the Association shall submit to the Secretary of the Treasury and to the Chairman and Ranking Member of the Committee on Labor and Human Resources of the Senate and the Chairman and Ranking Member of the Committee on Economic and Educational Opportunities of the House of Representatives, a detailed plan for the orderly winding up, by July 1, 2013, of business activities conducted pursuant to the charter set forth in this section. Such plan shall—

(i) ensure that the Association will have adequate assets to transfer to a trust, as provided in this subsection, to ensure full payment of remaining obligations of the Association in accordance with the terms of such obligations;

(ii) provide that all assets not used to pay liabilities shall be distributed to shareholders as provided in this subsection; and

(iii) provide that the operations of the Association shall remain separate and distinct from that of any entity to which the assets of the Association are transferred.

(B) Amendment of the plan by the Association

The Association shall from time to time amend such plan to reflect changed circumstances, and submit such amendments to the Secretary of the Treasury and to the Chairman and Ranking Minority Member of the Committee on Labor and Human Resources of the Senate and Chairman and Ranking Minority Member of the Committee on Economic and Educational Opportunities of the House of Representatives. In no case may any amendment extend the date for full implementation of the plan beyond the dissolution date provided in paragraph (3).

(C) Plan monitoring

The Secretary of the Treasury shall monitor the Association's compliance with the plan and shall continue to review the plan (including any amendments thereto).

(D) Amendment of the plan by the Secretary of the Treasury

The Secretary of the Treasury may require the Association to amend the plan (including any amendments to the plan), if the Secretary of the Treasury deems such amendments necessary to ensure full payment of all obligations of the Association.

(E) Implementation by the Association

The Association shall promptly implement the plan (including any amendments to the plan, whether such amendments are made by the Association or are required to be made by the Secretary of the Treasury).

(3) Dissolution of the Association

The Association shall dissolve and the Association's separate existence shall terminate on July 1, 2013, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days of receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to subsection (q) of this section or continues to be needed to purchase loans under an agreement with the Secretary described in paragraph (4)(A). On the dissolution date, the Association shall take the following actions:

(A) Establishment of a trust

The Association shall, under the terms of an irrevocable trust agreement in form and substance satisfactory to the Secretary of the Treasury, the Association, and the appointed trustee, irrevocably transfer all remaining obligations of the Association to a trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms.

(B) Use of trust assets

All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust. Upon the fulfillment of the trustee's duties under the trust, any remaining assets of the trust shall be transferred to the persons who, at the time of the dissolution, were the shareholders of the Association, or to the legal successors or assigns of such persons.

(C) Obligations not transferred to the trust

The Association shall make proper provision for all other obligations of the Association, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding.

(D) Transfer of remaining assets

After compliance with subparagraphs (A) and (C), the Association shall transfer to the shareholders of the Association any remaining assets of the Association.

(4) Restrictions relating to winding up

(A) Restrictions on new business activity or acquisition of assets by the Association

(i) In general

Beginning on July 1, 2009, the Association shall not engage in any new business activities or acquire any additional program assets (including acquiring assets pursuant to contractual commitments) described in subsection (d) of this section other than in connection with the Association—

(I) serving as a lender of last resort pursuant to subsection (q) of this section; and

(II) purchasing loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

(ii) Agreement

The Secretary is authorized to enter into an agreement described in subclause (II) of clause (i) with the Association covering such secondary market activities. Any agreement entered into under such subclause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under subsection (h)(7) of this section shall not apply to loans acquired under any such agreement with the Secretary.

(B) Issuance of debt obligations during the wind up period; attributes of debt obligations

The Association shall not issue debt obligations which mature later than July 1, 2013, except in connection with serving as a lender of last resort pursuant to subsection (q) of this section or with purchasing loans under an agreement with the Secretary as described in subparagraph (A). Nothing in this subsection shall modify the attributes accorded the debt obligations of the Association by this section, regardless of whether

such debt obligations are transferred to a trust in accordance with paragraph (3).

(C) Use of Association name

The Association may not transfer or permit the use of the name ''Student Loan Marketing Association'', ''Sallie Mae'', or any variation thereof, to or by any entity other than a subsidiary of the Association.

(Pub. L. 89–329, title IV, § 439, as added Pub. L. 99–498, title IV, § 402(a), Oct. 17, 1986, 100 Stat. 1418; amended Pub. L. 100–50, § 10(dd), June 3, 1987, 101 Stat. 347; Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, § 431, July 23, 1992, 106 Stat. 554; Pub. L. 103–66, title IV, §§ 4041(c), 4104, Aug. 10, 1993, 107 Stat. 356, 367; Pub. L. 103–208, § 2(c)(69), Dec. 20, 1993, 107 Stat. 2470; Pub. L. 103–382, title III, § 358, Oct. 20, 1994, 108 Stat. 3968; Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(b)(2)–(4), (c)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–284 to 3009–286; Pub. L. 106–554, § 1(a)(1) [title III, § 309], Dec. 21, 2000, 114 Stat. 2763, 2763A–45; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

REPEAL OF SECTION

Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–289, provided that this section is repealed effective one year after date on which all obligations of trust established under section 1087–3(d)(1) of this title have been extinguished, if reorganization occurs in accordance with section 1087–3 of this title; or date on which all obligations of trust established under subsec. (s)(3)(A) of this section have been extinguished, if reorganization does not occur in accordance with section 1087–3 of this title.

REFERENCES IN TEXT

For the effective date of the Higher Education Amendments of 1992, referred to in subsec. (f)(4), see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

CODIFICATION

In subsec. (h)(3) and (5), ''chapter 31 of title 31'' substituted for ''the Second Liberty Bond Act, as amended'' and ''the Second Liberty Bond Act'', and ''that chapter'' substituted for ''that Act, as amended'', on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

PRIOR PROVISIONS

A prior section 1087–2, Pub. L. 89–329, title IV, § 439, as added Pub. L. 92–318, title I, § 133(a), June 23, 1972, 86 Stat. 265; amended Pub. L. 94–273, § 3(9), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2136; Pub. L. 95–43, § 1(a)(38), June 15, 1977, 91 Stat. 217; Pub. L. 96–374, title IV, § 421(a)–(e)(1), title XIII, § 1391(a)(1), (3), Oct. 3, 1980, 94 Stat. 1427–1430, 1503; Pub. L. 97–35, title V, § 538, Aug. 13, 1981, 95 Stat. 457; Pub. L. 97–115, § 18, Dec. 29, 1981, 95 Stat. 1610; Pub. L. 97–301, § 14, Oct. 13, 1982, 96 Stat. 1405; Pub. L. 98–79, §§ 2, 8, Aug. 15, 1983, 97 Stat. 476, 483; Pub. L. 99–272, title XVI, §§ 16017(b)(4), 16018(a)(3), Apr. 7, 1986, 100 Stat. 347, 348, established the Student Loan Marketing Association, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2004—Subsec. (r)(9), (12). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' wherever appearing.

2000—Subsec. (r)(2)(A)(i). Pub. L. 106–554, § 1(a)(1) [title III, § 309(1)], which directed amendment of this section by substituting ''and fix the compensation of such auditors and examiners as may be necessary'' for ''auditors and examiners'', was executed by making the substitution for ''auditors or examiners'', to reflect the probable intent of Congress.

Subsec. (r)(2)(F). Pub. L. 106–554, § 1(a)(1) [title III, § 309(2)], added subpar. (F).

1996—Subsec. (r)(1)(C). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(3)(A)], added subpar. (C).

Subsec. (r)(2)(A)(i), (ii). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(3)(B)(i)], added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

''(i) appoint auditors to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing its financial safety and soundness; and

''(ii) enter into contracts to obtain the services of such technical experts as the Secretary of the Treasury determines necessary and appropriate to provide technical assistance to any auditor appointed under this paragraph.''

Subsec. (r)(2)(D). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(3)(B)(ii)], added subpar. (D).

Subsec. (r)(2)(E). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(4)(A)], added subpar. (E).

Subsec. (r)(12). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(2)(A)], inserted ''or the Association's associated persons'' after ''by the Association'' in first sentence.

Subsec. (r)(13). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(2)(B), (C)], added par. (13) and redesignated former par. (13) as (15).

Subsec. (r)(14). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(3)(C)], added par. (14).

Subsec. (r)(15). Pub. L. 104–208, § 101(e) [title VI, § 602(b)(2)(B)], redesignated par. (13) as (15).

Subsec. (r)(16), (17). Pub. L. 104–208, § 101(e), [title VI, § 602(b)(4)(B)], added pars. (16) and (17).

Subsec. (s). Pub. L. 104–208, § 101(e) [title VI, § 602(c)], added subsec. (s).

1994—Subsec. (d)(1)(C). Pub. L. 103–382, § 358(1)(A), (D), inserted ''(including related equipment, instrumentation, and furnishings)'' after ''materials'' in introductory provisions and substituted ''30 percent'' for ''15 percent'' and ''types'' for ''type'' in concluding provisions.

Subsec. (d)(1)(C)(ii). Pub. L. 103–382, § 358(1)(B), substituted '', dining halls, student unions, and facilities specifically designed to promote fitness and health for students, faculty, and staff or for physical education courses; and'' for the semicolon.

Subsec. (d)(1)(C)(iii), (iv). Pub. L. 103–382, § 358(1)(C), (E), struck out ''and'' after the semicolon in cl. (iii) and struck out cl. (iv) which read as follows: ''related equipment, instrumentation, and furnishings for facilities and materials described in clause (i) or (iii);''.

Subsec. (n). Pub. L. 103–382, § 358(2), substituted ''a report of the Association's operations and activities, including a report with respect to all facilities transactions, during each year'' for ''a report of its operations and activities during each year''.

1993—Subsec. (h)(7). Pub. L. 103–66, § 4104, added par. (7).

Subsec. (q). Pub. L. 103–66, § 4041(c), amended subsec. (q) generally, substituting present provisions for substantially similar former provisions.

Subsec. (r)(12). Pub. L. 103–208 substituted ''section 552'' for ''section 522''.

1992—Subsec. (c). Pub. L. 102–325, § 431(a), amended subsec. (c) generally, substituting present provisions consisting of pars. (1) to (4) for former provisions which provided for: in par. (1), Board membership; in par. (2), interim Board; in par. (3), regular Board; in par. (4), succession of regular Board; in par. (5), terms of appointed and elected members; and in par. (6), meetings and functions of Board.

Subsec. (d)(1)(C). Pub. L. 102–325, § 431(b), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''to buy, sell, hold, insure, underwrite,

and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, or purchase of educational and training facilities and housing for students and faculties (including the underlying real property), and related equipment, instrumentation, and furnishings;''.

Subsec. (d)(5). Pub. L. 102–325, § 431(c), substituted ''second highest rating'' for ''third highest rating''.

Subsec. (f). Pub. L. 102–325, § 431(d), amended subsec. (f) generally, substituting present provisions consisting of pars. (1) to (4) for former provisions which provided for: in par. (1), common stock to insured lenders and eligible institutions only; in par. (2), voting rights; in par. (3), number of shares and transferability; in par. (4), dividends; and in par. (5), nonvoting common stock.

Subsec. (r). Pub. L. 102–325, § 431(e), added subsec. (r).

1988—Subsec. (h)(1). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'' in two places, which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (d)(1)(E)(iii). Pub. L. 100–50 inserted ''Labor and'' before ''Human Resources''.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(e) [title VI, § 602(d)(2)] of div. A of Pub. L. 104–208 provided that: ''The repeals made by paragraph (1) [repealing this section and section 1087–3 of this title] shall be effective one year after—

''(A) the date on which all of the obligations of the trust established under section 440(d)(1) of the Higher Education Act of 1965 [20 U.S.C. 1087–3(d)(1)] (as added by subsection (a)) have been extinguished, if a reorganization occurs in accordance with section 440 of such Act; or

''(B) the date on which all of the obligations of the trust established under subsection [sic] 439(s)(3)(A) of such Act [20 U.S.C. 1087–2(s)(3)(A)] (as added by subsection (c)) have been extinguished, if a reorganization does not occur in accordance with section 440 of such Act.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes in subsec. (d)(1), relating to facilities loans, applicable with respect to applications received on or after July 1, 1992, see section 432 of Pub. L. 102–325, set out as a note under section 1078 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsecs. (k) and (n) of this section relating to transmitting annual reports to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and pages 141 and 206 of House Document No. 103–7.

USE OF ASSOCIATION NAMES UPON DISSOLUTION; ENFORCEMENT

Section 101(e) [title VI, § 602(e), (f)] of div. A of Pub. L. 104–208 provided that:

''(e) ASSOCIATION NAMES.—Upon dissolution in accordance with section 439(s) of the Higher Education Act of 1965 (20 U.S.C. 1087–2[(s)]), the names 'Student Loan Marketing Association', 'Sallie Mae', and any variations thereof may not be used by any entity engaged in any business similar to the business conducted pursuant to section 439 of such Act (as such section was in effect on the date of enactment of this Act [Sept. 30, 1996]) without the approval of the Secretary of the Treasury.

''(f) RIGHT TO ENFORCE.—The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of subsection (e), or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with subsection (e).''

§ 1087–3. Reorganization of Student Loan Marketing Association through formation of Holding Company

(a) Actions by Association's Board of Directors

The Board of Directors of the Association shall take or cause to be taken all such action as the Board of Directors deems necessary or appropriate to effect, upon the shareholder approval described in subsection (b) of this section, a restructuring of the common stock ownership of the Association, as set forth in a plan of reorganization adopted by the Board of Directors (the terms of which shall be consistent with this section) so that all of the outstanding common shares of the Association shall be directly owned by a Holding Company. Such actions may include, in the Board of Director's discretion, a merger of a wholly owned subsidiary of the Holding Company with and into the Association, which would have the effect provided in the plan of reorganization and the law of the jurisdiction in which such subsidiary is incorporated. As part of the restructuring, the Board of Directors may cause—

(1) the common shares of the Association to be converted, on the reorganization effective date, to common shares of the Holding Company on a one for one basis, consistent with applicable State or District of Columbia law; and

(2) Holding Company common shares to be registered with the Securities and Exchange Commission.

(b) Shareholder approval

The plan of reorganization adopted by the Board of Directors pursuant to subsection (a) of this section shall be submitted to common shareholders of the Association for their approval. The reorganization shall occur on the reorganization effective date, provided that the

plan of reorganization has been approved by the affirmative votes, cast in person or by proxy, of the holders of a majority of the issued and outstanding shares of the Association common stock.

(c) Transition

In the event the shareholders of the Association approve the plan of reorganization under subsection (b) of this section, the following provisions shall apply beginning on the reorganization effective date:

(1) In general

Except as specifically provided in this section, until the dissolution date the Association shall continue to have all of the rights, privileges and obligations set forth in, and shall be subject to all of the limitations and restrictions of, section 1087–2 of this title, and the Association shall continue to carry out the purposes of such section. The Holding Company and any subsidiary of the Holding Company (other than the Association) shall not be entitled to any of the rights, privileges, and obligations, and shall not be subject to the limitations and restrictions, applicable to the Association under section 1087–2 of this title, except as specifically provided in this section. The Holding Company and any subsidiary of the Holding Company (other than the Association or a subsidiary of the Association) shall not purchase loans insured under this chapter until such time as the Association ceases acquiring such loans, except that the Holding Company may purchase such loans if the Association is merely continuing to acquire loans as a lender of last resort pursuant to section 1087–2(q) of this title or under an agreement with the Secretary described in paragraph (6).

(2) Transfer of certain property

(A) In general

Except as provided in this section, on the reorganization effective date or as soon as practicable thereafter, the Association shall use the Association's best efforts to transfer to the Holding Company or any subsidiary of the Holding Company (or both), as directed by the Holding Company, all real and personal property of the Association (both tangible and intangible) other than the remaining property. Subject to the preceding sentence, such transferred property shall include all right, title, and interest in—

(i) direct or indirect subsidiaries of the Association (excluding special purpose funding companies in existence on September 30, 1996, and any interest in any government-sponsored enterprise);

(ii) contracts, leases, and other agreements of the Association;

(iii) licenses and other intellectual property of the Association; and

(iv) any other property of the Association.

(B) Construction

Nothing in this paragraph shall be construed to prohibit the Association from transferring remaining property from time to time to the Holding Company or any subsidiary of the Holding Company, subject to the provisions of paragraph (4).

(3) Transfer of personnel

On the reorganization effective date, employees of the Association shall become employees of the Holding Company (or any subsidiary of the Holding Company), and the Holding Company (or any subsidiary of the Holding Company) shall provide all necessary and appropriate management and operational support (including loan servicing) to the Association, as requested by the Association. The Association, however, may obtain such management and operational support from persons or entities not associated with the Holding Company.

(4) Dividends

The Association may pay dividends in the form of cash or noncash distributions so long as at the time of the declaration of such dividends, after giving effect to the payment of such dividends as of the date of such declaration by the Board of Directors of the Association, the Association's capital would be in compliance with the capital standards and requirements set forth in section 1087–2(r) of this title. If, at any time after the reorganization effective date, the Association fails to comply with such capital standards, the Holding Company shall transfer with due diligence to the Association additional capital in such amounts as are necessary to ensure that the Association again complies with the capital standards.

(5) Certification prior to dividend

Prior to the payment of any dividend under paragraph (4), the Association shall certify to the Secretary of the Treasury that the payment of the dividend will be made in compliance with paragraph (4) and shall provide copies of all calculations needed to make such certification.

(6) Restrictions on new business activity or acquisition of assets by Association

(A) In general

After the reorganization effective date, the Association shall not engage in any new business activities or acquire any additional program assets described in section 1087–2(d) of this title other than in connection with—

(i) student loan purchases through September 30, 2007;

(ii) contractual commitments for future warehousing advances, or pursuant to letters of credit or standby bond purchase agreements, which are outstanding as of the reorganization effective date;

(iii) the Association serving as a lender-of-last-resort pursuant to section 1087–2(q) of this title; and

(iv) the Association's purchase of loans insured under this part, if the Secretary, with the approval of the Secretary of the Treasury, enters into an agreement with the Association for the continuation or resumption of the Association's secondary market purchase program because the Secretary determines there is inadequate liquidity for loans made under this part.

(B) Agreement

The Secretary is authorized to enter into an agreement described in clause (iv) of subparagraph (A) with the Association covering such secondary market activities. Any agreement entered into under such clause shall cover a period of 12 months, but may be renewed if the Secretary determines that liquidity remains inadequate. The fee provided under section 1087–2(h)(7) of this title shall not apply to loans acquired under any such agreement with the Secretary.

(7) Issuance of debt obligations during the transition period; attributes of debt obligations

After the reorganization effective date, the Association shall not issue debt obligations which mature later than September 30, 2008, except in connection with serving as a lender-of-last-resort pursuant to section 1087–2(q) of this title or with purchasing loans under an agreement with the Secretary as described in paragraph (6). Nothing in this section shall modify the attributes accorded the debt obligations of the Association by section 1087–2 of this title, regardless of whether such debt obligations are incurred prior to, or at any time following, the reorganization effective date or are transferred to a trust in accordance with subsection (d) of this section.

(8) Monitoring of safety and soundness

(A) Obligation to obtain, maintain, and report information

The Association shall obtain such information and make and keep such records as the Secretary of the Treasury may from time to time prescribe concerning—

(i) the financial risk to the Association resulting from the activities of any associated person, to the extent such activities are reasonably likely to have a material impact on the financial condition of the Association, including the Association's capital ratio, the Association's liquidity, or the Association's ability to conduct and finance the Association's operations; and

(ii) the Association's policies, procedures, and systems for monitoring and controlling any such financial risk.

(B) Summary reports

The Secretary of the Treasury may require summary reports of the information described in subparagraph (A) to be filed no more frequently than quarterly. If, as a result of adverse market conditions or based on reports provided pursuant to this subparagraph or other available information, the Secretary of the Treasury has concerns regarding the financial or operational condition of the Association, the Secretary of the Treasury may, notwithstanding the preceding sentence and subparagraph (A), require the Association to make reports concerning the activities of any associated person whose business activities are reasonably likely to have a material impact on the financial or operational condition of the Association.

(C) Separate operation of corporations

(i) In general

The funds and assets of the Association shall at all times be maintained separately from the funds and assets of the Holding Company or any subsidiary of the Holding Company and may be used by the Association solely to carry out the Association's purposes and to fulfill the Association's obligations.

(ii) Books and records

The Association shall maintain books and records that clearly reflect the assets and liabilities of the Association, separate from the assets and liabilities of the Holding Company or any subsidiary of the Holding Company.

(iii) Corporate office

The Association shall maintain a corporate office that is physically separate from any office of the Holding Company or any subsidiary of the Holding Company.

(iv) Director

No director of the Association who is appointed by the President pursuant to section 1087–2(c)(1)(A) of this title may serve as a director of the Holding Company.

(v) One officer requirement

At least one officer of the Association shall be an officer solely of the Association.

(vi) Transactions

Transactions between the Association and the Holding Company or any subsidiary of the Holding Company, including any loan servicing arrangements, shall be on terms no less favorable to the Association than the Association could obtain from an unrelated third party offering comparable services.

(vii) Credit prohibition

The Association shall not extend credit to the Holding Company or any subsidiary of the Holding Company nor guarantee or provide any credit enhancement to any debt obligations of the Holding Company or any subsidiary of the Holding Company.

(viii) Amounts collected

Any amounts collected on behalf of the Association by the Holding Company or any subsidiary of the Holding Company with respect to the assets of the Association, pursuant to a servicing contract or other arrangement between the Association and the Holding Company or any subsidiary of the Holding Company, shall be collected solely for the benefit of the Association and shall be immediately deposited by the Holding Company or such subsidiary to an account under the sole control of the Association.

(D) Encumbrance of assets

Notwithstanding any Federal or State law, rule, or regulation, or legal or equitable principle, doctrine, or theory to the con-

trary, under no circumstances shall the assets of the Association be available or used to pay claims or debts of or incurred by the Holding Company. Nothing in this subparagraph shall be construed to limit the right of the Association to pay dividends not otherwise prohibited under this subparagraph or to limit any liability of the Holding Company explicitly provided for in this section.

(E) Holding Company activities

After the reorganization effective date and prior to the dissolution date, all business activities of the Holding Company shall be conducted through subsidiaries of the Holding Company.

(F) Confidentiality

Any information provided by the Association pursuant to this section shall be subject to the same confidentiality obligations contained in section 1087–2(r)(12) of this title.

(G) Definition

For purposes of this paragraph, the term ''associated person'' means any person, other than a natural person, who is directly or indirectly controlling, controlled by, or under common control with, the Association.

(9) Issuance of stock warrants

(A) In general

On the reorganization effective date, the Holding Company shall issue to the District of Columbia Financial Responsibility and Management Assistance Authority a number of stock warrants that is equal to one percent of the outstanding shares of the Association, determined as of the last day of the fiscal quarter preceding September 30, 1996, with each stock warrant entitling the holder of the stock warrant to purchase from the Holding Company one share of the registered common stock of the Holding Company or the Holding Company's successors or assigns, at any time on or before September 30, 2008. The exercise price for such warrants shall be an amount equal to the average closing price of the common stock of the Association for the 20 business days prior to September 30, 1996, on the exchange or market which is then the primary exchange or market for the common stock of the Association. The number of shares of Holding Company common stock subject to each stock warrant and the exercise price of each stock warrant shall be adjusted as necessary to reflect—

(i) the conversion of Association common stock into Holding Company common stock as part of the plan of reorganization approved by the Association's shareholders; and

(ii) any issuance or sale of stock (including issuance or sale of treasury stock), stock split, recapitalization, reorganization, or other corporate event, if agreed to by the Secretary of the Treasury and the Association.

(B) Authority to sell or exercise stock warrants; deposit of proceeds

The District of Columbia Financial Responsibility and Management Assistance Authority is authorized to sell or exercise the stock warrants described in subparagraph (A). The District of Columbia Financial Responsibility and Management Assistance Authority shall deposit into the account established under section 1155(e)[1] of this title amounts collected from the sale and proceeds resulting from the exercise of the stock warrants pursuant to this subparagraph.

(10) Restrictions on transfer of Association shares and bankruptcy of Association

After the reorganization effective date, the Holding Company shall not sell, pledge, or otherwise transfer the outstanding shares of the Association, or agree to or cause the liquidation of the Association or cause the Association to file a petition for bankruptcy under title 11, without prior approval of the Secretary of the Treasury and the Secretary of Education.

(d) Termination of Association

In the event the shareholders of the Association approve a plan of reorganization under subsection (b) of this section, the Association shall dissolve, and the Association's separate existence shall terminate on September 30, 2008, after discharge of all outstanding debt obligations and liquidation pursuant to this subsection. The Association may dissolve pursuant to this subsection prior to such date by notifying the Secretary of Education and the Secretary of the Treasury of the Association's intention to dissolve, unless within 60 days after receipt of such notice the Secretary of Education notifies the Association that the Association continues to be needed to serve as a lender of last resort pursuant to section 1087–2(q) of this title or continues to be needed to purchase loans under an agreement with the Secretary described in subsection (c)(6) of this section. On the dissolution date, the Association shall take the following actions:

(1) Establishment of a trust

The Association shall, under the terms of an irrevocable trust agreement that is in form and substance satisfactory to the Secretary of the Treasury, the Association and the appointed trustee, irrevocably transfer all remaining obligations of the Association to the trust and irrevocably deposit or cause to be deposited into such trust, to be held as trust funds solely for the benefit of holders of the remaining obligations, money or direct noncallable obligations of the United States or any agency thereof for which payment the full faith and credit of the United States is pledged, maturing as to principal and interest in such amounts and at such times as are determined by the Secretary of the Treasury to be sufficient, without consideration of any significant reinvestment of such interest, to pay the principal of, and interest on, the remaining obligations in accordance with their terms. To the extent the Association cannot provide money or qualifying obligations in the amount required, the Holding Company shall be required to transfer money or qualifying

[1] See References in Text note below.

obligations to the trust in the amount necessary to prevent any deficiency.

(2) Use of trust assets

All money, obligations, or financial assets deposited into the trust pursuant to this subsection shall be applied by the trustee to the payment of the remaining obligations assumed by the trust.

(3) Obligations not transferred to the trust

The Association shall make proper provision for all other obligations of the Association not transferred to the trust, including the repurchase or redemption, or the making of proper provision for the repurchase or redemption, of any preferred stock of the Association outstanding. Any obligations of the Association which cannot be fully satisfied shall become liabilities of the Holding Company as of the date of dissolution.

(4) Transfer of remaining assets

After compliance with paragraphs (1) and (3), any remaining assets of the trust shall be transferred to the Holding Company or any subsidiary of the Holding Company, as directed by the Holding Company.

(e) Operation of Holding Company

In the event the shareholders of the Association approve the plan of reorganization under subsection (b) of this section, the following provisions shall apply beginning on the reorganization effective date:

(1) Holding Company Board of Directors

The number of members and composition of the Board of Directors of the Holding Company shall be determined as set forth in the Holding Company's charter or like instrument (as amended from time to time) or bylaws (as amended from time to time) and as permitted under the laws of the jurisdiction of the Holding Company's incorporation.

(2) Holding Company name

The names of the Holding Company and any subsidiary of the Holding Company (other than the Association)—

(A) may not contain the name ''Student Loan Marketing Association''; and

(B) may contain, to the extent permitted by applicable State or District of Columbia law, ''Sallie Mae'' or variations thereof, or such other names as the Board of Directors of the Association or the Holding Company deems appropriate.

(3) Use of Sallie Mae name

Subject to paragraph (2), the Association may assign to the Holding Company, or any subsidiary of the Holding Company, the ''Sallie Mae'' name as a trademark or service mark, except that neither the Holding Company nor any subsidiary of the Holding Company (other than the Association or any subsidiary of the Association) may use the ''Sallie Mae'' name on, or to identify the issuer of, any debt obligation or other security offered or sold by the Holding Company or any subsidiary of the Holding Company (other than a debt obligation or other security issued to and held by the Holding Company or any subsidiary of the Holding Company). The Association shall remit to the account established under section 1155(e)[2] of this title, $5,000,000, within 60 days of the reorganization effective date as compensation for the right to assign the ''Sallie Mae'' name as a trademark or service mark.

(4) Disclosure required

Until 3 years after the dissolution date, the Holding Company, and any subsidiary of the Holding Company (other than the Association), shall prominently display—

(A) in any document offering the Holding Company's securities, a statement that the obligations of the Holding Company and any subsidiary of the Holding Company are not guaranteed by the full faith and credit of the United States; and

(B) in any advertisement or promotional materials which use the ''Sallie Mae'' name or mark, a statement that neither the Holding Company nor any subsidiary of the Holding Company is a government-sponsored enterprise or instrumentality of the United States.

(f) Strict construction

Except as specifically set forth in this section, nothing in this section shall be construed to limit the authority of the Association as a federally chartered corporation, or of the Holding Company as a State or District of Columbia chartered corporation.

(g) Right to enforce

The Secretary of Education or the Secretary of the Treasury, as appropriate, may request that the Attorney General bring an action in the United States District Court for the District of Columbia for the enforcement of any provision of this section, or may, under the direction or control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance with this section.

(h) Deadline for reorganization effective date

This section shall be of no further force and effect in the event that the reorganization effective date does not occur on or before 18 months after September 30, 1996.

(i) Definitions

For purposes of this section:

(1) Association

The term ''Association'' means the Student Loan Marketing Association.

(2) Dissolution date

The term ''dissolution date'' means September 30, 2008, or such earlier date as the Secretary of Education permits the transfer of remaining obligations in accordance with subsection (d) of this section.

(3) Holding Company

The term ''Holding Company'' means the new business corporation established pursuant to this section by the Association under the

[2] See References in Text note below.

laws of any State of the United States or the District of Columbia for the purposes of the reorganization and restructuring described in subsection (a) of this section.

(4) Remaining obligations

The term ''remaining obligations'' means the debt obligations of the Association outstanding as of the dissolution date.

(5) Remaining property

The term ''remaining property'' means the following assets and liabilities of the Association which are outstanding as of the reorganization effective date:

(A) Debt obligations issued by the Association.

(B) Contracts relating to interest rate, currency, or commodity positions or protections.

(C) Investment securities owned by the Association.

(D) Any instruments, assets, or agreements described in section 1087–2(d) of this title (including, without limitation, all student loans and agreements relating to the purchase and sale of student loans, forward purchase and lending commitments, warehousing advances, academic facilities obligations, letters of credit, standby bond purchase agreements, liquidity agreements, and student loan revenue bonds or other loans).

(E) Except as specifically prohibited by this section or section 1087–2 of this title, any other nonmaterial assets or liabilities of the Association which the Association's Board of Directors determines to be necessary or appropriate to the Association's operations.

(6) Reorganization

The term ''reorganization'' means the restructuring event or events (including any merger event) giving effect to the Holding Company structure described in subsection (a) of this section.

(7) Reorganization effective date

The term ''reorganization effective date'' means the effective date of the reorganization as determined by the Board of Directors of the Association, which shall not be earlier than the date that shareholder approval is obtained pursuant to subsection (b) of this section and shall not be later than the date that is 18 months after September 30, 1996.

(8) Subsidiary

The term ''subsidiary'' means one or more direct or indirect subsidiaries.

(Pub. L. 89–329, title IV, § 440, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–275.)

REPEAL OF SECTION

Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 602(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–289, provided that this section is repealed effective one year after date on which all obligations of trust established under subsec. (d)(1) of this section have been extinguished, if reorganization occurs in accordance with this section, or date on which all obligations of trust established under section 1087–2(s)(3)(A) of this title have been extinguished, if reorganization does not occur in accordance with this section.

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Section 1155(e) of this title, referred to in subsecs. (c)(9)(B) and (e)(3), was in the original a reference to section 3(e) of the Student Loan Marketing Association Reorganization Act of 1996, and was translated as reading section 603(e) of that Act, which is Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 603(e)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293, to reflect the probable intent of Congress, because that Act does not contain a section 3(e), but does contain a section 603(e) which establishes the account referred to in text.

PRIOR PROVISIONS

A prior section 1087–3, Pub. L. 89–329, title IV, § 439A, as added Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2141, related to a five-year nondischargeability of certain loan debts, prior to repeal by Pub. L. 95–598, title III, § 317, Nov. 6, 1978, 92 Stat. 2678, eff. Nov. 6, 1978.

A prior section 1087–3a, Pub. L. 89–329, title IV, § 439B, as added Pub. L. 95–566, § 8, Nov. 1, 1978, 92 Stat. 2404, authorized any loan under this part to be counted as part of the expected family contribution in the determination of need, prior to repeal by Pub. L. 97–35, title V, § 532(b)(2), Aug. 13, 1981, 95 Stat. 452, applicable to loans for the statement required by section 1078(a)(2)(A) of this title is completed on or after Oct. 1, 1981.

§ 1087–4. Discrimination in secondary markets prohibited

The Student Loan Marketing Association (and, if the Association is privatized under section 1087–3 of this title, any successor entity functioning as a secondary market for loans under this part, including the Holding Company described in such section) shall not engage directly or indirectly in any pattern or practice that results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, disability status, income, attendance at a particular eligible institution, length of the borrower's educational program, or the borrower's academic year at an eligible institution.

(Pub. L. 89–329, title IV, § 440A, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 604], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293.)

PRIOR PROVISIONS

A prior section 1087–4, Pub. L. 89–329, title IV, § 440, as added Pub. L. 94–482, title I, § 127(a), Oct. 12, 1976, 90 Stat. 2141, provided for criminal penalties, prior to repeal by Pub. L. 96–374, title IV, § 451(b), Oct. 3, 1980, 94 Stat. 1458, eff. Oct. 1, 1980. See section 1097 of this title.

PART C—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

CODIFICATION

This part was, in the original, part D of title IV of Pub. L. 89–329, the Higher Education Act of 1965. The letter designation was changed from ''D'' to ''C'' for codification purposes. Part C of title IV of Pub. L. 89–329, consisting of sections 441 to 447, as added by

Pub. L. 99–498, title IV, § 403(a), Oct. 17, 1986, 100 Stat. 1429, is set out as section 2751 et seq. of Title 42, The Public Health and Welfare, because sections 441 to 446 of Pub. L. 89–329 had originally been enacted as part C of title I of the Economic Opportunity Act of 1964, consisting of sections 121 to 126 of Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 513, prior to the transfer of such sections into Pub. L. 89–329, and had already been classified to section 2751 et seq. of Title 42 at the time of the transfer.

§ 1087a. Program authority

(a) In general

There are hereby made available, in accordance with the provisions of this part, such sums as may be necessary to make loans to all eligible students (and the eligible parents of such students) in attendance at participating institutions of higher education selected by the Secretary, to enable such students to pursue their courses of study at such institutions during the period beginning July 1, 1994. Such loans shall be made by participating institutions, or consortia thereof, that have agreements with the Secretary to originate loans, or by alternative originators designated by the Secretary to make loans for students in attendance at participating institutions (and their parents).

(b) Designation

(1) Program

The program established under this part shall be referred to as the ''William D. Ford Federal Direct Loan Program''.

(2) Direct loans

Notwithstanding any other provision of this part, loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under section 1078 of this title, shall be known as ''Federal Direct Stafford/Ford Loans''.

(Pub. L. 89–329, title IV, § 451, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1437; amended Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 569; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 341; Pub. L. 103–382, title III, § 358A, Oct. 20, 1994, 108 Stat. 3968.)

PRIOR PROVISIONS

A prior section 1087a, Pub. L. 89–329, title IV, § 451, as added Pub. L. 90–575, title I, § 141, Oct. 16, 1968, 82 Stat. 1031; amended Pub. L. 92–318, title I, § 136(a), (b)(1), June 23, 1972, 86 Stat. 272, authorized appropriations for cooperative education programs from the fiscal year ending June 30, 1969, through the fiscal year ending prior to July 1, 1975, prior to repeal by Pub. L. 94–482, title I, § 129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

1994—Pub. L. 103–382 designated existing provisions as subsec. (a), added heading, and added subsec. (b).

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to program authority for former provisions relating to program and payment authority.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to program and payment authority for Federal direct loan demonstration program for former provisions relating to statement of purpose of income contingent direct loan demonstration project.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

INCOME CONTINGENT LOAN DISTRIBUTION OF FUNDS

Section 452 of Pub. L. 102–325 provided that:

''(a) IN GENERAL.—After September 30, 1992, and not later than March 31, 1992, the capital balance of the student loan fund established under part D of title IV of the Higher Education Act of 1965 [20 U.S.C. 1087a et seq.] (as such Act was in effect on the date of enactment of this Act [July 23, 1992]) shall be distributed by allowing institutions to transfer any remaining funds, including future collections and all other funds at the institution's discretion, to such institution's part E [20 U.S.C. 1087aa et seq.] account, part C [42 U.S.C. 2751 et seq.] fund, or subpart 3 of part A [20 U.S.C. 1070b et seq.] fund under the terms and conditions of the appropriate program.

''(b) CONVERSION OF EXISTING LOANS.—Institutions may, after July 1, 1992, convert all outstanding loans made under part D of title IV of the Higher Education Act of 1965 [20 U.S.C. 1087a et seq.] (as such Act was in effect on such date) to part E [20 U.S.C. 1087aa et seq.] loans, provided that such institution—

''(1) notify the borrower of such conversion;

''(2) obtain a signed part E promissory note from the borrower for the remaining amount outstanding; and

''(3) provide the borrower in writing with a description of all terms and conditions of the new loan.''

§ 1087b. Funds for origination of direct student loans

(a) In general

The Secretary shall provide, on the basis of the need and the eligibility of students at each participating institution, and parents of such students, for such loans, funds for student and parent loans under this part—

(1) directly to an institution of higher education that has an agreement with the Secretary under section 1087d(a) of this title to participate in the direct student loan programs under this part and that also has an agreement with the Secretary under section 1087d(b) of this title to originate loans under this part; or

(2) through an alternative originator designated by the Secretary to students (and parents of students) attending institutions of higher education that have an agreement with the Secretary under section 1087d(a) of this title but that do not have an agreement with the Secretary under section 1087d(b) of this title.

(b) No entitlement to participate or originate

No institution of higher education shall have a right to participate in the programs authorized by this part, to originate loans, or to perform any program function under this part. Nothing in this subsection shall be construed so as to limit the entitlement of an eligible student attending a participating institution (or the eligible parent of such student) to borrow under this part.

(c) Delivery of loan funds

Loan funds shall be paid and delivered to an institution by the Secretary prior to the beginning of the payment period established by the Secretary in a manner that is consistent with

payment and delivery of Federal Pell Grants under subpart 1 of part A of this subchapter.

(Pub. L. 89–329, title IV, § 452, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1437; amended Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 569; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 341; Pub. L. 105–33, title VI, § 6102, Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–244, title IV, § 401(g)(5), Oct. 7, 1998, 112 Stat. 1652.)

PRIOR PROVISIONS

A prior section 1087b, Pub. L. 89–329, title IV, § 452, as added Pub. L. 90–575, title I, § 141, Oct. 16, 1968, 82 Stat. 1031, authorized grants for programs of cooperative education, prior to repeal by Pub. L. 94–482, title I, § 129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–244 substituted ''Federal Pell Grants'' for ''basic grants''.

1997—Subsecs. (b) to (d). Pub. L. 105–33 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which required the Secretary to pay fees to institutions of higher education and alternative loan originators to assist in meeting the cost of loan origination.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to funds for origination of direct student loans for former provisions relating to payment rules.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to payment rules for former provisions authorizing demonstration projects.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1087c. Selection of institutions for participation and origination

(a) General authority

The Secretary shall enter into agreements pursuant to section 1087d(a) of this title with institutions of higher education to participate in the direct student loan program under this part, and agreements pursuant to section 1087d(b) of this title with institutions of higher education, or consortia thereof, to originate loans in such program, for academic years beginning on or after July 1, 1994. Alternative origination services, through which an entity other than the participating institution at which the student is in attendance originates the loan, shall be provided by the Secretary, through 1 or more contracts under section 1087f(b) of this title or such other means as the Secretary may provide, for students attending participating institutions that do not originate direct student loans under this part. Such agreements for the academic year 1994–1995 shall, to the extent feasible, be entered into not later than January 1, 1994.

(b) Selection criteria

(1) Application

Each institution of higher education desiring to participate in the direct student loan program under this part shall submit an application satisfactory to the Secretary containing such information and assurances as the Secretary may require.

(2) Selection procedure

The Secretary shall select institutions for participation in the direct student loan program under this part, and shall enter into agreements with such institutions under section 1087d(a) of this title, from among those institutions that submit the applications described in paragraph (1), and meet such other eligibility requirements as the Secretary shall prescribe.

(c) Selection criteria for origination

(1) In general

The Secretary may enter into a supplemental agreement with an institution (or a consortium of such institutions) that—

(A) has an agreement under subsection 1087d(a) of this title;

(B) desires to originate loans under this part; and

(C) meets the criteria described in paragraph (2).

(2) Selection criteria

The Secretary may approve an institution to originate loans only if such institution—

(A) is not on the reimbursement system of payment for any of the programs under subpart 1 or 3 of part A of this subchapter, part C of subchapter I of chapter 34 of title 42, or part D of this subchapter;

(B) is not overdue on program or financial reports or audits required under this subchapter;

(C) is not subject to an emergency action, or a limitation, suspension, or termination under section 1078(b)(1)(T), 1082(h), or 1094(c) of this title;

(D) in the opinion of the Secretary, has not had severe performance deficiencies for any of the programs under this subchapter, including such deficiencies demonstrated by audits or program reviews submitted or conducted during the 5 calendar years immediately preceding the date of application;

(E) provides an assurance that such institution has no delinquent outstanding debts to the Federal Government, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the Federal Government, or the Secretary in the Secretary's discretion determines that the existence or amount of such debts has not been finally determined by the cognizant Federal agency; and

(F) meets such other criteria as the Secretary may establish to protect the financial interest of the United States and to promote the purposes of this part.

(3) Regulations governing approval

The Secretary shall promulgate and publish in the Federal Register regulations governing the approval of institutions to originate loans under this part in accordance with section 1087g(a)(2) of this title.

(d) Eligible institutions

The Secretary may not select an institution of higher education for participation under this

section unless such institution is an eligible institution under section 1085(a) of this title.

(e) Consortia

Subject to such requirements as the Secretary may prescribe, eligible institutions of higher education (as determined under subsection (d) of this section) with agreements under section 1087d(a) of this title may apply to the Secretary as consortia to originate loans under this part for students in attendance at such institutions. Each such institution shall be required to meet the requirements of subsection (c) of this section with respect to loan origination.

(Pub. L. 89–329, title IV, § 453, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1438; amended Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 569; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 342; Pub. L. 103–208, § 2(e), Dec. 20, 1993, 107 Stat. 2470; Pub. L. 105–244, title IV, § 451, Oct. 7, 1998, 112 Stat. 1715.)

CODIFICATION

Amendment by section 2 of Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–66, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1087c, Pub. L. 89–329, title IV, § 453, as added Pub. L. 90–575, title I, § 141, Oct. 16, 1968, 82 Stat. 1032; amended Pub. L. 92–318, title I, § 136(b)(2), June 23, 1972, 86 Stat. 272, authorized grants and contracts for training and research in cooperative education programs, prior to repeal by Pub. L. 94–482, title I, § 129(a), Oct. 12, 1976, 90 Stat. 2144, eff. 30 days after Oct. 12, 1976.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 451(a), amended heading, redesignated par. (1) as entire subsec., and struck out pars. (2) to (4) which provided for transition from loan programs under part B of this subchapter to direct student loan program under this part and defined term ''new student loan volume''.

Subsec. (b)(2). Pub. L. 105–244, § 451(b), substituted ''prescribe.'' for ''prescribe, by, to the extent possible—

''(A)(i) categorizing such institutions according to anticipated loan volume, length of academic program, control of the institution, highest degree offered, size of student enrollment, geographic location, annual loan volume, and default experience; and

''(ii) beginning in academic year 1995–1996 selecting institutions that are reasonably representative of each of the categories described pursuant to clause (i); and

''(B) if the Secretary determines it necessary in order to carry out the purposes of subparagraph (A) and attain such reasonable representation (as required by subparagraph (A)), selecting additional institutions.''

Subsec. (c)(2). Pub. L. 105–244, § 451(c)(1)(A), (B), substituted ''Selection criteria'' for ''Transition selection criteria'' in heading and ''The Secretary'' for ''For academic year 1994–1995, the Secretary'' in introductory provisions.

Subsec. (c)(2)(A). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpar. (B) as (A).

Pub. L. 105–244, § 451(c)(1)(C), struck out subpar. (A) which read as follows: ''made loans under part D of this subchapter in academic year 1993–1994 and did not exceed the applicable maximum default rate under section 1087bb(g) of this title for the most recent fiscal year for which data are available;''.

Subsec. (c)(2)(B) to (D). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpars. (C), (D), and (F) as (B) to (D), respectively. Former subpar. (B) redesignated (A).

Subsec. (c)(2)(E). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpar. (G) as (E).

Pub. L. 105–244, § 451(c)(1)(D), struck out subpar. (E) which read as follows: ''in the opinion of the Secretary, has not had significant deficiencies identified by a State postsecondary review entity under subpart 1 of part G of this subchapter;''.

Subsec. (c)(2)(F) to (H). Pub. L. 105–244, § 451(c)(1)(E), redesignated subpars. (G) and (H) as (E) and (F), respectively. Former subpar. (F) redesignated (D).

Subsec. (c)(3). Pub. L. 105–244, § 451(c)(2), struck out ''after transition'' after ''approval'' in heading and substituted ''The Secretary'' for ''For academic year 1995–1996 and subsequent academic years, the Secretary'' in text.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to selection of institutions for participation and origination for former provisions relating to selection by Secretary.

Subsec. (b)(2)(B). Pub. L. 103–208 amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''if the Secretary determines it necessary to carry out the purposes of this part, selecting additional institutions.'' See Codification note above.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to selection by the Secretary for former provisions relating to agreements with institutions of higher education.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1087d. Agreements with institutions

(a) Participation agreements

An agreement with any institution of higher education for participation in the direct student loan program under this part shall—

(1) provide for the establishment and maintenance of a direct student loan program at the institution under which the institution will—

(A) identify eligible students who seek student financial assistance at such institution in accordance with section 1091 of this title;

(B) estimate the need of each such student as required by part E of this subchapter for an academic year, except that, any loan obtained by a student under this part with the same terms as loans made under section 1078–8 of this title (except as otherwise provided in this part), or a loan obtained by a parent under this part with the same terms as loans made under section 1078–2 of this title (except as otherwise provided in this part), or obtained under any State-sponsored or private loan program, may be used to offset the expected family contribution of the student for that year;

(C) provide a statement that certifies the eligibility of any student to receive a loan

under this part that is not in excess of the annual or aggregate limit applicable to such loan, except that the institution may, in exceptional circumstances identified by the Secretary, refuse to certify a statement that permits a student to receive a loan under this part, or certify a loan amount that is less than the student's determination of need (as determined under part E of this subchapter), if the reason for such action is documented and provided in written form to such student;

(D) set forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 1078–7 of this title; and

(E) provide timely and accurate information—

(i) concerning the status of student borrowers (and students on whose behalf parents borrow under this part) while such students are in attendance at the institution and concerning any new information of which the institution becomes aware for such students (or their parents) after such borrowers leave the institution, to the Secretary for the servicing and collecting of loans made under this part; and

(ii) if the institution does not have an agreement with the Secretary under subsection (b) of this section, concerning student eligibility and need, as determined under subparagraphs (A) and (B), to the Secretary as needed for the alternative origination of loans to eligible students and parents in accordance with this part;

(2) provide assurances that the institution will comply with requirements established by the Secretary relating to student loan information with respect to loans made under this part;

(3) provide that the institution accepts responsibility and financial liability stemming from its failure to perform its functions pursuant to the agreement;

(4) provide that students at the institution and their parents (with respect to such students) will be eligible to participate in the programs under part B of this subchapter at the discretion of the Secretary for the period during which such institution participates in the direct student loan program under this part, except that a student or parent may not receive loans under both this part and part B of this subchapter for the same period of enrollment;

(5) provide for the implementation of a quality assurance system, as established by the Secretary and developed in consultation with institutions of higher education, to ensure that the institution is complying with program requirements and meeting program objectives;

(6) provide that the institution will not charge any fees of any kind, however described, to student or parent borrowers for origination activities or the provision of any information necessary for a student or parent to receive a loan under this part, or any benefits associated with such loan; and

(7) include such other provisions as the Secretary determines are necessary to protect the interests of the United States and to promote the purposes of this part.

(b) Origination

An agreement with any institution of higher education, or consortia thereof, for the origination of loans under this part shall—

(1) supplement the agreement entered into in accordance with subsection (a) of this section;

(2) include provisions established by the Secretary that are similar to the participation agreement provisions described in paragraphs (1)(E)(ii), (2), (3), (4), (5), (6), and (7) of subsection (a) of this section, as modified to relate to the origination of loans by the institution or consortium;

(3) provide that the institution or consortium will originate loans to eligible students and parents in accordance with this part; and

(4) provide that the note or evidence of obligation on the loan shall be the property of the Secretary.

(c) Withdrawal and termination procedures

The Secretary shall establish procedures by which institutions or consortia may withdraw or be terminated from the program under this part.

(Pub. L. 89–329, title IV, § 454, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1438; amended Pub. L. 100–50, § 12, June 3, 1987, 101 Stat. 348; Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 571; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 345.)

AMENDMENTS

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to agreements with institutions, consisting of subsecs. (a) to (c), for former provisions relating to requirements of agreements, consisting of pars. (1) to (7).

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to requirements of agreements for former provisions relating to terms of loans under pilot program.

1987—Subsec. (a)(4). Pub. L. 100–50 amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''The interest rate on all such loans shall be the rate equal to the rate obtained for each calendar year (A) by computing the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period preceding such year, and (B) by adding 3 percent to the resulting percent.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1087e. Terms and conditions of loans

(a) In general

(1) Parallel terms, conditions, benefits, and amounts

Unless otherwise specified in this part, loans made to borrowers under this part shall have the same terms, conditions, and benefits, and be available in the same amounts, as loans

made to borrowers under sections 1078, 1078–2, and 1078–8 of this title.

(2) Designation of loans

Loans made to borrowers under this part that, except as otherwise specified in this part, have the same terms, conditions, and benefits as loans made to borrowers under—

(A) section 1078 of this title shall be known as ''Federal Direct Stafford Loans'';

(B) section 1078–2 of this title shall be known as ''Federal Direct PLUS Loans''; and

(C) section 1078–8 of this title shall be known as ''Federal Direct Unsubsidized Stafford Loans''.

(b) Interest rate

(1) Rates for FDSL and FDUSL

For Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(B) 3.1 percent,

except that such rate shall not exceed 8.25 percent.

(2) In school and grace period rules

(A) Notwithstanding the provisions of paragraph (1), but subject to paragraph (3), with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1995, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall not exceed the rate determined under subparagraph (B).

(B) For the purpose of subparagraph (A), the rate determined under this subparagraph shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction prior to such June 1; plus

(ii) 2.5 percent,

except that such rate shall not exceed 8.25 percent.

(3) Out-year rule

Notwithstanding paragraphs (1) and (2), for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(A) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(B) 1.0 percent,

except that such rate shall not exceed 8.25 percent.

(4) Rates for FDPLUS

(A)(i) For Federal Direct PLUS Loans for which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on or before June 30, 2001, be determined on the preceding June 1 and be equal to—

(I) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

(II) 3.1 percent,

except that such rate shall not exceed 9 percent.

(ii) For any 12-month period beginning on July 1 of 2001 or any succeeding year, the applicable rate of interest determined under this subparagraph shall be determined on the preceding June 26 and be equal to—

(I) the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the last calendar week ending on or before such June 26; plus

(II) 3.1 percent,

except that such rate shall not exceed 9 percent.

(B) For Federal Direct PLUS loans made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of the security with a comparable maturity as established by the Secretary; plus

(ii) 2.1 percent,

except that such rate shall not exceed 9 percent.

(5) Temporary interest rate provision

(A) Rates for FDSL and FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(B) In school and grace period rules

Notwithstanding the preceding paragraphs of this subsection, with respect to any Fed-

eral Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall be determined under subparagraph (A) by substituting ''1.7 percent'' for ''2.3 percent''.

(C) PLUS loans

Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after July 1, 1998, and before October 1, 1998, the applicable rate of interest shall be determined under subparagraph (A)—

(i) by substituting ''3.1 percent'' for ''2.3 percent''; and

(ii) by substituting ''9.0 percent'' for ''8.25 percent''.

(6) Interest rate provision for new loans on or after October 1, 1998, and before July 1, 2006

(A) Rates for FDSL and FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(B) In school and grace period rules

Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford Loan or Federal Direct Unsubsidized Stafford Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest for interest which accrues—

(i) prior to the beginning of the repayment period of the loan; or

(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 1078(b)(1)(M) or 1077(a)(2)(C) of this title,

shall be determined under subparagraph (A) by substituting ''1.7 percent'' for ''2.3 percent''.

(C) PLUS loans

Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2006, the applicable rate of interest shall be determined under subparagraph (A)—

(i) by substituting ''3.1 percent'' for ''2.3 percent''; and

(ii) by substituting ''9.0 percent'' for ''8.25 percent''.

(D) Consolidation loans

Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after February 1, 1999, and before July 1, 2006, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent; or

(ii) 8.25 percent.

(E) Temporary rules for consolidation loans

Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after October 1, 1998, and before February 1, 1999, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to—

(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

(7) Interest rate provision for new loans on or after July 1, 2006

(A) Rates for FDSL and FDUSL

Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

(B) PLUS loans

Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct PLUS loan for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 7.9 percent on the unpaid principal balance of the loan.

(C) Consolidation loans

Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after July 1, 2006, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

(i) the weighted average of the interest rates on the loans consolidated, rounded to

the nearest higher one-eighth of one percent; or

(ii) 8.25 percent.

(8) Repayment incentives

(A) In general

Notwithstanding any other provision of this part, the Secretary is authorized to prescribe by regulation such reductions in the interest rate paid by a borrower of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment of the loan. Such reductions may be offered only if the Secretary determines the reductions are cost neutral and in the best financial interest of the Federal Government. Any increase in subsidy costs resulting from such reductions shall be completely offset by corresponding savings in funds available for the William D. Ford Federal Direct Loan Program in that fiscal year from section 1087h of this title and other administrative accounts.

(B) Accountability

Prior to publishing regulations proposing repayment incentives, the Secretary shall ensure the cost neutrality of such reductions. The Secretary shall not prescribe such regulations in final form unless an official report from the Director of the Office of Management and Budget to the Secretary and a comparable report from the Director of the Congressional Budget Office to the Congress each certify that any such reductions will be completely cost neutral. Such reports shall be transmitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not less than 60 days prior to the publication of regulations proposing such reductions.

(9) Publication

The Secretary shall determine the applicable rates of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(c) Loan fee

The Secretary shall charge the borrower of a loan made under this part an origination fee of 4.0 percent of the principal amount of loan.

(d) Repayment plans

(1) Design and selection

Consistent with criteria established by the Secretary, the Secretary shall offer a borrower of a loan made under this part a variety of plans for repayment of such loan, including principal and interest on the loan. The borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part. The borrower may choose—

(A) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, consistent with subsection (a)(1) of this section;

(B) an extended repayment plan, with a fixed annual repayment amount paid over an extended period of time, except that the borrower shall annually repay a minimum amount determined by the Secretary in accordance with section 1078(b)(1)(L) of this title;

(C) a graduated repayment plan, with annual repayment amounts established at 2 or more graduated levels and paid over a fixed or extended period of time, except that the borrower's scheduled payments shall not be less than 50 percent, nor more than 150 percent, of what the amortized payment on the amount owed would be if the loan were repaid under the standard repayment plan; and

(D) an income contingent repayment plan, with varying annual repayment amounts based on the income of the borrower, paid over an extended period of time prescribed by the Secretary, not to exceed 25 years, except that the plan described in this subparagraph shall not be available to the borrower of a Federal Direct PLUS loan.

(2) Selection by Secretary

If a borrower of a loan made under this part does not select a repayment plan described in paragraph (1), the Secretary may provide the borrower with a repayment plan described in subparagraph (A), (B), or (C) of paragraph (1).

(3) Changes in selections

The borrower of a loan made under this part may change the borrower's selection of a repayment plan under paragraph (1), or the Secretary's selection of a plan for the borrower under paragraph (2), as the case may be, under such terms and conditions as may be established by the Secretary.

(4) Alternative repayment plans

The Secretary may provide, on a case by case basis, an alternative repayment plan to a borrower of a loan made under this part who demonstrates to the satisfaction of the Secretary that the terms and conditions of the repayment plans available under paragraph (1) are not adequate to accommodate the borrower's exceptional circumstances. In designing such alternative repayment plans, the Secretary shall ensure that such plans do not exceed the cost to the Federal Government, as determined on the basis of the present value of future payments by such borrowers, of loans made using the plans available under paragraph (1).

(5) Repayment after default

The Secretary may require any borrower who has defaulted on a loan made under this part to—

(A) pay all reasonable collection costs associated with such loan; and

(B) repay the loan pursuant to an income contingent repayment plan.

(e) Income contingent repayment

(1) Information and procedures

The Secretary may obtain such information as is reasonably necessary regarding the income of a borrower (and the borrower's spouse, if applicable) of a loan made under this part that is, or may be, repaid pursuant to income

contingent repayment, for the purpose of determining the annual repayment obligation of the borrower. Returns and return information (as defined in section 6103 of title 26) may be obtained under the preceding sentence only to the extent authorized by section 6103(*l*)(13) of title 26. The Secretary shall establish procedures for determining the borrower's repayment obligation on that loan for such year, and such other procedures as are necessary to implement effectively income contingent repayment.

(2) Repayment based on adjusted gross income

A repayment schedule for a loan made under this part and repaid pursuant to income contingent repayment shall be based on the adjusted gross income (as defined in section 62 of title 26) of the borrower or, if the borrower is married and files a Federal income tax return jointly with the borrower's spouse, on the adjusted gross income of the borrower and the borrower's spouse.

(3) Additional documents

A borrower who chooses, or is required, to repay a loan made under this part pursuant to income contingent repayment, and for whom adjusted gross income is unavailable or does not reasonably reflect the borrower's current income, shall provide to the Secretary other documentation of income satisfactory to the Secretary, which documentation the Secretary may use to determine an appropriate repayment schedule.

(4) Repayment schedules

Income contingent repayment schedules shall be established by regulations promulgated by the Secretary and shall require payments that vary in relation to the appropriate portion of the annual income of the borrower (and the borrower's spouse, if applicable) as determined by the Secretary.

(5) Calculation of balance due

The balance due on a loan made under this part that is repaid pursuant to income contingent repayment shall equal the unpaid principal amount of the loan, any accrued interest, and any fees, such as late charges, assessed on such loan. The Secretary may promulgate regulations limiting the amount of interest that may be capitalized on such loan, and the timing of any such capitalization.

(6) Notification to borrowers

The Secretary shall establish procedures under which a borrower of a loan made under this part who chooses or is required to repay such loan pursuant to income contingent repayment is notified of the terms and conditions of such plan, including notification of such borrower—

(A) that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(*l*)(13) of title 26; and

(B) that if a borrower considers that special circumstances, such as a loss of employment by the borrower or the borrower's spouse, warrant an adjustment in the borrower's loan repayment as determined using the information described in subparagraph (A), or the alternative documentation described in paragraph (3), the borrower may contact the Secretary, who shall determine whether such adjustment is appropriate, in accordance with criteria established by the Secretary.

(f) Deferment

(1) Effect on principal and interest

A borrower of a loan made under this part who meets the requirements described in paragraph (2) shall be eligible for a deferment, during which periodic installments of principal need not be paid, and interest—

(A) shall not accrue, in the case of a—

(i) Federal Direct Stafford Loan; or

(ii) a Federal Direct Consolidation Loan that consolidated only Federal Direct Stafford Loans, or a combination of such loans and Federal Stafford Loans for which the student borrower received an interest subsidy under section 1078 of this title; or

(B) shall accrue and be capitalized or paid by the borrower, in the case of a Federal Direct PLUS Loan, a Federal Direct Unsubsidized Stafford Loan, or a Federal Direct Consolidation Loan not described in subparagraph (A)(ii).

(2) Eligibility

A borrower of a loan made under this part shall be eligible for a deferment during any period—

(A) during which the borrower—

(i) is carrying at least one-half the normal full-time work load for the course of study that the borrower is pursuing, as determined by the eligible institution (as such term is defined in section 1085(a) of this title) the borrower is attending; or

(ii) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this subparagraph, or a loan made under this part (other than a Federal Direct PLUS Loan or a Federal Direct Consolidation Loan), while serving in a medical internship or residency program;

(B) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(C) not in excess of 3 years during which the Secretary determines, in accordance with regulations prescribed under section 1085(*o*) of this title, that the borrower has experienced or will experience an economic hardship.

(3) "Borrower" defined

For the purpose of this subsection, the term ''borrower'' means an individual who is a new borrower on the date such individual applies for a loan under this part for which the first disbursement is made on or after July 1, 1993.

(4) Deferments for previous part B loan borrowers

A borrower of a loan made under this part, who at the time such individual applies for such loan, has an outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of this subchapter prior to July 1, 1993, shall be eligible for a deferment under section 1077(a)(2)(C) of this title or section 1078(b)(1)(M) of this title as such sections were in effect on July 22, 1992.

(g) Federal Direct Consolidation Loans

A borrower of a loan made under this part may consolidate such loan with the loans described in section 1078–3(a)(4) of this title. Loans made under this subsection shall be known as ''Federal Direct Consolidation Loans''.

(h) Borrower defenses

Notwithstanding any other provision of State or Federal law, the Secretary shall specify in regulations (except as authorized under section 1087g(a)(1) of this title) which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under this part, except that in no event may a borrower recover from the Secretary, in any action arising from or relating to a loan made under this part, an amount in excess of the amount such borrower has repaid on such loan.

(i) Loan application and promissory note

The common financial reporting form required in section 1090(a)(1) of this title shall constitute the application for loans made under this part (other than a Federal Direct PLUS loan). The Secretary shall develop, print, and distribute to participating institutions a standard promissory note and loan disclosure form.

(j) Loan disbursement

(1) In general

Proceeds of loans to students under this part shall be applied to the student's account for tuition and fees, and, in the case of institutionally owned housing, to room and board. Loan proceeds that remain after the application of the previous sentence shall be delivered to the borrower by check or other means that is payable to and requires the endorsement or other certification by such borrower.

(2) Payment periods

The Secretary shall establish periods for the payments described in paragraph (1) in a manner consistent with payment of Federal Pell Grants under subpart 1 of part A of this subchapter.

(k) Fiscal control and fund accountability

(1) In general

(A) An institution shall maintain financial records in a manner consistent with records maintained for other programs under this subchapter.

(B) Except as otherwise required by regulations of the Secretary, or in a notice under section 1087g(a)(1) of this title, an institution may maintain loan funds under this part in the same account as other Federal student financial assistance.

(2) Payments and refunds

Payments and refunds shall be reconciled in a manner consistent with the manner set forth for the submission of a payment summary report required of institutions participating in the program under subpart 1 of part A of this subchapter, except that nothing in this paragraph shall prevent such reconciliations on a monthly basis.

(3) Transaction histories

All transaction histories under this part shall be maintained using the same system designated by the Secretary for the provision of Federal Pell Grants under subpart 1 of part A of this subchapter.

***(l)* Armed Forces student loan interest payment program**

(1) Authority

Using funds received by transfer to the Secretary under section 2174 of title 10 for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) Forbearance

During the period in which the Secretary is making payments on a loan under paragraph (1), the Secretary shall grant the borrower forbearance, in the form of a temporary cessation of all payments on the loan other than the payments of interest on the loan that are made under that paragraph.

(Pub. L. 89–329, title IV, § 455, as added Pub. L. 99–498, title IV, § 404, Oct. 17, 1986, 100 Stat. 1439; amended Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 572; Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 346; Pub. L. 103–382, title III, § 359, Oct. 20, 1994, 108 Stat. 3968; Pub. L. 105–178, title VIII, § 8301(c), June 9, 1998, 112 Stat. 498; Pub. L. 105–244, title IV, §§ 401(g)(6), 452(a)(1), (b), (c), Oct. 7, 1998, 112 Stat. 1652, 1715–1717; Pub. L. 106–554, § 1(a)(1) [title III, § 318(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–49; Pub. L. 107–139, § 1(b), (c), Feb. 8, 2002, 116 Stat. 9; Pub. L. 107–314, div. A, title VI, § 651(c), Dec. 2, 2002, 116 Stat. 2580.)

REFERENCES IN TEXT

Sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title as such sections were in effect on July 22, 1992, referred to in subsec. (f)(4), means sections 1077(a)(2)(C) and 1078(b)(1)(M) of this title prior to being amended generally by sections 414(b) and 416(e)(1), respectively, of Pub. L. 102–325, title IV, July 23, 1992, 106 Stat. 513, 519.

AMENDMENTS

2002—Subsec. (b)(6) to (9). Pub. L. 107–139, in par. (6) relating to interest rate provision for new loans substituted ''2006'' for ''2003'' in heading and ''July 1, 2006,'' for ''July 1, 2003,'' wherever appearing in text, added par. (7), redesignated former par. (7) as (8), and redesignated par. (6) relating to publication of rate in Federal Register as (9).

Subsec. (*l*). Pub. L. 107–314 added subsec. (*l*).

2000—Subsec. (b)(4)(A). Pub. L. 106–554 amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''For Federal Direct PLUS Loans for

which the first disbursement is made on or after July 1, 1994, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

''(i) the bond equivalent rate of 52-week Treasury bills auctioned at final auction held prior to such June 1; plus

''(ii) 3.1 percent,

except that such rate shall not exceed 9 percent.''

1998—Subsec. (b)(5). Pub. L. 105–178, § 8301(c)(2), which directed amendment of section 455(b) (20 U.S.C. 1087e(b)) by adding par. (5), was executed to this section, which is section 455(b) of Pub. L. 89–329, to reflect the probable intent of Congress. Former par. (5) redesignated (6).

Subsec. (b)(6). Pub. L. 105–244, § 452(a)(1), added par. (6) relating to interest rate provision for new loans.

Pub. L. 105–178, § 8301(c)(1), which directed amendment of section 455(b) (20 U.S.C. 1087e(b)) by redesignating par. (5) as (6), was executed to this section, which is section 455(b) of Pub. L. 89–329, to reflect the probable intent of Congress.

Subsec. (b)(7). Pub. L. 105–244, § 452(b), added par. (7).

Subsec. (g). Pub. L. 105–244, § 452(c), struck out ''only under such terms and conditions as the Secretary shall establish pursuant to section 1087g(a)(1) of this title or regulations promulgated under this part'' after ''section 1078–3(a)(4) of this title''.

Subsecs. (j)(2), (k)(3). Pub. L. 105–244, § 401(g)(6), substituted ''Federal Pell Grants'' for ''basic grants''.

1994—Subsec. (f)(3), (4). Pub. L. 103–382 added pars. (3) and (4).

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to terms and conditions of loans for former provisions relating to withdrawal and termination procedures.

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to withdrawal and termination procedures for former provisions relating to feasibility study.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–314 applicable with respect to interest, and any special allowance under section 1087–1 of this title, that accrue for months beginning on or after Oct. 1, 2003, on student loans described in section 2174(c) of Title 10, Armed Forces, that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of Title 10) on or after that date, see section 651(e) of Pub. L. 107–314, set out as an Effective Date note under section 2174 of Title 10.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by sections 401(g)(6) and 452(b), (c) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, § 452(d), Oct. 7, 1998, 112 Stat. 1717, provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to any loan made under part D of title IV of the Higher Education Act of 1965 [this part] for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, except that such amendments shall apply with respect to a Federal Direct Consolidation Loan for which the application is received on or after October 1, 1998, and before July 1, 2003.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

LIMITATION ON CONSOLIDATION LOANS DURING TEMPORARY INTEREST RATE

Pub. L. 105–244, title IV, § 452(a)(2), Oct. 7, 1998, 112 Stat. 1716, provided that: ''Notwithstanding section 455(g) of the Higher Education Act of 1965 [subsec. (g) of this section], a borrower who is enrolled or accepted for enrollment in an institution of higher education may not consolidate loans under such section during the period beginning October 1, 1998, and ending February 1, 1999, unless the borrower certifies that the borrower has no outstanding loans made, insured, or guaranteed under title IV of such Act [20 U.S.C. 1070 et seq.; 42 U.S.C. 2751 et seq.] other than loans made under part D of such title [this part].''

§ 1087f. Contracts

(a) Contracts for supplies and services

(1) In general

The Secretary shall, to the extent practicable, award contracts for origination, servicing, and collection described in subsection (b) of this section. In awarding such contracts, the Secretary shall ensure that such services and supplies are provided at competitive prices.

(2) Entities

The entities with which the Secretary may enter into contracts shall include only entities which the Secretary determines are qualified to provide such services and supplies and will comply with the procedures applicable to the award of such contracts. In the case of awarding contracts for the origination, servicing, and collection of loans under this part, the Secretary shall enter into contracts only with entities that have extensive and relevant experience and demonstrated effectiveness. The entities with which the Secretary may enter into such contracts shall include, where practicable, agencies with agreements with the Secretary under sections 1078(b) and (c) of this title, if such agencies meet the qualifications as determined by the Secretary under this subsection and if those agencies have such experience and demonstrated effectiveness. In awarding contracts to such State agencies, the Secretary shall, to the extent practicable and consistent with the purposes of this part, give special consideration to State agencies with a history of high quality performance to perform services for institutions of higher education within their State.

(3) Rule of construction

Nothing in this section shall be construed as a limitation of the authority of any State agency to enter into an agreement for the purposes of this section as a member of a consortium of State agencies.

(b) Contracts for origination, servicing, and data systems

The Secretary may enter into contracts for—

(1) the alternative origination of loans to students attending institutions of higher education with agreements to participate in the program under this part (or their parents), if such institutions do not have agreements with the Secretary under section 1087d(b) of this title;

(2) the servicing and collection of loans made under this part;

(3) the establishment and operation of 1 or more data systems for the maintenance of records on all loans made under this part; and

(4) such other aspects of the direct student loan program as the Secretary determines are necessary to ensure the successful operation of the program.

(Pub. L. 89–329, title IV, § 456, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 572; amended Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 352; Pub. L. 105–244, title IV, § 453, Oct. 7, 1998, 112 Stat. 1717.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–244, § 453(1), inserted ''and'' after semicolon.

Subsec. (b)(4), (5). Pub. L. 105–244, § 453(2), (3), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: ''services to assist in the orderly transition from the loan programs under part B of this subchapter to the direct student loan program under this part; and''.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to contracts for former provisions relating to terms and conditions.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1087g. Regulatory activities

(a) Notice in lieu of regulations for first year of program

(1) Notice in lieu of regulations for first year of program

The Secretary shall publish in the Federal Register whatever standards, criteria, and procedures, consistent with the provisions of this part, the Secretary, in consultation with members of the higher education community, determines are reasonable and necessary to the successful implementation of the first year of the direct student loan program authorized by this part. Section 1232[1] of this title shall not apply to the publication of such standards, criteria, and procedures.

(2) Negotiated rulemaking

Beginning with academic year 1995–1996, all standards, criteria, procedures, and regulations implementing this part as amended by the Student Loan Reform Act of 1993 shall, to the extent practicable, be subject to negotiated rulemaking, including all such standards, criteria, procedures, and regulations promulgated from August 10, 1993.

(b) Closing date for applications from institutions

The Secretary shall establish a date not later than October 1, 1993, as the closing date for receiving applications from institutions of higher education desiring to participate in the first year of the direct loan program under this part.

(c) Publication of list of participating institutions

Not later than January 1, 1994, the Secretary shall publish in the Federal Register a list of the institutions of higher education selected to participate in the first year of the direct loan program under this part.

(Pub. L. 89–329, title IV, § 457, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 572; amended Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 352.)

REFERENCES IN TEXT

Section 1232 of this title, referred to in subsec. (a)(1), was in the original a reference to section 431 of the General Education Provisions Act. Sections 422 and 431 of that Act were renumbered as sections 431 and 437, respectively, by Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and are classified to sections 1231a and 1232, respectively, of this title.

The Student Loan Reform Act of 1993, referred to in subsec. (a)(2), is subtitle A (§§ 4011–4047) of title IV of Pub. L. 103–66, Aug. 10, 1993, 106 Stat. 341. For complete classification of this Act to the Code, see Short Title of 1993 Amendments note set out under section 1001 of this title and Tables.

AMENDMENTS

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to regulatory activities for former provisions relating to loan collection functions under competitive procurement contracts.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1087h. Funds for administrative expenses

(a) Administrative expenses

(1) In general

Each fiscal year there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

(A) administrative costs under this part and part B of this subchapter, including the costs of the direct student loan programs under this part; and

(B) account maintenance fees payable to guaranty agencies under part B of this subchapter and calculated in accordance with subsections (b) and (c) of this section,

not to exceed (from such funds not otherwise appropriated) $617,000,000 in fiscal year 1999, $735,000,000 in fiscal year 2000, $770,000,000 in fiscal year 2001, $780,000,000 in fiscal year 2002, and $795,000,000 in fiscal year 2003.

(2) Account maintenance fees

Account maintenance fees under paragraph (1)(B) shall be paid quarterly and deposited in the Agency Operating Fund established under section 1072b of this title.

(3) Carryover

The Secretary may carry over funds made available under this section to a subsequent fiscal year.

(b) Calculation basis

Except as provided in subsection (c) of this section, account maintenance fees payable to

[1] See References in Text note below.

guaranty agencies under paragraph (1)(B) shall be calculated—

(1) for fiscal years 1999 and 2000, on the basis of 0.12 percent of the original principal amount of outstanding loans on which insurance was issued under part B of this subchapter; and

(2) for fiscal years 2001, 2002, and 2003, on the basis of 0.10 percent of the original principal amount of outstanding loans on which insurance was issued under part B of this subchapter.

(c) Special rules

(1) Fee cap

The total amount of account maintenance fees payable under this section—

(A) for fiscal year 1999, shall not exceed $177,000,000;

(B) for fiscal year 2000, shall not exceed $180,000,000;

(C) for fiscal year 2001, shall not exceed $170,000,000;

(D) for fiscal year 2002, shall not exceed $180,000,000; and

(E) for fiscal year 2003, shall not exceed $195,000,000.

(2) Insufficient funding

(A) In general

If the amounts set forth in paragraph (1) are insufficient to pay the account maintenance fees payable to guaranty agencies pursuant to subsection (b) of this section for a fiscal year, the Secretary shall pay the insufficiency by requiring guaranty agencies to transfer funds from the Federal Student Loan Reserve Funds under section 1072a of this title to the Agency Operating Funds under section 1072b of this title.

(B) Entitlement

A guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of subparagraph (A).

(d) Budget justification

No funds may be expended under this section unless the Secretary includes in the Department of Education's annual budget justification to Congress a detailed description of the specific activities for which the funds made available by this section have been used in the prior and current years (if applicable), the activities and costs planned for the budget year, and the projection of activities and costs for each remaining year for which administrative expenses under this section are made available.

(Pub. L. 89–329, title IV, § 458, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 573; amended Pub. L. 103–66, title IV, § 4021, Aug. 10, 1993, 107 Stat. 353; Pub. L. 104–19, title I, § 601, July 27, 1995, 109 Stat. 219; Pub. L. 105–33, title VI, § 6103, Aug. 5, 1997, 111 Stat. 652; Pub. L. 105–78, title VI, § 609(*l*), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, § 454, Oct. 7, 1998, 112 Stat. 1717.)

PRIOR PROVISIONS

Prior sections 1087i and 1087j were omitted in the general revision of this part by Pub. L. 103–66.

Section 1087i, Pub. L. 89–329, title IV, § 459, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 575, related to schedule of regulatory activities by Secretary under Federal direct loan demonstration program.

Section 1087j, Pub. L. 89–329, title IV, § 459A, as added Pub. L. 102–325, title IV, § 451, July 23, 1992, 106 Stat. 575, related to funds for administrative expenses under Federal direct loan demonstration program.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 454(1), amended heading and text of subsec. (a) generally. Prior to amendment, subsec. (a) related to availability of funds for administrative costs and cost allowances.

Subsec. (b). Pub. L. 105–244, § 454(2), amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''Funds made available under subsection (a) of this section shall remain available until expended.''

Subsec. (c). Pub. L. 105–244, § 454(5), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 105–244, § 454(4), redesignated subsec. (c) as (d).

Pub. L. 105–244, § 454(3), struck out heading and text of subsec. (d). Text read as follows: ''In the event the Secretary finds it necessary to use the authority provided to the Secretary under subsection (a) of this section to draw funds for administrative expenses from a future year's funds, no funds may be expended under this section unless the Secretary immediately notifies the Committees on Appropriations of the Senate and of the House of Representatives, and the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives, of such action and explain the reasons for such action.''

1997—Subsec. (a). Pub. L. 105–33 amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: ''Each fiscal year, there shall be available to the Secretary of Education from funds available pursuant to section 1072(g) of this title and from funds not otherwise appropriated, funds to be obligated for administrative costs under this part, including the costs of the transition from the loan programs under part B of this subchapter to the direct student loan programs under this part (including the costs of annually assessing the program under this part and the progress of the transition) and transition support (including administrative costs) for the expenses of guaranty agencies in servicing outstanding loans in their portfolios and in guaranteeing new loans, not to exceed (from such funds not otherwise appropriated) $260,000,000 in fiscal year 1994, $284,000,000 in fiscal year 1995, $550,000,000 in fiscal year 1996, $595,000,000 in fiscal year 1997, and $750,000,000 in fiscal year 1998. If in any fiscal year the Secretary determines that additional funds for administrative expenses are needed as a result of such transition or the expansion of the direct student loan programs under this part, the Secretary is authorized to use funds available under this section for a subsequent fiscal year for such expenses, except that the total expenditures by the Secretary (from such funds not otherwise appropriated) shall not exceed $2,439,000,000 in fiscal years 1994 through 1998. The Secretary is also authorized to carry over funds available under this section to a subsequent fiscal year.''

Subsec. (a)(1). Pub. L. 105–78 substituted ''$507,000,000'' for ''$532,000,000'' in closing provisions.

1995—Subsec. (a). Pub. L. 104–19 substituted ''$284,000,000 in fiscal year 1995'' for ''$345,000,000 in fiscal year 1995'' and ''$2,439,000,000 in fiscal years 1994 through 1998'' for ''$2,500,000,000 in fiscal years 1994 through 1998''.

1993—Pub. L. 103–66 amended section generally, substituting provisions relating to funds for administrative expenses for former provisions relating to reports.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see sec-

tion 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

CONSTRUCTION

Section 609(m) of Pub. L. 105–78 provided that: ''Nothing in this Act [see Tables for classification] or an amendment made by this Act shall be construed to prohibit the Secretary of Education from using funds that are returned or otherwise recovered by the Secretary under section 422(g) of the Higher Education Act of 1965 (20 U.S.C. 1072(g)) including the balances of returned reserve funds, formerly held by the Higher Education Assistance Foundation, that are currently held in Higher Education Assistance Foundation Claims Reserves, Treasury account number 91X6192, for expenditure for expenses pursuant to section 458 of such Act (20 U.S.C. 1087h).''

USE OF FUNDS FOR ADMINISTRATIVE EXPENSES OF WILLIAM D. FORD DIRECT LOAN PROGRAM PROHIBITED

Pub. L. 104–208, div. A, title I, §101(e) [title III, §304], Sept. 30, 1996, 110 Stat. 3009–233, 3009–261, provided in part that: ''Notwithstanding section 458 of the Higher Education Act [of 1965] [20 U.S.C. 1087h], the Secretary may not use funds available under that section or any other section for subsequent fiscal years for administrative expenses of the William D. Ford Direct Loan Program.''

Similar provisions were contained in the following prior appropriation act:

Pub. L. 104–134, title I, §101(d) [title III, §305], Apr. 26, 1996, 110 Stat. 1321–211, 1321–236; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

§ 1087i. Authority to sell loans

The Secretary, in consultation with the Secretary of the Treasury, is authorized to sell loans made under this part on such terms as the Secretary determines are in the best interest of the United States, except that any such sale shall not result in any cost to the Federal Government. Notwithstanding any other provision of law, the proceeds of any such sale may be used by the Secretary to offer reductions in the interest rate paid by a borrower of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment in accordance with section 1087e(b)(7) of this title. Such reductions may be offered only if the Secretary determines the reductions are in the best financial interests of the Federal Government.

(Pub. L. 89–329, title IV, §459, as added Pub. L. 105–244, title IV, §455, Oct. 7, 1998, 112 Stat. 1718.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1087j. Loan cancellation for teachers

(a) Statement of purpose

It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

(b) Program authorized

(1) In general

The Secretary shall carry out a program of canceling the obligation to repay a qualified loan amount in accordance with subsection (c) of this section for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans made under this part for any new borrower on or after October 1, 1998, who—

(A) has been employed as a full-time teacher for 5 consecutive complete school years—

(i) in a school that qualifies under section 1087ee(a)(2)(A) of this title for loan cancellation for Perkins loan recipients who teach in such schools; and

(ii) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 7801 of this title; and

(B) is not in default on a loan for which the borrower seeks forgiveness.

(2) Special rule

No borrower may obtain a reduction of loan obligations under both this section and section 1078–10 of this title.

(c) Qualified loan amounts

(1) In general

The Secretary shall cancel not more than $5,000 in the aggregate of the loan obligation on a Federal Direct Stafford Loan or a Federal Direct Unsubsidized Stafford Loan that is outstanding after the completion of the fifth complete school year of teaching described in subsection (b)(1)(A) of this section.

(2) Treatment of consolidation loans

A loan amount for a Federal Direct Consolidation Loan may be a qualified loan amount for the purposes of this subsection only to the extent that such loan amount was used to repay a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, or a loan made under section 1078 or 1078–8 of this title, for a borrower who meets the requirements of subsection (b) of this section, as determined in accordance with regulations prescribed by the Secretary.

(3) Additional amounts for teachers in mathematics, science, or special education

Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall cancel under this section shall be not more than $17,500 in the case of—

(A) a secondary school teacher—

(i) who meets the requirements of subsection (b)(1) of this section; and

(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

(B) an elementary school or secondary school teacher—

(i) who meets the requirements of subsection (b)(1) of this section;

(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 1401 of this title); and

(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, is teaching children with disabilities that correspond with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.

(d) Regulations

The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

(e) Construction

Nothing in this section shall be construed to authorize any refunding of any canceled loan.

(f) List

If the list of schools in which a teacher may perform service pursuant to subsection (b) of this section is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

(g) Additional eligibility provisions

(1) Continued eligibility

Any teacher who performs service in a school that—

(A) meets the requirements of subsection (b)(1)(A) of this section in any year during such service; and

(B) in a subsequent year fails to meet the requirements of such subsection, may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (b) of this section.

(2) Prevention of double benefits

No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 [42 U.S.C. 12601 et seq.].

(h) "Year" defined

For the purpose of this section, the term ''year'' where applied to service as a teacher means an academic year as defined by the Secretary.

(Pub. L. 89–329, title IV, § 460, as added Pub. L. 105–244, title IV, § 456, Oct. 7, 1998, 112 Stat. 1719; Pub. L. 108–409, § 3(a)(1)(B), (b)(2), Oct. 30, 2004, 118 Stat. 2300, 2301.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (g)(2), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§ 12601 et seq.) of chapter 129 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

AMENDMENTS

2004—Subsec. (b)(1)(A). Pub. L. 108–409, § 3(a)(1)(B), added cl. (ii) and struck out former cls. (ii) and (iii) which read as follows:

''(ii) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or non-profit private secondary school in which the borrower is employed; and

''(iii) if employed as an elementary school teacher, has demonstrated, as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics and other areas of the elementary school curriculum; and''.

Subsec. (c)(3). Pub. L. 108–409, § 3(b)(2), added par. (3).

EFFECTIVE DATE OF 2004 AMENDMENT; TRANSITION RULE

Amendment by section 3(b)(2) of Pub. L. 108–409 applicable only with respect to eligible individuals who are new borrowers (as defined in section 1003 of this title) on or after Oct. 1, 1998, and before June 30, 2007, see section 3(b)(3) of Pub. L. 108–409, as amended, set out as a note under section 1078–10 of this title.

For transition rules relating to amendments made by section 3(a)(1)(B) of Pub. L. 108–409, see section 3(a)(2) of Pub. L. 108–409, set out as a note under section 1078–10 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

PART D—FEDERAL PERKINS LOANS

CODIFICATION

This part was added as part E of title IV of Pub. L. 89–329 by Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273, and amended by Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97–301, Oct. 13, 1982, 96 Stat. 1400; Pub. L. 98–79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 82. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1439, without reference to such intervening amendments because of the extensive revision of this part by Pub. L. 99–498. The letter designation of this part was changed from ''E'' to ''D'' for codification purposes. See Codification note preceding section 1087a of this title.

§ 1087aa. Appropriations authorized

(a) Program authority

The Secretary shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions or while engaged in programs of study abroad approved for credit by such institutions. Loans made under this part shall be known as ''Federal Perkins Loans''.

(b) Authorization of appropriations

(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $250,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) In addition to the funds authorized under paragraph (1), there are hereby authorized to be

appropriated such sums for fiscal year 2003 and each of the 5 succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 2003, to continue or complete courses of study.

(c) Use of appropriations

Any sums appropriated pursuant to subsection (b) of this section for any fiscal year shall be available for apportionment pursuant to section 1087bb of this title and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 1087cc of this title. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

(Pub. L. 89–329, title IV, § 461, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1439; amended Pub. L. 102–325, title IV, § 461(a)(2)–(c), July 23, 1992, 106 Stat. 576; Pub. L. 105–244, title IV, § 461, Oct. 7, 1998, 112 Stat. 1720.)

PRIOR PROVISIONS

A prior section 1087aa, Pub. L. 89–329, title IV, § 461, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273; amended Pub. L. 94–482, title I, § 130(a), (b), Oct. 12, 1976, 90 Stat. 2146; Pub. L. 96–49, § 5(d)(1), (2), Aug. 13, 1979, 93 Stat. 352; Pub. L. 96–374, title IV, § 441, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1436, 1503, authorized a program to establish and maintain funds at institutions of higher education for making low-interest loans to students, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–244, § 461(1), substituted ''1999'' for ''1993''.

Subsec. (b)(2). Pub. L. 105–244, § 461(2), substituted ''2003'' for ''1997'' in two places.

1992—Subsec. (a). Pub. L. 102–325, § 461(a)(2), (b), inserted ''or while engaged in programs of study abroad approved for credit by such institutions'' after ''in such institutions'' and substituted ''Federal Perkins Loans'' for ''Perkins Loans''.

Subsec. (b). Pub. L. 102–325, § 461(c), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $268,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(2) In addition there are hereby authorized to be appropriated such sums for fiscal year 1991 and each of the five succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1991, to continue or complete courses of study.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1087bb. Allocation of funds

(a) Allocation based on previous allocation

(1) From the amount appropriated pursuant to section 1087aa(b) of this title for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to—

(A) 100 percent of the amount received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year), multiplied by

(B) the institution's default penalty, as determined under subsection (e) of this section,

except that if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section, the institution may not receive an allocation under this paragraph.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 100 percent of the amount received and expended under this part for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1999 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 2000 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(D) For any fiscal year after a fiscal year in which an institution receives an allocation under subparagraph (A), (B), or (C), the Secretary shall allocate to such institution an amount equal to the product of—

(i) the amount determined under subparagraph (A), (B), or (C), multiplied by

(ii) the institution's default penalty, as determined under subsection (e) of this section,

except that if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section, the institution may not receive an allocation under this paragraph.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(b) Allocation of excess based on share of excess eligible amounts

(1) From the remainder of the amount appropriated pursuant to section 1087aa(b) of this title after making the allocations required by subsection (a) of this section, the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under paragraph (3)), divided by (ii) the sum of the eligible amounts of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 1087aa(b) of this title for the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a) of this section,

except that an eligible institution which has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section may not receive an allocation under this paragraph.

(3) For any eligible institution, the eligible amount of that institution is equal to—

(A) the amount of the institution's self-help need, as determined under subsection (c) of this section; minus

(B) the institution's anticipated collections; multiplied by

(C) the institution's default penalty, as determined under subsection (e) of this section;

except that, if the institution has a cohort default rate in excess of the applicable maximum cohort default rate under subsection (f) of this section, the eligible amount of that institution is zero.

(c) Determination of institution's self-help need

(1) The amount of an institution's self-help need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 25 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary shall—

(A) establish various income categories for graduate and professional students;

(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part E of this subchapter) of a representative sample within each income category for the second preceding fiscal year;

(C) determine the average cost of attendance for all graduate and professional students;

(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category;

(F) add the amounts determined under subparagraph (E) for each income category.

(4)(A) For purposes of paragraphs (2) and (3), the term ''average cost of attendance'' means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to 150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

(d) Anticipated collections

(1) An institution's anticipated collections are equal to the amount which was collected during the second year preceding the beginning of the award period, multiplied by 1.21.

(2) The Secretary shall establish an appeals process by which the anticipated collections required in paragraph (1) may be waived for institutions with low cohort default rates in the program assisted under this part.

(e) Default penalties

(1) Years preceding fiscal year 2000

For any fiscal year preceding fiscal year 2000, any institution with a cohort default rate that—

(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations prescribed by the Secretary, except that such plan shall not be required with respect to an institution that has a default rate of less than 20 percent and that has less than 100 students who have loans under this part in such academic year;

(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

(D) equals or exceeds 30 percent shall have a default penalty of zero.

(2) Years following fiscal year 2000

For fiscal year 2000 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (g) of this section) that equals or exceeds 25 percent shall have a default penalty of zero.

(3) Ineligibility

(A) In general

For fiscal year 2000 and any succeeding fiscal year, any institution with a cohort default rate (as defined in subsection (g) of this section) that equals or exceeds 50 percent for each of the 3 most recent years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and the 2 succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after the submission of the appeal. Such decision may permit the institution to continue to participate in a program under this part if—

(i) the institution demonstrates to the satisfaction of the Secretary that the calculation of the institution's cohort default rate is not accurate, and that recalculation would reduce the institution's cohort default rate for any of the 3 fiscal years below 50 percent; or

(ii) there are, in the judgment of the Secretary, such a small number of borrowers entering repayment that the application of this subparagraph would be inequitable.

(B) Continued participation

During an appeal under subparagraph (A), the Secretary may permit the institution to continue to participate in a program under this part.

(C) Return of funds

Within 90 days after the date of any termination pursuant to subparagraph (A), or the conclusion of any appeal pursuant to subparagraph (B), whichever is later, the balance of the student loan fund established under this part by the institution that is the subject of the termination shall be distributed as follows:

(i) The Secretary shall first be paid an amount which bears the same ratio to such balance (as of the date of such distribution) as the total amount of Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal capital contributions and the capital contributions to such fund made by the institution.

(ii) The remainder of such student loan fund shall be paid to the institution.

(D) Use of returned funds

Any funds returned to the Secretary under this paragraph shall be reallocated to institutions of higher education pursuant to subsection (i) of this section.

(E) Definition

For the purposes of subparagraph (A), the term ''loss of eligibility'' shall be defined as

the mandatory liquidation of an institution's student loan fund, and assignment of the institution's outstanding loan portfolio to the Secretary.

(f) Applicable maximum cohort default rate

(1) Award years prior to 2000

For award years prior to award year 2000, the applicable maximum cohort default rate is 30 percent.

(2) Award year 2000 and succeeding award years

For award year 2000 and subsequent years, the applicable maximum cohort default rate is 25 percent.

(g) "Cohort default rate" defined

(1)(A) The term ''cohort default rate'' means, for any award year in which 30 or more current and former students at the institution enter repayment on loans under this part (received for attendance at the institution), the percentage of those current and former students who enter repayment on such loans (received for attendance at that institution) in that award year who default before the end of the following award year.

(B) For any award year in which less than 30 of the institution's current and former students enter repayment, the term ''cohort default rate'' means the percentage of such current and former students who entered repayment on such loans in any of the three most recent award years and who default before the end of the award year immediately following the year in which they entered repayment.

(C) A loan on which a payment is made by the institution of higher education, its owner, agency, contractor, employee, or any other entity or individual affiliated with such institution, in order to avoid default by the borrower, is considered as in default for the purposes of this subsection.

(D) In the case of a student who has attended and borrowed at more than one school, the student (and his or her subsequent repayment or default) is attributed to the school for attendance at which the student received the loan that entered repayment in the award year.

(E) In determining the number of students who default before the end of such award year, the institution, in calculating the cohort default rate, shall exclude—

(i) any loan on which the borrower has, after the time periods specified in paragraph (2)—

(I) voluntarily made 6 consecutive payments;

(II) voluntarily made all payments currently due;

(III) repaid in full the amount due on the loan; or

(IV) received a deferment or forbearance, based on a condition that began prior to such time periods;

(ii) any loan which has, after the time periods specified in paragraph (2), been rehabilitated or canceled; and

(iii) any other loan that the Secretary determines should be excluded from such determination.

(F) The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a cohort default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control or other means as determined by the Secretary.

(2) For purposes of calculating the cohort default rate under this subsection, a loan shall be considered to be in default—

(A) 240 days (in the case of a loan repayable monthly), or

(B) 270 days (in the case of a loan repayable quarterly),

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.

(h) Filing deadlines

The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(i) Reallocation of excess allocations

(1) In general

(A) If an institution of higher education returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate 80 percent of such returned portions to participating institutions in an amount not to exceed such participating institution's excess eligible amounts as determined under paragraph (2).

(B) For the purpose of this subsection, the term ''participating institution'' means an institution of higher education that—

(i) was a participant in the program assisted under this part in fiscal year 1999; and

(ii) did not receive an allocation under subsection (a) of this section in the fiscal year for which the reallocation determination is made.

(2) Excess eligible amount

For any participating institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under subsection (b)(3) of this section), divided by (ii) the sum of the eligible amounts of all participating institutions (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

(B) the amount required to be allocated to that institution under subsection (b) of this section.

(3) Remainder

The Secretary shall reallocate the remainder of such returned portions in accordance with regulations of the Secretary.

(4) Allocation reductions

If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing it is contrary to the interest of the program.

(Pub. L. 89–329, title IV, § 462, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1440; amended Pub. L. 100–50, § 13(a)–(d), June 3, 1987, 101 Stat. 348; Pub. L. 102–325, title IV, § 462, July 23, 1992, 106 Stat. 576; Pub. L. 103–208, § 2(f)(1)–(4), Dec. 20, 1993, 107 Stat. 2470, 2471; Pub. L. 105–244, title IV, § 462(a)(1), (2), (b)–(e), Oct. 7, 1998, 112 Stat. 1720–1723.)

PRIOR PROVISIONS

A prior section 1087bb, Pub. L. 89–329, title IV, § 462, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273; amended Pub. L. 96–374, title IV, § 448(a), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1443, 1503, provided for apportionment of appropriations among States, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, § 462(e)(1), inserted ''cohort'' before ''default'' in two places in concluding provisions.

Pub. L. 105–244, § 462(a)(2)(A)(ii), substituted ''subsection (f)'' for ''subsection (g)'' in concluding provisions.

Subsec. (a)(1)(A). Pub. L. 105–244, § 462(a)(1)(A), which directed the substitution of ''the amount received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year)'' for ''the amount of the Federal capital contribution allocated to such institution under this part for fiscal year 1985,'' was executed by making the substitution for text which read ''amount of Federal capital'' rather than ''amount of the Federal capital'', to reflect the probable intent of Congress.

Subsec. (a)(1)(B). Pub. L. 105–244, § 462(a)(2)(A)(i), substituted ''subsection (e)'' for ''subsection (f)''.

Subsec. (a)(2)(A), (B). Pub. L. 105–244, § 462(a)(1)(B)(i), substituted ''1999'' for ''1985'' in introductory provisions.

Subsec. (a)(2)(C)(i). Pub. L. 105–244, § 462(a)(1)(B)(ii), substituted ''2000'' for ''1986''.

Subsec. (a)(2)(D). Pub. L. 105–244, § 462(e)(1), inserted ''cohort'' before ''default'' in two places in concluding provisions.

Pub. L. 105–244, § 462(a)(2)(A)(iv), substituted ''subsection (f)'' for ''subsection (g)'' in concluding provisions.

Subsec. (a)(2)(D)(ii). Pub. L. 105–244, § 462(a)(2)(A)(iii), substituted ''subsection (e)'' for ''subsection (f)''.

Subsec. (b). Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (c) as (b).

Pub. L. 105–244, § 462(a)(2)(B), struck out heading and text of subsec. (b). Text read as follows: ''From one-quarter of the remainder of the amount appropriated pursuant to section 1087aa(b) of this title for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as—

''(1) the amount the eligible institution receives for such fiscal year under subsection (a) of this section, bears to

''(2) the amount all such institutions receive under such subsection (a) of this section.''

Subsec. (b)(2). Pub. L. 105–244, § 462(e)(2), inserted ''cohort'' before ''default'' in two places in concluding provisions.

Subsec. (b)(3). Pub. L. 105–244, § 462(e)(2), inserted ''cohort'' before ''default'' in two places in concluding provisions.

Subsec. (c). Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 105–244, § 462(a)(2)(C), substituted ''the remainder'' for ''three-quarters of the remainder''.

Subsec. (c)(2). Pub. L. 105–244, § 462(a)(2)(D), substituted ''subsection (f)'' for ''subsection (g)'' in concluding provisions.

Subsec. (c)(3). Pub. L. 105–244, § 462(b), in introductory provisions, struck out ''the Secretary, for academic year 1988–1989, shall use the procedures employed for academic year 1986–1987, and, for any subsequent academic years,'' after ''professional students,''.

Pub. L. 105–244, § 462(a)(2)(E)(iii), substituted ''subsection (f)'' for ''subsection (g)'' in concluding provisions.

Subsec. (c)(3)(A). Pub. L. 105–244, § 462(a)(2)(E)(i), substituted ''subsection (c)'' for ''subsection (d)''.

Subsec. (c)(3)(C). Pub. L. 105–244, § 462(a)(2)(E)(ii), substituted ''subsection (e)'' for ''subsection (f)''.

Subsec. (d). Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(2). Pub. L. 105–244, § 462(e)(3), inserted ''cohort'' before ''default''.

Subsec. (e). Pub. L. 105–244, § 462(c), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows:

''(1) For any fiscal year prior to fiscal year 1994, any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under subsection (g) of this section, the institution's default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one.

''(2) For fiscal year 1994 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (h) of this section) which—

''(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations issued by the Secretary;

''(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

''(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

''(D) equals or exceeds 30 percent shall have a default penalty of zero.''

Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (f) as (e). Former subsec. (e) redesignated (d).

Subsec. (f). Pub. L. 105–244, § 462(c), amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows:

''(1) For award years 1992 and 1993, the applicable maximum default rate is 15 percent.

''(2) For award year 1994 and subsequent years, the maximum cohort default rate is 30 percent.''

Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Subsec. (g). Pub. L. 105–244, § 462(d)(1), inserted heading and struck out former heading.

Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (g)(1). Pub. L. 105–244, § 462(d)(1), (2), redesignated par. (3) as (1), substituted ''The term'' for ''For award year 1994 and any succeeding award year, the term'' in subpar. (A), and struck out former par. (1) which read as follows: ''For any award year prior to award year 1994, for the purpose of this section, the default rate is computed by dividing—

''(A) the total principal amount of defaulted loans; by

''(B) the total principal amount of loans made under this part, less the principal amount of all loans made to borrowers who are eligible for deferment under section 1087dd(c)(2)(A)(i) of this title or are in a grace period preceding repayment.''

Subsec. (g)(1)(B). Pub. L. 105–244, § 462(d)(3)(A), (B), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: ''In determining the number of students who default before the end of such award year, the Secretary shall, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.''

Subsec. (g)(1)(C), (D). Pub. L. 105–244, § 462(d)(3)(B), redesignated subpars. (D) and (F) as (C) and (D), respectively. Former subpar. (C) redesignated (B).

Subsec. (g)(1)(E). Pub. L. 105–244, § 462(d)(3)(A), (C), added subpar. (E) and struck out former subpar. (E) which read as follows: ''Any loan that is in default but on which the borrower has made satisfactory arrangements to resume payment or any loan which has been rehabilitated before the end of such following award year is not considered as in default for purposes of this subsection.''

Subsec. (g)(1)(F). Pub. L. 105–244, § 462(d)(3)(B), (e)(4), redesignated subpar. (G) as (F) and inserted ''cohort'' before ''default''. Former subpar. (F) redesignated (D).

Subsec. (g)(1)(G). Pub. L. 105–244, § 462(d)(3)(B), redesignated subpar. (G) as (F).

Subsec. (g)(2). Pub. L. 105–244, § 462(d)(4), added par. (2).

Pub. L. 105–244, § 462(d)(1), struck out par. (2) which read as follows: ''For the purpose of paragraph (1)(A), the total principal amount of defaulted loans is equal to the total amount borrowed under loans that have reached repayment status and that are in default, minus—

''(A) amounts that have been repaid or cancelled on such loans;

''(B) loans discharged in bankruptcy;

''(C) loans referred or assigned to the Secretary for collection under paragraph (5)(A), (5)(B)(i), or (6) of section 1087cc(a) of this title; and

''(D) loans that are in default but on which the borrowers have made satisfactory arrangements to resume payment.''

Subsec. (g)(3). Pub. L. 105–244, § 462(d)(2), redesignated par. (3) as (1).

Subsec. (g)(4). Pub. L. 105–244, § 462(d)(4), struck out par. (4) which read as follows: ''A loan shall be considered to be in default—

''(A) 240 days (in the case of a loan repayable monthly), or

''(B) 270 days (in the case of a loan repayable quarterly), after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note,

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.''

Subsecs. (h), (i). Pub. L. 105–244, § 462(a)(2)(H), redesignated subsecs. (i) and (j) as (h) and (i), respectively. Former subsec. (h) redesignated (g).

Subsec. (j). Pub. L. 105–244, § 462(a)(2)(H), redesignated subsec. (j) as (i).

Subsec. (j)(1)(B)(i). Pub. L. 105–244, § 462(a)(2)(F), substituted ''1999'' for ''1985''.

Subsec. (j)(2)(A)(i). Pub. L. 105–244, § 462(a)(2)(G)(i), substituted ''subsection (b)(3)'' for ''paragraph (3) of subsection (c)''.

Subsec. (j)(2)(B). Pub. L. 105–244, § 462(a)(2)(G)(ii), substituted ''subsection (b)'' for ''subsection (c)''.

1993—Subsec. (a)(1), (2)(D). Pub. L. 103–208, § 2(f)(1), substituted ''if the institution has'' for ''if the institution which has'' in closing provisions.

Subsec. (d)(4)(C). Pub. L. 103–208, § 2(f)(2), substituted ''150 percent of the difference between the income protection allowance for a family of five with one in college and the income protection allowance for a family of six with one in college'' for ''three-fourths in the Pell Grant family size offset''.

Subsecs. (e)(2), (h)(4)(B). Pub. L. 103–208, § 2(f)(3), (4), realigned margins.

1992—Subsec. (a)(1)(A). Pub. L. 102–325, § 462(a), substituted ''allocated to such institution'' for ''such institution received''.

Subsec. (e). Pub. L. 102–325, § 462(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (f). Pub. L. 102–325, § 462(c), substituted ''default reduction and default penalties'' for ''Default penalty'' in heading and amended text generally. Prior to amendment, text read as follows: ''For any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under subsection (g) of this section, the institution's default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one.''

Subsec. (g). Pub. L. 102–325, § 462(d), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows:

''(1) For award years 1988, 1989, and 1990, the applicable maximum default rate is 20 percent.

''(2) For award year 1991 and subsequent years, the applicable maximum default rate is 15 percent.''

Subsec. (h). Pub. L. 102–325, § 462(e), substituted ''Definitions of default rate and cohort default rate'' for ''Definition of default rate'' in heading, in par. (1) substituted ''For any award year prior to award year 1994, for the purpose'' for ''For the purpose'', added par. (3), redesignated former par. (3) as (4), substituted ''240'' for ''120'' in par. (4)(A), and amended par. (4)(B) generally. Prior to amendment, par. (4)(B) read as follows: ''180 days (in the case of a loan repayable quarterly),''.

Subsec. (j). Pub. L. 102–325, § 462(f), amended subsec. (j) generally. Prior to amendment, subsec. (j) read as follows: ''If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.''

1987—Subsec. (a)(1)(A). Pub. L. 100–50, § 13(a), amended subpar. (A) generally, substituting ''of Federal capital contribution such institution received'' for ''such institution expended''.

Subsec. (d)(3), (4). Pub. L. 100–50, § 13(b), redesignated par. (3), defining ''average cost of attendance'' and calculating average undergraduate and graduate and professional tuition and fees, standard living expenses, and allowance for books and supplies, as (4).

Subsec. (e). Pub. L. 100–50, § 13(c), struck out ''; cash on hand'' after ''collections'' in heading.

Subsec. (f). Pub. L. 100–50, § 13(d), substituted ''subsection (g) of this section'' for ''paragraph (2)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, title IV, § 462(a)(3), Oct. 7, 1998, 112 Stat. 1721, provided that: ''The amendments made by this subsection [amending this section] shall apply with respect to allocations of amounts appropriated pursuant to section 461(b) [20 U.S.C. 1087aa(b)] for fiscal year 2000 or any succeeding fiscal year.''

Amendment by section 462(b)–(e) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section applicable with respect to academic year 1988-1989 and succeeding academic years, see section 405(b) of Pub. L. 99–498, as amended, set out as a note under section 1087dd of this title.

§ 1087cc. Agreements with institutions of higher education

(a) Contents of agreements

An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

(2) provide for the deposit in such fund of—

(A) Federal capital contributions from funds appropriated under section 1087aa of this title;

(B) a capital contribution by an institution in an amount equal to one-third of the Federal capital contributions described in subparagraph (A);

(C) collections of principal and interest on student loans made from deposited funds;

(D) charges collected pursuant to regulations under section 1087dd(c)(1)(H) of this title; and

(E) any other earnings of the funds;

(3) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part;

(B) administrative expenses, as provided in subsection (b) of this section;

(C) capital distributions, as provided in section 1087ff of this title; and

(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 1087dd(c)(1)(H) of this title;

(4) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

(ii) apportion any sums collected on such a loan, less an amount not to exceed 30 percent of any sums collected to cover the Secretary's collection costs, among other institutions in accordance with section 1087bb of this title; or

(B) if the institution is not one described in subparagraph (A), the Secretary may—

(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 1087bb of this title; or

(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;

(5) provide that, if an institution of higher education determines not to service and collect student loans made available from funds under this part, the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from such funds to the Secretary and the Secretary shall apportion any sums collected on such notes or obligations (less an amount not to exceed 30 percent of any such sums collected to cover that Secretary's collection costs) among other institutions in accordance with section 1087bb of this title;

(6) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived;

(7) provide assurances that the institution will comply with the provisions of section 1087cc–1 of this title;

(8) provide that the institution of higher education will make loans first to students with exceptional need; and

(9) include such other reasonable provisions as may be necessary to protect the United States from unreasonable risk of loss and as are agreed to by the Secretary and the institution.

(b) Administrative expenses

An institution which has entered into an agreement under subsection (a) of this section shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 1096 of this title.

(c) Cooperative agreements with credit bureau organizations

(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary and each institution of higher education participating in the program under this part shall enter into cooperative agreements with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 1087gg of this title and regarding loans held by the Secretary or an institution.

(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with the requirements of section 1080a of this title except that such agreement shall provide for the disclosure by the Secretary or an institution, as the case may be, to such organizations, with respect to any loan held by the Secretary or the institution, respectively, of—

(A) the date of disbursement and the amount of such loans made to any borrower under this part at the time of disbursement of the loan;

(B) information concerning the repayment and collection of any such loan, including in-

formation concerning the status of such loan; and

(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan, or upon cancellation or discharge of the borrower's obligation on the loan for any reason.

(3) Notwithstanding paragraphs (4) and (6)[1] of subsection (a) of section 1681c of title 15, a consumer reporting agency may make a report containing information received from the Secretary or an institution regarding the status of a borrower's account on a loan made under this part until the loan is paid in full.

(4)(A) Except as provided in subparagraph (B), an institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any credit bureau organization with which the Secretary has such an agreement the information set forth in paragraph (2), and shall disclose promptly to such credit bureau organization any changes to the information previously disclosed.

(B) The Secretary may promulgate regulations establishing criteria under which an institution of higher education may cease reporting the information described in paragraph (2) before a loan is paid in full.

(5) Each institution of higher education shall notify the appropriate credit bureau organizations whenever a borrower of a loan that is made and held by the institution and that is in default makes 6 consecutive monthly payments on such loan, for the purpose of encouraging such organizations to update the status of information maintained with respect to that borrower.

(d) Limitation on use of interest bearing accounts

In carrying out the provisions of subsection (a)(9) of this section, the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

(e) Special due diligence rule

In carrying out the provisions of subsection (a)(5)[1] of this section relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.

(Pub. L. 89–329, title IV, § 463, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1444; amended Pub. L. 100–50, § 13(e), (f), June 3, 1987, 101 Stat. 349; Pub. L. 102–325, title IV, § 463(a), (b), July 23, 1992, 106 Stat. 579; Pub. L. 103–208, § 2(f)(5)–(7), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105–244, title IV, § 463, Oct. 7, 1998, 112 Stat. 1724.)

REFERENCES IN TEXT

Paragraph (6) of subsection (a) of section 1681c of title 15, referred to in subsec. (c)(3), was redesignated paragraph (5) of subsection (a) of section 1681c of title 15 by Pub. L. 105–347, § 5(4), Nov. 2, 1998, 112 Stat. 3211.

[1] See References in Text note below.

Subsection (a)(5) of this section relating to due diligence, referred to in subsec. (e), was redesignated subsec. (a)(4), by Pub. L. 105–244, title IV, § 463(a)(3), Oct. 7, 1998, 112 Stat. 1724.

PRIOR PROVISIONS

A prior section 1087cc, Pub. L. 89–329, title IV, § 463, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 274; amended Pub. L. 94–482, title I, § 130(c), Oct. 12, 1976, 90 Stat. 2146; Pub. L. 96–374, title IV, §§ 442(b)(1)–(4), 445(a), (b)(1), 447(a), 448(b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1439, 1440, 1442, 1443, 1503; Pub. L. 99–272, title XVI, §§ 16025, 16026, Apr. 7, 1986, 100 Stat. 352, 353, related to agreements with institutions of higher education, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a)(2)(B). Pub. L. 105–244, § 463(a)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''a capital contribution—

''(i) by an institution that—

''(I) is granted permission by the Secretary to participate in an Expanded Lending Option under the program, and

''(II) has a default rate which does not exceed 7.5 percent for award year 1993–1994 and has a cohort default rate which does not exceed 15 percent for award year 1994–1995 or for any succeeding award year,

in an amount not less than the amount of the Federal capital contributions described in subparagraph (A); or

''(ii) by any other institution, in an amount not less than three-seventeenths of such Federal capital contribution in fiscal year 1993, and one-third of such Federal capital contribution in each of the succeeding fiscal years, of the amount of the Federal capital contributions described in subparagraph (A);''.

Subsec. (a)(4) to (10). Pub. L. 105–244, § 463(a)(2), (3), redesignated pars. (5) to (10) as (4) to (9), respectively, and struck out former par. (4) which read as follows: ''provide that where a note or written agreement evidencing a note has been in default for (A) 120 days, in the case of a loan which is repayable in monthly installments, or (B) 180 days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Secretary in an annual report describing the total number of loans from such fund which are in such default;''.

Subsec. (c)(1). Pub. L. 105–244, § 463(b)(1), substituted ''the Secretary and each institution of higher education participating in the program under this part shall'' for ''the Secretary shall'' and inserted ''and regarding loans held by the Secretary or an institution'' after ''section 1087gg of this title''.

Subsec. (c)(2). Pub. L. 105–244, § 463(b)(2)(A), in introductory provisions, substituted ''by the Secretary or an institution, as the case may be, to such organizations, with respect to any loan held by the Secretary or the institution, respectively, of—'' for ''by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—''.

Subsec. (c)(2)(A). Pub. L. 105–244, § 463(b)(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the date of disbursement and the amount of any such loan;''.

Subsec. (c)(2)(B). Pub. L. 105–244, § 463(b)(2)(C), inserted ''the repayment and'' after ''concerning'' and substituted ''status of such'' for ''status of any defaulted''.

Subsec. (c)(2)(C). Pub. L. 105–244, § 463(b)(2)(D), inserted '', or upon cancellation or discharge of the borrower's obligation on the loan for any reason'' before period at end.

Subsec. (c)(3). Pub. L. 105–244, § 463(b)(3)(A), in introductory provisions, inserted ''or an institution'' after ''from the Secretary'' and substituted ''until the loan is paid in full.'' for ''until—''.

Subsec. (c)(3)(A), (B). Pub. L. 105–244, § 463(b)(3)(B), struck out subpars. (A) and (B) which read as follows:

''(A) 7 years from the date on which the Secretary accepted an assignment or referral of a loan, or

''(B) 7 years from the date the Secretary first reports the account to a consumer reporting agency.''

Subsec. (c)(4). Pub. L. 105–244, § 463(b)(4), amended par. (4) generally. Prior to amendment, par. (4) read as follows: ''Each institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any credit bureau organization with which the Secretary has such an agreement—

''(A) the amount of loans made to any borrower under this part at the time of the disbursement of the loan; and

''(B) the information set forth in section 1080a(a) of this title.''

Subsec. (c)(5). Pub. L. 105–244, § 463(b)(4), added par. (5).

Subsec. (d). Pub. L. 105–244, § 463(c), substituted ''subsection (a)(9)'' for ''subsection (a)(10)''.

1993—Subsec. (a)(2)(B)(i)(II). Pub. L. 103–208, § 2(f)(5), substituted ''7.5 percent for award year 1993–1994 and has a cohort default rate which does not exceed 15 percent for award year 1994–1995 or for any succeeding award year'' for ''7.5 percent''.

Subsec. (c)(4). Pub. L. 103–208, § 2(f)(6), substituted ''shall disclose at least annually'' for ''shall disclose'' in introductory provisions.

Subsecs. (d), (e). Pub. L. 103–208, § 2(f)(7), added subsecs. (d) and (e).

1992—Subsec. (a)(2)(B). Pub. L. 102–325, § 463(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);''.

Subsec. (c)(3)(B). Pub. L. 102–325, § 463(b)(1), struck out '', if that account has not been previously reported by any other holder of the note'' after ''agency''.

Subsec. (c)(4). Pub. L. 102–325, § 463(b)(2), added par. (4).

1987—Subsec. (a)(4). Pub. L. 100–50, § 13(e), substituted ''in an annual report'' for ''in a report'' and struck out '', and made to the Secretary at least semiannually'' after ''in such default''.

Subsec. (b). Pub. L. 100–50, § 13(f), substituted ''section 1096 of this title'' for ''section 1092 of this title''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective July 23, 1992, except that changes made in subsec. (a)(2)(B), relating to the matching of Federal capital contributions, applicable to funds provided for such program for award years beginning on or after July 1, 1993, see section 468 of Pub. L. 102–325, set out as a note under section 1087dd of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsection (a)(9) of this section applicable only to loans made for periods of enrollment beginning on or after July 1, 1987, see section 405(b) of Pub. L. 99–498, set out as a note under section 1087dd of this title.

§ 1087cc–1. Student loan information by eligible institutions

(a) Disclosure required prior to disbursement

Each institution of higher education, in order to carry out the provisions of section 1087cc(a)(8)[1] of this title, shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the principal amount of the loan;

(3) the amount of any charges collected by the institution at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) the stated interest rate on the loan;

(5) the yearly and cumulative maximum amounts that may be borrowed;

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(7) a statement as to the minimum and maximum repayment term which the institution may impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan;

(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to the Department of Defense educational loan repayment program (10 U.S.C. 16302);

(11) a definition of default and the consequences to the borrower if the borrower defaults, together with a statement that the disbursement of, and the default on, a loan under this part, shall be reported to a credit bureau or credit reporting agency;

[1] See References in Text note below.

(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(13) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) Disclosure required prior to repayment

Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) Costs and effects of disclosures

Such information shall be available without cost to the borrower. The failure of an eligible institution to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary to make payments with respect to such loan.

(Pub. L. 89–329, title IV, § 463A, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1446; amended Pub. L. 100–50, § 13(g), (h), June 3, 1987, 101 Stat. 349; Pub. L. 102–325, title IV, § 463(c), July 23, 1992, 106 Stat. 579; Pub. L. 103–208, § 2(f)(8), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 104–106, div. A, title XV, § 1501(e)(4), Feb. 10, 1996, 110 Stat. 501.)

REFERENCES IN TEXT

Section 1087cc(a) of this title, referred to in subsec. (a), was amended by Pub. L. 105–244, title IV, § 463(a)(3), Oct. 7, 1998, 112 Stat. 1724, which redesignated pars. (8) and (9) as (7) and (8), respectively.

PRIOR PROVISIONS

A prior section 1087cc–1, Pub. L. 89–329, title IV, § 463A, as added Pub. L. 96–374, title IV, § 447(b), Oct. 3, 1980, 94 Stat. 1443; amended Pub. L. 97–301, § 13, Oct. 13, 1982, 96 Stat. 1405; Pub. L. 98–79, § 3(b), Aug. 15, 1983, 97 Stat. 478; Pub. L. 99–272, title XVI, § 16027, Apr. 7, 1986, 100 Stat. 353, related to student loan information to be provided by institutions, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1996—Subsec. (a)(10). Pub. L. 104–106 substituted ''(10 U.S.C. 16302)'' for ''(10 U.S.C. 2172)''.

1993—Subsecs. (d), (e). Pub. L. 103–208 struck out subsecs. (d) and (e), which read as follows:

''(d) LIMITATION ON USE OF INTEREST BEARING ACCOUNTS.—In carrying out the provisions of subsection (a)(10) of this section, the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

''(e) SPECIAL DUE DILIGENCE RULE.—In carrying out the provisions of subsection (a)(5) of this section relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.''

1992—Subsec. (a)(11). Pub. L. 102–325, § 463(c)(1), substituted ''together with a statement that the disbursement of, and the default on, a loan under this part, shall be'' for ''including a statement that the default may be''.

Subsecs. (d), (e). Pub. L. 102–325, § 463(c)(2), added subsecs. (d) and (e).

1987—Subsec. (a)(8). Pub. L. 100–50, § 13(g), added par. (8) and struck out former par. (8) which read as follows: ''a statement of the total cumulative balance owed by the student to that institution, the projected level of indebtedness of the student based on a 2- or 4-year college career, and an estimate of the projected monthly repayment given the level of indebtedness over a 2-, 4-, or 5-year college career;''.

Subsec. (a)(10). Pub. L. 100–50, § 13(h), substituted ''the Department of Defense educational loan repayment program (10 U.S.C. 2172)'' for ''section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note)''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103–337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104–106, set out as a note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section applicable only to loans made for periods of enrollment beginning on or after July 1, 1987, see section 405(b) of Pub. L. 99–498, as amended, set out as a note under section 1087dd of this title.

§ 1087dd. Terms of loans

(a) Terms and conditions

(1) Loans from any student loan fund established pursuant to an agreement under section 1087cc of this title to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

(i) $4,000, in the case of a student who has not successfully completed a program of undergraduate education; or

(ii) $6,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

(B) Except as provided in paragraph (4), the aggregate unpaid principal amount for all loans made to a student by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

(i) $40,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary, and including any loans from such funds made to such person before such person became a graduate or professional student);

(ii) $20,000, in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree but who has not completed the work necessary for such a degree (determined under regulations issued by the Secretary), and including any loans from such funds made to such person before such person became such a student; and

(iii) $8,000, in the case of any other student.

(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

(4) In the case of a program of study abroad that is approved for credit by the home institution at which a student is enrolled and that has reasonable costs in excess of the home institution's budget, the annual and aggregate loan limits for the student may exceed the amounts described in paragraphs (2)(A) and (2)(B) by 20 percent.

(b) Demonstration of need and eligibility required

(1) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with part E of this subchapter, who meets the requirements of section 1091 of this title, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan. A student who is in default on a loan under this part shall not be eligible for an additional loan under this part unless such loan meets one of the conditions for exclusion under section 1087bb(g)(1)(E) of this title.

(2) If the institution's capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, or (B) independent students, then a reasonable portion of the loans made from the institution's student loan fund containing the contribution shall be made available to such students.

(c) Contents of loan agreement

(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending 10 years and 9 months after such date except that such period may begin earlier than 9 months after such date upon the request of the borrower;

(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

(C)(i) may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $40 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $40 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph; and

(ii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of 5 percent per year in the case of

any loan made on or after October 1, 1981, except that no interest shall accrue (I) prior to the beginning date of repayment determined under paragraph (2)(A)(i), or (II) during any period in which repayment is suspended by reason of paragraph (2);

(E) shall provide that the loan shall be made without security and without endorsement;

(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Secretary;

(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 1087cc(a)(6)[1] of this title;

(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this subparagraph shall exceed 20 percent of the amount of the monthly payment of the borrower; and

(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 1087cc(c) of this title.

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period—

(i) during which the borrower—

(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part while serving in a medical internship or residency program;

(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 1085(*o*) of this title, has caused or will cause the borrower to have an economic hardship; or

(iv) during which the borrower is engaged in service described in section 1087ee(a)(2) of this title;

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (A) of paragraph (1).

(B) No repayment of principal of, or interest on, any loan for any period described in subparagraph (A) shall begin until 6 months after the completion of such period.

(C) An individual with an outstanding loan balance who meets the eligibility criteria for a deferment described in subparagraph (A) as in effect on October 7, 1998, shall be eligible for deferment under this paragraph notwithstanding any contrary provision of the promissory note under which the loan or loans were made, and notwithstanding any amendment (or effective date provision relating to any amendment) to this section made prior to the date of such deferment.

(3)(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the 10-year maximum repayment period provided for in subparagraph (A) of paragraph (1) with respect to individual loans.

(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed 10 years and the repayment schedule may be adjusted to reflect the income of that individual.

(4) The repayment period for a loan made under this part shall begin on the day immediately following the expiration of the period, specified in paragraph (1)(A), after the student ceases to carry the required academic workload, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment, forbearance, or cancellation.

(5) The institution may elect—

(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.

(6) Requests for deferment of repayment of loans under this part by students engaged in graduate or post-graduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.

(7) There shall be excluded from the 9-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload (as described in paragraph (1)(A)) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10 is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period.

(d) Availability of loan fund to all eligible students

An agreement under this part for payment of Federal capital contributions shall include pro-

[1] See References in Text note below.

visions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

(e) Forbearance

The Secretary shall ensure that, upon written request, an institution of higher education shall grant a borrower forbearance of principal and interest or principal only, renewable at 12-month intervals for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations issued by the Secretary and agreed upon in writing by the parties to the loan, if—

(1) the borrower's debt burden equals or exceeds 20 percent of such borrower's gross income;

(2) the institution determines that the borrower should qualify for forbearance for other reasons; or

(3) the borrower is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10 and, pursuant to that eligibility, the interest on such loan is being paid under subsection (j) of this section, except that the form of a forbearance under this paragraph shall be a temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (j) of this section.

(f) Special repayment rule authority

(1) Subject to such restrictions as the Secretary may prescribe to protect the interest of the United States, in order to encourage repayment of loans made under this part which are in default, the Secretary may, in the agreement entered into under this part, authorize an institution of higher education to compromise on the repayment of such defaulted loans in accordance with paragraph (2). The Federal share of the compromise repayment shall bear the same relation to the institution's share of such compromise repayment as the Federal capital contribution to the institution's loan fund under this part bears to the institution's capital contribution to such fund.

(2) No compromise repayment of a defaulted loan as authorized by paragraph (1) may be made unless the student borrower pays—

(A) 90 percent of the loan under this part;

(B) the interest due on such loan; and

(C) any collection fees due on such loan;

in a lump sum payment.

(g) Discharge

(1) In general

If a student borrower who received a loan made under this part on or after January 1, 1986, is unable to complete the program in which such student is enrolled due to the closure of the institution, then the Secretary shall discharge the borrower's liability on the loan (including the interest and collection fees) and shall subsequently pursue any claim available to such borrower against the institution and the institution's affiliates and principals, or settle the loan obligation pursuant to the financial responsibility standards described in section 1099c(c) of this title.

(2) Assignment

A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund in an amount that does not exceed the amount discharged against the institution and the institution's affiliates and principals.

(3) Eligibility for additional assistance

The period during which a student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) Special rule

A borrower whose loan has been discharged pursuant to this subsection shall not be precluded, because of that discharge, from receiving additional grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for which the borrower would be otherwise eligible (but for the default on the discharged loan). The amount discharged under this subsection shall be treated as an amount canceled under section 1087ee(a) of this title.

(5) Reporting

The Secretary or institution, as the case may be, shall report to credit bureaus with respect to loans that have been discharged pursuant to this subsection.

(h) Rehabilitation of loans

(1) Rehabilitation

(A) In general

If the borrower of a loan made under this part who has defaulted on the loan makes 12 ontime, consecutive, monthly payments of amounts owed on the loan, as determined by the institution, or by the Secretary in the case of a loan held by the Secretary, the loan shall be considered rehabilitated, and the institution that made that loan (or the Secretary, in the case of a loan held by the Secretary) shall request that any credit bureau organization or credit reporting agency to which the default was reported remove the default from the borrower's credit history.

(B) Comparable conditions

As long as the borrower continues to make scheduled repayments on a loan rehabilitated under this paragraph, the rehabilitated loan shall be subject to the same terms and conditions, and qualify for the same benefits and privileges, as other loans made under this part.

(C) Additional assistance

The borrower of a rehabilitated loan shall not be precluded by section 1091 of this title from receiving additional grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title

42 (for which the borrower is otherwise eligible) on the basis of defaulting on the loan prior to such rehabilitation.

(D) Limitations

A borrower only once may obtain the benefit of this paragraph with respect to rehabilitating a loan under this part.

(2) Restoration of eligibility

If the borrower of a loan made under this part who has defaulted on that loan makes 6 ontime, consecutive, monthly payments of amounts owed on such loan, the borrower's eligibility for grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be restored to the extent that the borrower is otherwise eligible. A borrower only once may obtain the benefit of this paragraph with respect to restored eligibility.

(i) Incentive repayment program

(1) In general

Each institution of higher education may establish, with the approval of the Secretary, an incentive repayment program designed to reduce default and to replenish student loan funds established under this part. Each such incentive repayment program may—

(A) offer a reduction of the interest rate on a loan on which the borrower has made 48 consecutive, monthly repayments, but in no event may the rate be reduced by more than 1 percent;

(B) provide for a discount on the balance owed on a loan on which the borrower pays the principal and interest in full prior to the end of the applicable repayment period, but in no event may the discount exceed 5 percent of the unpaid principal balance due on the loan at the time the early repayment is made; and

(C) include such other incentive repayment options as the institution determines will carry out the objectives of this subsection.

(2) Limitation

No incentive repayment option under an incentive repayment program authorized by this subsection may be paid for with Federal funds, including any Federal funds from the student loan fund, or with institutional funds from the student loan fund.

(j) Armed Forces student loan interest payment program

(1) Authority

Using funds received by transfer to the Secretary under section 2174 of title 10 for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) Forbearance

During the period in which the Secretary is making payments on a loan under paragraph (1), the institution of higher education shall grant the borrower forbearance in accordance with subsection (e)(3) of this section.

(Pub. L. 89–329, title IV, § 464, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1448; amended Pub. L. 100–50, § 13(i), June 3, 1987, 101 Stat. 349; Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 101–239, title II, § 2002(a)(3), Dec. 19, 1989, 103 Stat. 2111; Pub. L. 102–325, title IV, § 464, July 23, 1992, 106 Stat. 580; Pub. L. 103–208, § 2(f)(9)–(11), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105–244, title IV, § 464, Oct. 7, 1998, 112 Stat. 1725; Pub. L. 107–314, div. A, title VI, § 651(d), Dec. 2, 2002, 116 Stat. 2580.)

REFERENCES IN TEXT

Section 1087cc(a) of this title, referred to in subsec. (c)(1)(G), was amended by Pub. L. 105–244, title IV, § 463(a)(3), Oct. 7, 1998, 112 Stat. 1724, which redesignated pars. (6) and (7) as (5) and (6), respectively.

PRIOR PROVISIONS

A prior section 1087dd, Pub. L. 89–329, title IV, § 464, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 275; amended Pub. L. 94–482, title I, § 130(d)–(g)(1), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 95–43, § 1(a)(39), June 15, 1977, 91 Stat. 217; Pub. L. 96–374, title IV, §§ 442(b)(5), 443, 444, 445(b)(2), 446, 448(c), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1440–1443, 1503; Pub. L. 97–35, title V, § 539, Aug. 13, 1981, 95 Stat. 458; Pub. L. 99–272, title XVI, § 16028, Apr. 7, 1986, 100 Stat. 353, related to terms and conditions of loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2002—Subsec. (e)(3). Pub. L. 107–314, § 651(d)(1), added par. (3).

Subsec. (j). Pub. L. 107–314, § 651(d)(2), added subsec. (j).

1998—Subsec. (a)(2). Pub. L. 105–244, § 464(a), amended par. (2) generally. Prior to amendment, par. (2) related to limitations on the total of loans that could be made to a student by an institution of higher education from a loan fund established pursuant to an agreement under this part.

Subsec. (b)(1). Pub. L. 105–244, § 464(b)(1), inserted at end ''A student who is in default on a loan under this part shall not be eligible for an additional loan under this part unless such loan meets one of the conditions for exclusion under section 1087bb(g)(1)(E) of this title.''

Subsec. (b)(2). Pub. L. 105–244, § 464(b)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''If the institution's capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, or (B) independent students, and if the total financial need of all such less than full-time and independent students at the institution exceeds 5 percent of the total financial need of all students at such institution, then at least 5 percent of such loans shall be made available to such less than full-time and independent students.''

Subsec. (c)(1)(D). Pub. L. 105–244, § 464(c)(1), struck out ''(i) 3 percent per year, (ii) 4 percent per year in the case of any loan made on or after July 1, 1981, or (iii)'' after ''at the rate of'' and substituted ''paragraph (2)(A)(i)'' for ''subparagraph (A)(i)''.

Subsec. (c)(2)(A). Pub. L. 105–244, § 464(c)(2), substituted ''subparagraph (A) of paragraph (1)'' for ''subparagraph (B)'' in concluding provisions.

Subsec. (c)(2)(C). Pub. L. 105–244, § 464(c)(3), added subpar. (C).

Subsec. (c)(7). Pub. L. 105–244, § 464(c)(4), added par. (7).

Subsecs. (g) to (i). Pub. L. 105–244, § 464(d), added subsecs. (g) to (i).

1993—Subsec. (c)(2)(B). Pub. L. 103–208, § 2(f)(9), substituted ''repayment of'' for ''repayment or''.

Subsec. (c)(6). Pub. L. 103–208, § 2(f)(10), substituted ''Fulbright'' for ''Fullbright''.

Subsec. (e). Pub. L. 103–208, § 2(f)(11), substituted ''principal'' for ''principle'' before ''only''.

1992—Subsec. (a)(2). Pub. L. 102–325, § 464(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

''(A) $18,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

''(B) $9,000 in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

''(C) $4,500 in the case of any other student.''

Subsec. (a)(4). Pub. L. 102–325, § 464(b), added par. (4).

Subsec. (b)(1). Pub. L. 102–325, § 464(c)(1), substituted ''this subchapter, who meets the requirements of section 1091 of this title, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan'' for ''this subchapter and who meets the requirements of section 1091 of this title''.

Subsec. (b)(2). Pub. L. 102–325, § 464(c)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''If the institution's Federal capital contribution under section 1087bb of this title is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the loans under this part shall be made available to such students.''

Subsec. (c)(1)(C)(i). Pub. L. 102–325, § 464(d), substituted ''$40'' for ''$30'' in two places.

Subsec. (c)(1)(E). Pub. L. 102–325, § 464(e), struck out ''unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation,'' before ''shall provide''.

Subsec. (c)(2)(A). Pub. L. 102–325, § 464(f), amended subpar. (A) generally, revising and restating as cls. (i) to (iv) provisions formerly contained in cls. (i) to (ix).

Subsec. (c)(2)(B), (C). Pub. L. 102–325, § 464(g)(1), added subpar. (B) and struck out former subpars. (B) and (C) which read as follows:

''(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the 10-year maximum period provided for in subparagraph (A) of paragraph (1).

''(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until 6 months after the completion of such period of study, service, disability, or combination thereof.''

Subsec. (c)(4) to (6). Pub. L. 102–325, § 464(g)(2)–(4), added par. (4), redesignated former par. (4) as (5), and added par. (6).

Subsecs. (e), (f). Pub. L. 102–325, § 464(h), added subsecs. (e) and (f).

1989—Subsec. (c)(2)(A)(i). Pub. L. 101–239 inserted before semicolon at end '', except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under section 1078–2 or 1078–3 of this title), while serving in a medical internship or residency program''.

1988—Subsec. (c)(2)(A)(v). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (c)(2)(A)(vi). Pub. L. 100–50 inserted ''or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training'' before semicolon at end.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–314 applicable with respect to interest, and any special allowance under section 1087–1 of this title, that accrue for months beginning on or after Oct. 1, 2003, on student loans described in section 2174(c) of Title 10, Armed Forces, that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of Title 10) on or after that date, see section 651(e) of Pub. L. 107–314, set out as an Effective Date note under section 2174 of Title 10.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 468 of Pub. L. 102–325, as amended by Pub. L. 102–394, title III, § 307(a), Oct. 6, 1992, 106 Stat. 1820, provided that: ''The changes made in part E of title IV of the Act [20 U.S.C. 1087aa et seq.] by the amendments made by this part [part E (§§ 461–468) of title IV of Pub. L. 102–325, enacting section 1087ii of this title and amending sections 1087aa to 1087gg of this title] shall take effect on the date of enactment of this Act [July 23, 1992], except that—

''(1) the changes in section 463(a)(2)(B) [20 U.S.C. 1087cc(a)(2)(B)], relating to the matching of Federal capital contributions, shall apply to funds provided for such program for the award years beginning on or after July 1, 1993;

''(2) the changes made in section 464(c)(1)(C) [20 U.S.C. 1087dd(c)(1)(C)], relating to minimum monthly payments shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992, to an individual who, on the date the loan is made, has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act;

''(3) the changes made in section 464(c)(2)(A), relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;

''(4) the changes made in section 467 [20 U.S.C. 1087gg], relating to the creation of a Perkins Loan Revolving Fund, shall take effect on September 15, 1997; and

''(5) the changes in section 464(a)(2)(A), (B) and (C) shall not apply to any loan made for the award year beginning July 1, 1992 provided that the loan does not result in a violation of section 464(a)(2)(A), (B) and (C) as in effect prior to such date of enactment.''

[Pub. L. 102–394, title III, § 307(b), Oct. 6, 1992, 106 Stat. 1820, provided that: ''The amendments made by subsection (a) [amending section 468 of Pub. L. 102–325, set out above] shall take effect as if enacted on July 23, 1992.'']

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 applicable to any loan made, insured, or guaranteed under this part or part B of this subchapter, including a loan made before Dec. 19, 1989, and amendment effective Jan. 1, 1990, but inap-

plicable with respect to any portion of a period of deferment granted to a borrower under section 1077(a)(2)(C)(i), 1078(b)(1)(M)(i), or 1087dd(c)(2)(A)(i) of this title for service in a medical internship or residency program completed prior to Dec. 19, 1989, see section 2002(a)(4) of Pub. L. 101–239, set out as a note under section 1077 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Section 405(b) of Pub. L. 99–498, as amended by Pub. L. 100–50, § 22(d), June 3, 1987, 101 Stat. 361, provided that:

''(1) Section 462 of the Act [20 U.S.C. 1087bb] shall apply with respect to academic year 1988-1989 and succeeding academic years.

''(2) The changes made in sections 464(c)(1)(A), 464(c)(2), and 465(a)(2)(E) of the Act [20 U.S.C. 1087dd(c)(1)(A), (2), 1087ee(a)(2)(E)] shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date.

''(3) Section 463(a)(9) and section 463A of the Act [20 U.S.C. 1087cc(a)(9), 1087cc–1] as amended by this section shall apply only to loans made for periods of enrollment beginning on or after July 1, 1987.

''(4) For the purpose of this subsection, the term 'new borrower' means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act [this part].''

§ 1087ee. Cancellation of loans for certain public service

(a) Cancellation of percentage of debt based on years of qualifying service

(1) The percent specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

(A) as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], and which for the purpose of this paragraph and for that year has been determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965[1] exceeds 30 percent of the total enrollment of that school;

(B) as a full-time staff member in a preschool program carried on under the Head Start Act [42 U.S.C. 9831 et seq.] which is operated for a period which is comparable to a full school year in the locality if the salary of such staff member is not more than the salary of a comparable employee of the local educational agency;

(C) as a full-time special education teacher, including teachers of infants, toddlers, children, or youth with disabilities in a public or other nonprofit elementary or secondary school system, or as a full-time qualified professional provider of early intervention services in a public or other nonprofit program under public supervision by the lead agency as authorized in section 1435(a)(10) of this title;

(D) as a member of the Armed Forces of the United States, for service that qualifies for special pay under section 310 of title 37 as an area of hostilities;

(E) as a volunteer under the Peace Corps Act [22 U.S.C. 2501 et seq.] or a volunteer under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.];

(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies;

(G) as a full-time teacher of mathematics, science, foreign languages, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;

(H) as a full-time nurse or medical technician providing health care services; or

(I) as a full-time employee of a public or private nonprofit child or family service agency who is providing, or supervising the provision of, services to high-risk children who are from low-income communities and the families of such children.

For the purpose of this paragraph, the term ''children with disabilities'' has the meaning set forth in section 1401 of this title.

(3)(A) The percent of a loan which shall be canceled under paragraph (1) of this subsection is—

(i) in the case of service described in subparagraph (A), (C), (F), (G), (H), or (I) of paragraph (2), at the rate of 15 percent for the first or second year of such service, 20 percent for the third or fourth year of such service, and 30 percent for the fifth year of such service;

(ii) in the case of service described in subparagraph (B) of paragraph (2), at the rate of 15 percent for each year of such service;

(iii) in the case of service described in subparagraph (D) of paragraph (2), not to exceed a total of 50 percent of such loan at the rate of 12½ percent for each year of qualifying service; or

(iv) in the case of service described in subparagraph (E) of paragraph (2) at the rate of 15 percent for the first or second year of such service and 20 percent for the third or fourth year of such service.

(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

(C) Nothing in this subsection shall be construed to authorize refunding of any repayment of a loan.

[1] See References in Text note below.

(4) For the purpose of this subsection, the term ''year'' where applied to service as a teacher means academic year as defined by the Secretary.

(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of title 26.

(6) No borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 [42 U.S.C. 12601 et seq.].

(7) An individual with an outstanding loan obligation under this part who performs service of any type that is described in paragraph (2) as in effect on October 7, 1998, shall be eligible for cancellation under this section for such service notwithstanding any contrary provision of the promissory note under which the loan or loans were made, and notwithstanding any amendment (or effective date provision relating to any amendment) to this section made prior to the date of such service.

(b) Reimbursement for cancellation

The Secretary shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year, minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 1087hh of this title. None of the funds appropriated pursuant to section 1087aa(b) of this title shall be available for payments pursuant to this subsection. To the extent feasible, the Secretary shall pay the amounts for which any institution qualifies under this subsection not later than 3 months after the institution files an institutional application for campus-based funds.

(c) Special rules

(1) List

If the list of schools in which a teacher may perform service pursuant to subsection (a)(2)(A) of this section is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

(2) Continuing eligibility

Any teacher who performs service in a school which—

(A) meets the requirements of subsection (a)(2)(A) of this section in any year; and

(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (a)(1) of this section such subsequent years.

(Pub. L. 89–329, title IV, §465, as added Pub. L. 99–498, title IV, §405(a), Oct. 17, 1986, 100 Stat. 1451; amended Pub. L. 100–50, §13(j), June 3, 1987, 101 Stat. 349; Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 101–476, title IX, §901(e), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 101–647, title XXI, §2101(a), (b), Nov. 29, 1990, 104 Stat. 4856; Pub. L. 102–119, §26(h), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102–325, title IV, §465(a)–(c), July 23, 1992, 106 Stat. 582, 583; Pub. L. 103–82, title I, §102(c)(3), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103–208, §2(f)(12)–(14), (k)(7), Dec. 20, 1993, 107 Stat. 2471, 2486; Pub. L. 103–382, title III, §391(e)(3), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 105–244, title IV, §465, Oct. 7, 1998, 112 Stat. 1728; Pub. L. 108–446, title III, §305(c)(1), Dec. 3, 2004, 118 Stat. 2805.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

Section 111(c) of the Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(A), was classified to section 2711(c) of this title, prior to its omission in the general revision of the Elementary and Secondary Education Act of 1965 by Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 140.

The Head Start Act, referred to in subsec. (a)(2)(B), is subchapter B (§§635 to 657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Peace Corps Act, referred to in subsec. (a)(2)(E), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(2)(E), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

The National and Community Service Act of 1990, referred to in subsec. (a)(6), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle D of title I of the Act is classified generally to division D of subchapter I (§12601 et seq.) of chapter 129 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

CODIFICATION

Amendment by section 2(f)(14) of Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–82, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 1087ee, Pub. L. 89–329, title IV, §465, as added Pub. L. 92–318, title I, §137(b), June 23, 1972, 86 Stat. 277; amended Pub. L. 95–561, title XIII, §1323, Nov. 1, 1978, 92 Stat. 2363; Pub. L. 96–374, title IV, §§442(b)(6), 448(d), (e), title XIII, §1391(a)(1), Oct. 3, 1980, 94 Stat. 1440, 1443, 1503, related to cancellation of loans for certain public service, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

2004—Subsec. (a)(2)(C). Pub. L. 108–446 made technical amendment to reference in original act which appears in text as reference to section 1435(a)(10) of this title.

1998—Subsec. (a)(2). Pub. L. 105–244, §465(1)(B), substituted ''section 1401'' for ''section 1401(a)(1)'' in concluding provisions.

Subsec. (a)(2)(C). Pub. L. 105–244, § 465(1)(A), substituted ''section 1435(a)(10)'' for ''section 1476(b)(9)''.

Subsec. (a)(7). Pub. L. 105–244, § 465(1)(C), added par. (7).

Subsec. (b). Pub. L. 105–244, § 465(2), inserted at end ''To the extent feasible, the Secretary shall pay the amounts for which any institution qualifies under this subsection not later than 3 months after the institution files an institutional application for campus-based funds.''

1994—Subsec. (a)(2)(A). Pub. L. 103–382 substituted ''title I of the Elementary and Secondary Education Act of 1965'' for ''chapter 1 of the Education Consolidation and Improvement Act of 1981''.

1993—Subsec. (a)(2)(A). Pub. L. 103–208, § 2(k)(7), amended Pub. L. 102–325, § 465(a)(1). See 1992 Amendment note below.

Subsec. (a)(2)(D). Pub. L. 103–208, § 2(f)(12), substituted ''service'' for ''services''.

Subsec. (a)(2)(F). Pub. L. 103–208, § 2(f)(13), struck out ''or'' after semicolon at end.

Subsec. (a)(6). Pub. L. 103–208, § 2(f)(14), realigned margin. See Codification note above.

Pub. L. 103–82 added par. (6).

1992—Subsec. (a)(2)(A). Pub. L. 102–325, § 465(a)(1), as amended by Pub. L. 103–208, § 2(k)(7), struck out before semicolon at end ''and such determination shall not be made with respect to more than 50 percent of the total number of schools in the State receiving assistance under such chapter 1''.

Subsec. (a)(2)(C). Pub. L. 102–325, § 465(a)(2), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''as a full-time teacher of children with disabilities in a public or other nonprofit elementary or secondary school system;''.

Subsec. (a)(2)(G) to (I). Pub. L. 102–325, § 465(a)(3)–(5), added subpars. (G) to (I).

Subsec. (a)(3)(A)(i). Pub. L. 102–325, § 465(b), substituted ''(A), (C), (F), (G), (H), or (I)'' for ''(A), (C), or (F)''.

Subsec. (c). Pub. L. 102–325, § 465(c), added subsec. (c).

1991—Subsec. (a)(2). Pub. L. 102–119 substituted ''1401(a)(1)'' for ''1401(1)'' in last sentence. The references to section 1401 include the substitution of ''Individuals with Disabilities Education Act'' for ''Education of the Handicapped Act'' in the original.

1990—Subsec. (a)(2). Pub. L. 101–476, § 901(e), substituted ''children with disabilities'' for ''handicapped children'' in two places.

Subsec. (a)(2)(F). Pub. L. 101–647, § 2101(a), which directed amendment of subsec. (a)(2) by adding at the end a new subpar. (F), was executed by adding subpar. (F) after subpar. (E) and before last sentence to reflect the probable intent of Congress.

Subsec. (a)(3)(A)(i). Pub. L. 101–647, § 2101(b), which directed amendment of subsec. (a)(3)(i) by substituting ''(A), (C), or (F)'' for ''(A) or (C)'', was executed by making the substitution in subsec. (a)(3)(A)(i) to reflect the probable intent of Congress.

1988—Subsec. (a)(5). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (a)(2)(A). Pub. L. 100–50, § 13(j)(1), (2), substituted ''chapter 1 of the Education Consolidation and Improvement Act of 1981'' for ''title I of the Elementary and Secondary Education Act of 1965'' and ''such chapter 1'' for ''such title I''.

Subsec. (a)(2)(B). Pub. L. 100–50, § 13(j)(3), substituted ''the Head Start Act'' for ''section 2809(a)(1) of title 42''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

EFFECTIVE DATE OF 1990 AMENDMENTS

Section 2101(c) of Pub. L. 101–647 provided that: ''The amendments made by this section [amending this section] shall apply only to loans made on or after the date of enactment of this Act [Nov. 29, 1990] under part E of title IV of the Higher Education Act of 1965 [this part].''

Section 1001 of Pub. L. 101–476 provided that: ''The amendments made by this Act [see Short Title of 1990 Amendment note set out under section 1400 of this title] shall take effect October 1, 1990.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsection (a)(2)(E) of this section applicable only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date, see section 405(b) of Pub. L. 99–498, set out as a note under section 1087dd of this title.

§ 1087ff. Distribution of assets from student loan funds

(a) In general

After September 30, 2003, and not later than March 31, 2004, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 2003, as the total amount of the Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

(2) The remainder of such balance shall be paid to the institution.

(b) Distribution of late collections

After March 31, 2012, each institution with which the Secretary has made an agreement under this part, shall pay to the Secretary the same proportionate share of amounts received by this institution after September 30, 2003, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Secretary under subsection (a) of this section.

(c) Distribution of excess capital

(1) Upon a finding by the institution or the Secretary prior to October 1, 2004, that the liq-

uid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Secretary, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Secretary or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(A) The Secretary shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Secretary to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

(B) The remainder of the capital distribution shall be paid to the institution.

(2) No finding that the liquid assets of a student loan fund established under this part exceed the amount required under paragraph (1) may be made prior to a date which is 2 years after the date on which the institution of higher education received the funds from such institution's allocation under section 1087bb of this title.

(Pub. L. 89–329, title IV, § 466, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1453; amended Pub. L. 102–325, title IV, § 466, July 23, 1992, 106 Stat. 584; Pub. L. 103–208, § 2(f)(15), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105–244, title IV, § 466, Oct. 7, 1998, 112 Stat. 1728.)

PRIOR PROVISIONS

A prior section 1087ff, Pub. L. 89–329, title IV, § 466, as added Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 278; amended Pub. L. 94–482, title I, § 130(h), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 96–374, title IV, § 442(c), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1440, 1503, related to distribution of assets from student loan funds, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 466(1)(A), in introductory provisions, substituted ''2003'' for ''1996'' and ''2004'' for ''1997''.

Subsec. (a)(1). Pub. L. 105–244, § 466(1)(B), substituted ''2003'' for ''1996''.

Subsec. (b). Pub. L. 105–244, § 466(2), substituted ''2012'' for ''2005'' and ''2003'' for ''1996''.

Subsec. (c)(1). Pub. L. 105–244, § 466(3), substituted ''2004'' for ''1997'' in introductory provisions.

1993—Subsec. (c)(2). Pub. L. 103–208 realigned margin.

1992—Subsec. (b). Pub. L. 102–325, § 466(1), substituted ''2005'' for ''1997''.

Subsec. (c). Pub. L. 102–325, § 466(2), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§ 1087gg. Collection of defaulted loans: Perkins Loan Revolving Fund

(a) Authority of Secretary to collect referred, transferred, or assigned loans

With respect to any loan—

(1) which was made under this part, and

(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 1087cc(a) of this title,

the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

(b) Collection of referred, transferred, or assigned loans

The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 1087cc(a)[1] of this title until all appropriate collection efforts, as determined by the Secretary, have been expended.

(Pub. L. 89–329, title IV, § 467, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1453; amended Pub. L. 102–325, title IV, § 467, July 23, 1992, 106 Stat. 584; Pub. L. 105–244, title IV, § 467(a), Oct. 7, 1998, 112 Stat. 1728.)

REFERENCES IN TEXT

Section 1087cc(a) of this title, referred to in subsec. (b), was amended by Pub. L. 105–244, title IV, § 463(a)(3), Oct. 7, 1998, 112 Stat. 1724, which redesignated pars. (5), (6), and (7) as (4), (5), and (6), respectively.

PRIOR PROVISIONS

A prior section 1087gg, Pub. L. 89–329, title IV, § 467, as added Pub. L. 96–49, § 5(d)(3)(A), Aug. 13, 1979, 93 Stat. 352; amended Pub. L. 96–374, title IV, § 445(c), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1442, 1503; Pub. L. 99–272, title XVI, § 16029, Apr. 7, 1986, 100 Stat. 354, related to collection of defaulted loans, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–244 struck out heading and text of subsec. (c) which established the Perkins Loan Revolving Fund and provided for deposits into and payments from the Fund.

1992—Pub. L. 102–325 amended section catchline generally, inserting '': Perkins Loan Revolving Fund'' after ''loans'' and added subsec. (c).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 to this section, relating to creation of Perkins Loan Revolving Fund, effective Sept. 15, 1997, see section 468(4) of Pub. L. 102–325, set out as a note under section 1087dd of this title.

TRANSFER OF BALANCE

Pub. L. 105–244, title IV, § 467(b), Oct. 7, 1998, 112 Stat. 1728, provided that: ''Any funds in the Perkins Loan Re-

[1] See References in Text note below.

volving Fund on the date of enactment of this Act [Oct. 7, 1998] shall be transferred to and deposited in the Treasury.''

§ 1087hh. General authority of Secretary

In carrying out the provisions of this part, the Secretary is authorized—

(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

(3) to conduct litigation in accordance with the provisions of section 1082(a)(2) of this title; and

(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.

(Pub. L. 89–329, title IV, § 468, as added Pub. L. 99–498, title IV, § 405(a), Oct. 17, 1986, 100 Stat. 1454.)

PRIOR PROVISIONS

A prior section 1087hh, Pub. L. 89–329, title IV, § 468, as added Pub. L. 96–374, title IV, § 442(a), Oct. 3, 1980, 94 Stat. 1437, related to alternative source of funds, prior to the general revision of this part by Pub. L. 99–498.

A prior section 1087ii, Pub. L. 89–329, title IV, § 469, as added Pub. L. 96–374, title IV, § 442(a), Oct. 3, 1980, 94 Stat. 1439, related to recapture of current balance of student loan funds, prior to the general revision of this part by Pub. L. 99–498.

§ 1087ii. Definitions

(a) Low-income communities

For the purpose of this part, the term ''low-income communities'' means communities in which there is a high concentration of children eligible to be counted under title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

(b) High-risk children

For the purposes of this part, the term ''high-risk children'' means individuals under the age of 21 who are low-income or at risk of abuse or neglect, have been abused or neglected, have serious emotional, mental, or behavioral disturbances, reside in placements outside their homes, or are involved in the juvenile justice system.

(c) Infants, toddlers, children, and youth with disabilities

For purposes of this part, the term ''infants, toddlers, children, and youth with disabilities'' means children with disabilities and infants and toddlers with disabilities as defined in sections 1401 and 1432 of this title, respectively, and the term ''qualified professional provider of early intervention services'' has the meaning specified in section 1472(2)[1] of this title.

(Pub. L. 89–329, title IV, § 469, as added Pub. L. 102–325, title IV, § 465(d), July 23, 1992, 106 Stat. 583; amended Pub. L. 103–382, title III, § 391(e)(4), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 108–446, title III, § 305(c)(2), Dec. 3, 2004, 118 Stat. 2805.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

Section 1472(2) of this title, referred to in subsec. (c), was in the original a reference to section 672(2) of the Individuals with Disabilities Education Act, Pub. L. 91–230, title VI. Section 672 of Pub. L. 91–230 was repealed by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157. Pub. L. 105–17 enacted a new section 672 of Pub. L. 91–230, which is classified to section 1472 of this title, and which no longer defined ''qualified professional provider of early intervention services''. Subsequently, a general amendment by Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2791, enacted a new section 672, which also does not define ''qualified professional provider of early intervention services''.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108–446 substituted ''sections 1401 and 1432'' for ''sections 1401(a)(1) and 1472(1)''.

1994—Subsec. (a). Pub. L. 103–382 substituted ''title I'' for ''chapter 1 of title I''.

PART E—NEED ANALYSIS

CODIFICATION

This part was added as part F of title IV of Pub. L. 89–329 by Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454. The letter designation of this part was changed from ''F'' to ''E'' for codification purposes. See Codification note preceding section 1087a of this title.

§ 1087kk. Amount of need

Except as otherwise provided therein, the amount of need of any student for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts[1] 1 or 2 of part A of this subchapter) is equal to—

(1) the cost of attendance of such student, minus

(2) the expected family contribution for such student, minus

(3) estimated financial assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 (as defined in section 1087vv(j) of this title).

(Pub. L. 89–329, title IV, § 471, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 585; Pub. L. 105–244, title IV, § 480(a), Oct. 7, 1998, 112 Stat. 1732.)

AMENDMENTS

1998—Pub. L. 105–244 substituted ''or 2'' for ''or 4'' in introductory provisions.

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: ''Except as otherwise provided therein, the amount of need of any student for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 (except subparts 1 and 3 of part A of this subchapter) is equal to the cost of attendance of such student minus the expected family contribution for such student.''

[1] See References in Text note below.

[1] So in original. Probably should be ''subpart''.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–244, title IV, § 480A, Oct. 7, 1998, 112 Stat. 1732, provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this part [part F (§§ 471–480A) of title IV of Pub. L. 105–244, amending this section and sections 1087*ll* to 1087tt and 1087vv of this title] are effective on the date of enactment of this Act [Oct. 7, 1998].

''(b) PROVISIONS EFFECTIVE FOR ACADEMIC YEAR 2000–2001, AND THEREAFTER.—The amendments made by sections 472, 473, 474, and 475 [amending sections 1087nn to 1087qq of this title] shall apply with respect to determinations of need under part F of title IV of the Higher Education Act of 1965 [this part] for academic years beginning on or after July 1, 2000.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 471(b) of Pub. L. 102–325 provided that: ''The changes made in part F of title IV of the Act [this part] by the amendment made by this section [amending sections 1087kk to 1087vv of this title] shall apply with respect to determinations of need under such part F for award years beginning on or after July 1, 1993.''

EFFECTIVE DATE

Section 406(b)(1)–(3) of Pub. L. 99–498, as amended by Pub. L. 100–50, § 22(e)(1), (3), June 3, 1987, 101 Stat. 361, provided that:

''(1) Except as provided in paragraphs (2) through (4)—

''(A) part F of title IV of the Act [this part] shall apply with respect to determinations of need under such title for academic years beginning with academic year 1988–1989 and succeeding academic years; and

''(B) for any preceding academic year, determinations of need shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982 [Pub. L. 97–301, see Short Title of 1982 Amendment note set out under section 1001 of this title].

''(2) With respect to an application filed after the date of enactment of this Act [Oct. 17, 1986] for a loan under part B of such title [part B of this subchapter] for any academic year preceding academic year 1988–1989, any determination of expected family contribution shall be made using the system of financial need analysis approved by the Secretary of Education for use under subpart 2 of part A and parts C and E of such title [subpart 2 of part A of this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, and part D of this subchapter].

''(3) For purposes of sections 413D(d)(2)(B) [now 413D(c)(2)(B)], 442(d)(2)(B) and 462(d)(2)(B) [20 U.S.C. 1070b–3(c)(2)(B), 42 U.S.C. 2752(d)(2)(B), 20 U.S.C. 1087bb(d)(2)(B)] for any academic year preceding academic year 1988–1989, the Secretary shall, in lieu of average expected family contribution, use the procedures for sampling expected family contribution within income categories that was employed for academic year 1986–1987, adjusted to reflect changes in data.

''(4) Section 479B of the Act [20 U.S.C. 1087uu] (as so added) shall apply with respect to financial assistance provided for any academic year beginning after such date of enactment [Oct. 17, 1986].''

[References to subpart 2 of part A of title IV of Pub. L. 89–329 deemed, after July 23, 1992, to refer to subpart 3 of such part, see section 402(b) of Pub. L. 102–325, set out as a note under section 1070a–11 of this title.]

SPECIAL STUDY OF SIMPLIFICATION OF NEED ANALYSIS AND APPLICATION FOR TITLE IV AID

Pub. L. 108–199, div. E, title III, § 305, Jan. 23, 2004, 118 Stat. 263, provided that:

''(a) STUDY REQUIRED.—The Advisory Committee on Student Financial Assistance established by section 491 of the Higher Education Act of 1965 (20 U.S.C. 1098), hereafter in this section referred to as 'the Advisory Committee', shall conduct a thorough study of the feasibility of simplifying the need analysis methodology for all Federal student financial assistance programs and the process of applying for such assistance.

''(b) REQUIRED SUBJECTS OF STUDY.—In performing the study, the Advisory Committee shall, at a minimum, examine the following:

''(1) whether the methodology used to calculate the expected family contribution can be simplified without significant adverse effects on program intent, costs, integrity, delivery, and distribution of awards;

''(2) whether the number of data elements, and, accordingly, the number and complexity of questions asked of students and families, used to calculate the expected family contribution can be reduced without such adverse effects;

''(3) whether the procedures for determining such data elements, including determining and updating offsets and allowances, is the most efficient, effective, and fair means to determine a family's available income and assets;

''(4) whether the methodology used to calculate the expected family contribution, specifically the consideration of income earned by a dependent student and its effect on Pell grant eligibility, is an effective and fair means to determine a family's available income and a student's need;

''(5) whether the nature and timing of the application required in section 483 (a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1090(a)(1)), eligibility and award determination, financial aid processing, and funds delivery can be streamlined further for students and families, institutions, and States;

''(6) whether it is feasible to allow students to complete only those limited sections of the financial aid application that apply to their specific circumstances and the State in which they reside;

''(7) whether a widely disseminated printed form, or the use of an Internet or other electronic means, can be developed to notify individuals of an estimation of their approximate eligibility for grant, work-study, and loan assistance upon completion and verification of the simplified application form;

''(8) whether information provided on other Federal forms (such as the form applying for supplemental security income under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], the form for applying for food stamps under the Food Stamp Act of 1977 [7 U.S.C. 2011 et seq.], and the schedule for applying for the earned income tax credit under section 32 of the Internal Revenue Code of 1986 [26 U.S.C. 32]) that are designed to determine eligibility for various Federal need-based assistance programs could be used to qualify potential students for the simplified needs test; and

''(9) whether any proposed changes to data elements collected, in addition to those used to calculate expected family contribution, or any proposed changes to the form's design or the process of applying for aid, may have adverse effects on program costs, integrity, delivery, or distribution of awards, as well as, application development or application processing.

''(c) ADDITIONAL CONSIDERATIONS.—In conducting the feasibility study, the Advisory Committee's primary objective under this subsection shall be simplifying the financial aid application forms and process and obtaining a substantial reduction in the number of required data items. In carrying out that objective, the Advisory Committee shall pay special attention to the needs of low-income and moderate-income students and families.

''(d) CONSULTATION.—

''(1) IN GENERAL.—The Advisory Committee shall consult with a broad range of interested parties in higher education, including parents and students, high school guidance counselors, financial aid and other campus administrators, appropriate State ad-

ministrators, administrators of intervention and outreach programs, and appropriate officials from the Department of Education.

''(2) FORMS DESIGN EXPERT.—With the goal of making significant changes to the form to make the questions more easily understandable, the Advisory Committee shall consult a forms design expert to ensure that its recommendations for revision of the application form would assist in making the form easily readable and understood by parents, students, and other members of the public.

''(3) CONGRESSIONAL CONSULTATION.—The Advisory Committee shall consult on a regular basis with the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate in carrying out the feasibility study required by this subsection.

''(4) DEPARTMENTAL CONSULTATION.—The Secretary of Education shall provide such assistance to the Advisory Committee as is requested and practicable in conducting the study required by this subsection.

''(e) REPORTS.—

''(1) INTERIM REPORT.—The Advisory Committee shall, not later than 6 months after the date of enactment of this Act [Jan. 23, 2004], prepare and submit an interim report containing any such legislative changes as the Advisory Committee recommends to reform and simplify the needs analysis under part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.) and forms and other requirements under such title to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Secretary of Education.

''(2) FINAL REPORT.—The Advisory Committee shall, not later than 1 year after the date of enactment of this Act, prepare and submit a full final report on the study, including recommendations for regulatory and administrative changes required by this section, to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Secretary of Education.

''(f) IMPLEMENTATION.—The Secretary of Education shall consult with the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate and shall subsequently initiate a redesign of the form required by section 483 of the Higher Education Act of 1965 (20 U.S.C. 1090). Such redesign shall include the testing of alternative simplified versions of the free Federal form. The Secretary shall keep the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate fully and currently informed on the progress of these efforts.

''(g) POSTPONEMENT OF TAX TABLE UPDATE PENDING REPORT AND IMPLEMENTATION.—The Secretary of Education shall not implement or enforce for the award year 2004–2005 the annual update to the allowances for State and other taxes in the tables used in the Federal needs analysis methodology, as prescribed by the Secretary on May 30, 2003 (68 Fed. Reg. 32473).''

§ 1087*ll*. Cost of attendance

For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''cost of attendance'' means—

(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses, including a reasonable allowance for the documented rental or purchase of a personal computer, for a student attending the institution on at least a half-time basis, as determined by the institution;

(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

(A) shall be an allowance determined by the institution for a student without dependents residing at home with parents;

(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board;

(4) for less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (8));

(5) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

(6) for incarcerated students only tuition and fees and, if required, books and supplies;

(7) for a student enrolled in an academic program in a program of study abroad approved for credit by the student's home institution, reasonable costs associated with such study (as determined by the institution at which such student is enrolled);

(8) for a student with one or more dependents, an allowance based on the estimated actual expenses incurred for such dependent care, based on the number and age of such dependents, except that—

(A) such allowance shall not exceed the reasonable cost in the community in which such student resides for the kind of care provided; and

(B) the period for which dependent care is required includes, but is not limited to, class-time, study-time, field work, internships, and commuting time;

(9) for a student with a disability, an allowance (as determined by the institution) for those expenses related to the student's disability, including special services, personal assistance, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies;

(10) for a student receiving all or part of the student's instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs;

(11) for a student engaged in a work experience under a cooperative education program, an allowance for reasonable costs associated with such employment (as determined by the institution); and

(12) for a student who receives a loan under this or any other Federal law, or, at the option of the institution, a conventional student loan incurred by the student to cover a student's cost of attendance at the institution, an allowance for the actual cost of any loan fee, origination fee, or insurance premium charged to such student or such parent on such loan, or the average cost of any such fee or premium charged by the Secretary, lender, or guaranty agency making or insuring such loan, as the case may be.

(Pub. L. 89–329, title IV, § 472, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 585; Pub. L. 103–208, § 2(g)(1), Dec. 20, 1993, 107 Stat. 2471; Pub. L. 105–244, title IV, § 471, Oct. 7, 1998, 112 Stat. 1729.)

AMENDMENTS

1998—Par. (2). Pub. L. 105–244, § 471(1), inserted '', including a reasonable allowance for the documented rental or purchase of a personal computer,'' after ''personal expenses''.

Par. (3)(A). Pub. L. 105–244, § 471(2)(A), substituted ''determined by the institution'' for ''of not less than $1,500''.

Par. (3)(C). Pub. L. 105–244, § 471(2)(B), struck out '', except that the amount may not be less than $2,500'' after ''room and board''.

Par. (10). Pub. L. 105–244, § 471(3), substituted a semicolon for '', but this paragraph shall not be construed to permit including the cost of rental or purchase of equipment;''.

Par. (11). Pub. L. 105–244, § 471(4), substituted ''engaged'' for ''placed''.

1993—Par. (12). Pub. L. 103–208 added par. (12).

1992—Pub. L. 102–325 amended section generally, revising and restating as pars. (1) to (11) provisions formerly contained in pars. (1) to (9).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

§ 1087mm. Family contribution

For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, except subpart 2 of part A of this subchapter, the term ''family contribution'' with respect to any student means the amount which the student and the student's family may be reasonably expected to contribute toward the student's postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.

(Pub. L. 89–329, title IV, § 473, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1455; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 586; Pub. L. 105–244, title IV, § 480(b), Oct. 7, 1998, 112 Stat. 1732.)

AMENDMENTS

1998—Pub. L. 105–244 substituted ''subpart 2'' for ''subpart 4''.

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows: ''For the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42, except subparts 1 and 3 of part A of this subchapter, the term 'family contribution' with respect to any student means the amount which the student and his or her family may be reasonably expected to contribute toward his or her postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

§ 1087nn. Determination of expected family contribution; data elements

(a) General rule for determination of expected family contribution

The expected family contribution—

(1) for a dependent student shall be determined in accordance with section 1087*oo* of this title;

(2) for a single independent student or a married independent student without dependents (other than a spouse) shall be determined in accordance with section 1087pp of this title; and

(3) for an independent student with dependents other than a spouse shall be determined in accordance with section 1087qq of this title.

(b) Data elements

The following data elements are considered in determining the expected family contribution:

(1) the available income of (A) the student and the student's spouse, or (B) the student and the student's parents, in the case of a dependent student;

(2) the number of dependents in the family of the student;

(3) the number of dependents in the family of the student, excluding the student's parents, who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title and for whom the family may reasonably be expected to contribute to their postsecondary education;

(4) the net assets of (A) the student and the student's spouse, and (B) the student and the student's parents, in the case of a dependent student;

(5) the marital status of the student;

(6) the age of the older parent, in the case of a dependent student, and the student; and

(7) the additional expenses incurred (A) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (B) in the case of an independent student, when the student is married and the student's spouse is employed, or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of title 26.

(Pub. L. 89–329, title IV, § 474, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1456; amended Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 587; Pub. L. 105–244, title IV, § 472, Oct. 7, 1998, 112 Stat. 1729.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–244 inserted '', excluding the student's parents,'' after ''family of the student''.

1992—Pub. L. 102–325 substituted ''Determination of expected family contribution; data elements'' for ''Data elements used in determining expected family contribution'' in section catchline and amended text generally, adding subsec. (a), designating existing provisions as subsec. (b) and inserting heading, adding the age of the older parent, in the case of a dependent student, and the student as a data element and striking out consideration of any unusual medical and dental expenses and consideration of the number of dependent children other than the student enrolled in a private elementary or secondary institution and the unreimbursed tuition paid as data elements.

1988—Par. (8). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

§ 1087*oo*. Family contribution for dependent students

(a) Computation of expected family contribution

For each dependent student, the expected family contribution is equal to the sum of—

(1) the parents' contribution from adjusted available income (determined in accordance with subsection (b) of this section);

(2) the student contribution from available income (determined in accordance with subsection (g) of this section); and

(3) the student contribution from assets (determined in accordance with subsection (h) of this section).

(b) Parents' contribution from adjusted available income

The parents' contribution from adjusted available income is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the parents' available income (determined in accordance with subsection (c) of this section); and

(B) the parents' contribution from assets (determined in accordance with subsection (d) of this section);

(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e) of this section; and

(3) dividing the assessment resulting under paragraph (2) by the number of the family members, excluding the student's parents, who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested;

except that the amount determined under this subsection shall not be less than zero.

(c) Parents' available income

(1) In general

The parents' available income is determined by deducting from total income (as defined in section 1087vv of this title)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5); and

(F) the amount of any tax credit taken by the parents under section 25A of title 26.

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000 or	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4

Percentages for Computation of State and Other Tax Allowance—Continued

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000 or	$15,000 or more
	then the percentage is—	
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Income protection allowance

The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Income Protection Allowance

Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	$10,520	$8,720				$1,790
3	13,100	11,310	$9,510			
4	16,180	14,380	12,590	$10,790		
5	19,090	17,290	15,500	13,700	$11,910	
6	22,330	20,530	18,740	16,940	15,150	
For each additional add:	2,520	2,520	2,520	2,520	2,520	

(5) Employment expense allowance

The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 1087rr of this title):

(A) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the parent with the lesser earned income.

(B) If a parent qualifies as a surviving spouse or as a head of household as defined in section 2 of title 26, such allowance is equal to the lesser of $2,500 or 35 percent of such parent's earned income.

(d) Parents' contribution from assets

(1) In general

The parents' contribution from assets is equal to—

(A) the parental net worth (determined in accordance with paragraph (2)); minus

(B) the education savings and asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) Parental net worth

The parental net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value of the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter in this subsection referred to as ''NW''), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000

Adjusted Net Worth of a Business or Farm—Continued

If the net worth of a business or farm is—	Then the adjusted net worth is:
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) Education savings and asset protection allowance

The education savings and asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Education Savings and Asset Protection Allowances for Families and Students

If the age of the oldest parent is—	And there are	
	two parents	one parent
	then the allowance is—	
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 12 percent.

(e) Assessment schedule

The adjusted available income (as determined under subsection (b)(1) of this section and hereafter in this subsection referred to as ''AAI'') is assessed according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Parents' Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $9,400	22% of AAI
$9,401 to $11,800	$2,068 + 25% of AAI over $9,400
$11,801 to $14,200	$2,668 + 29% of AAI over $11,800
$14,201 to $16,600	$3,364 + 34% of AAI over $14,200
$16,601 to $19,000	$4,180 + 40% of AAI over $16,600
$19,001 or more	$5,140 + 47% of AAI over $19,000

(f) Computations in case of separation, divorce, remarriage, or death

(1) Divorced or separated parents

Parental income and assets for a student whose parents are divorced or separated is determined under the following procedures:

(A) Include only the income and assets of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(B) If the preceding criterion does not apply, include only the income and assets of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(C) If neither of the preceding criteria apply, include only the income and assets of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(2) Death of a parent

Parental income and assets in the case of the death of any parent is determined as follows:

(A) If either of the parents has died, the student shall include only the income and assets of the surviving parent.

(B) If both parents have died, the student shall not report any parental income or assets.

(3) Remarried parents

If a parent whose income and assets are taken into account under paragraph (1) of this subsection, or if a parent who is a widow or widower and whose income is taken into account under paragraph (2) of this subsection, has remarried, the income of that parent's spouse shall be included in determining the parent's adjusted available income only if—

(A) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

(B) the student is not an independent student.

(g) Student contribution from available income

(1) In general

The student contribution from available income is equal to—

(A) the student's total income (determined in accordance with section 1087vv of this title); minus

(B) the adjustment to student income (determined in accordance with paragraph (2)); multiplied by

(C) the assessment rate as determined in paragraph (5);

except that the amount determined under this subsection shall not be less than zero.

(2) Adjustment to student income

The adjustment to student income is equal to the sum of—

(A) Federal income taxes of the student;

(B) an allowance for State and other income taxes (determined in accordance with paragraph (3));

(C) an allowance for social security taxes determined in accordance with paragraph (4);

(D) an income protection allowance of $2,200 (or a successor amount prescribed by the Secretary under section 1087rr of this title);

(E) the amount of any tax credit taken by the student under section 25A of title 26; and

(F) an allowance for parents' negative available income, determined in accordance with paragraph (6).

(3) Allowance for State and other income taxes

The allowance for State and other income taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

(4) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by the student multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(5) Assessment of available income

The student's available income (determined in accordance with paragraph (1) of this subsection) is assessed at 50 percent.

(6) Allowance for parents' negative available income

The allowance for parents' negative available income is the amount, if any, by which the sum of the amounts deducted under subparagraphs (A) through (F) of subsection (c)(1) of this section exceeds the sum of the parents' total income (as defined in section 1087vv of this title) and the parents' contribution from assets (as determined in accordance with subsection (d) of this section).

(h) Student contribution from assets

The student contribution from assets is determined by calculating the net assets of the student and multiplying such amount by 35 percent, except that the result shall not be less than zero.

(i) Adjustments to parents' contribution for enrollment periods other than 9 months for purposes other than subpart 2 of part A of this subchapter

For periods of enrollment other than 9 months, the parents' contribution from adjusted available income (as determined under subsection (b) of this section) is determined as follows for purposes other than subpart 2 of part A of this subchapter:

(1) For periods of enrollment less than 9 months, the parents' contribution from adjusted available income is divided by 9 and the result multiplied by the number of months enrolled.

(2) For periods of enrollment greater than 9 months—

(A) the parents' adjusted available income (determined in accordance with subsection (b)(1) of this section) is increased by the difference between the income protection allowance (determined in accordance with subsection (c)(4) of this section) for a family of four and a family of five, each with one child in college;

(B) the resulting revised parents' adjusted available income is assessed according to subsection (e) of this section and adjusted according to subsection (b)(3) of this section to determine a revised parents' contribution from adjusted available income;

(C) the original parents' contribution from adjusted available income is subtracted from the revised parents' contribution from adjusted available income, and the result is divided by 12 to determine the monthly adjustment amount; and

(D) the original parents' contribution from adjusted available income is increased by the product of the monthly adjustment amount multiplied by the number of months greater than 9 for which the student will be enrolled.

(j) Adjustments to student's contribution for enrollment periods of less than nine months

For periods of enrollment of less than 9 months, the student's contribution from adjusted available income (as determined under subsection (g) of this section) is determined, for purposes other than subpart 2 of part A of this subchapter, by dividing the amount determined under such subsection by 9, and multiplying the result by the number of months in the period of enrollment.

(Pub. L. 89–329, title IV, § 475, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1456; amended Pub. L. 100–50, § 14(1)–(12), June 3, 1987, 101 Stat. 349, 350; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 587; Pub. L. 103–208, § 2(g)(2)–(5), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, § 609(g), Nov. 13, 1997, 111 Stat. 1523; Pub. L. 105–244, title IV, § 473, Oct. 7, 1998, 112 Stat. 1729.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–244, § 473(a), which directed insertion of '', excluding the student's parents,'' after ''number of family members'', was executed by making the insertion after ''number of the family members'' to reflect the probable intent of Congress.

Subsec. (g)(2)(D). Pub. L. 105–244, § 473(b)(1)(A), substituted ''$2,200 (or a successor amount prescribed by the Secretary under section 1087rr of this title);'' for ''$1,750; and''.

Subsec. (g)(2)(F). Pub. L. 105–244, § 473(b)(1)(B), (C), added subpar. (F).

Subsec. (g)(6). Pub. L. 105–244, § 473(b)(2), added par. (6).

Subsec. (j). Pub. L. 105–244, § 473(c), added subsec. (j).

1997—Subsec. (c)(1)(F). Pub. L. 105–78, § 609(g)(1), added subpar. (F).

Subsec. (g)(2)(E). Pub. L. 105–78, § 609(g)(2), added subpar. (E).

1993—Subsec. (c)(4). Pub. L. 103–208, § 2(g)(2), substituted ''$9,510'' for ''9,510'' in table.

Subsec. (f)(3). Pub. L. 103–208, § 2(g)(3), in introductory provisions, substituted ''If a parent'' for ''Income in the case of a parent'', ''(1) of this subsection, or if a parent'' for ''(1) of this subsection, or a parent'', and ''the income'' for ''is determined as follows: The income''.

Subsec. (g)(1)(B). Pub. L. 103–208, § 2(g)(4), inserted closing parenthesis after ''paragraph (2)''.

Subsec. (g)(3). Pub. L. 103–208, § 2(g)(5), in table added last item relating to Other.

1992—Pub. L. 102–325 amended section generally, making minor changes in subsecs. (a) to (c) and (e) to (g), in subsec. (d) substituting provisions relating to parents' contribution from assets for provisions relating to parents' income supplemental amount from assets, in subsec. (h) substituting provisions relating to student contribution from assets for provisions relating to student and spouse income supplemental amount from assets, and in subsec. (i) substituting provisions relating to adjustments to parents' contribution for enrollment periods other than 9 months for purposes other than subpart 2 of part A of this subchapter for provisions relating to adjustments for enrollment periods other than 9 months.

1987—Subsec. (c)(2), (4). Pub. L. 100–50, § 14(1), substituted ''section 1087rr of this title'' for ''section 1087ss of this title''.

Subsec. (c)(7). Pub. L. 100–50, § 14(2), struck out ''National'' before ''Center''.

Subsec. (d)(2)(B). Pub. L. 100–50, § 14(3), substituted ''displaced homemaker'' for ''dislocated homemaker''.

Subsec. (d)(2)(C). Pub. L. 100–50, § 14(1), substituted ''section 1087rr of this title'' for ''section 1087ss of this title''.

Pub. L. 100–50, § 14(4), added table after subpar. (C) and struck out former table which read as follows:

''Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000''.

Subsec. (d)(4)(B). Pub. L. 100–50, § 14(5), substituted ''$15,999'' for ''$15,000''.

Subsec. (d)(4)(C). Pub. L. 100–50, § 14(6), substituted ''$16,000'' for ''$15,000'' in three places.

Subsec. (d)(4)(D). Pub. L. 100–50, § 14(7), substituted ''income is less than zero'' for ''income is equal to or less than zero''.

Subsec. (e). Pub. L. 100–50, § 14(8), inserted a minus sign before ''$3,409'' in two places in table.

Subsec. (g)(1)(C). Pub. L. 100–50, § 14(9), substituted ''paragraph (2)'' for ''paragraph (3)''.

Subsec. (g)(3). Pub. L. 100–50, § 14(10), inserted ''(or a successor table prescribed by the Secretary under section 1087rr of this title)'' after ''following table''.

Subsec. (h). Pub. L. 100–50, § 14(11), added subsec. (h) and struck out former subsec. (h) which read as follows: ''The student (and spouse) supplemental income amount from assets is determined by multiplying by 35 percent the sum of—

''(1) the current balance of checking and savings accounts and cash on hand; and

''(2) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a dislocated homemaker (as defined in section 1087vv(e) of this title).''

Subsec. (i). Pub. L. 100–50, § 14(12), added subsec. (i).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1087pp. Family contribution for independent students without dependents other than a spouse

(a) Computation of expected family contribution

For each independent student without dependents other than a spouse, the expected family contribution is determined by—

(1) adding—

(A) the family's contribution from available income (determined in accordance with subsection (b) of this section); and

(B) the family's contribution from assets (determined in accordance with subsection (c) of this section);

(2) dividing the sum resulting under paragraph (1) by the number of students who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested; and

(3) for periods of enrollment of less than 9 months, for purposes other than subpart 2 of part A of this subchapter—

(A) dividing the quotient resulting under paragraph (2) by 9; and

(B) multiplying the result by the number of months in the period of enrollment;

except that the amount determined under this subsection shall not be less than zero.

(b) Family's contribution from available income

(1) In general

The family's contribution from income is determined by—

(A) deducting from total income (as defined in section 1087vv of this title)—

(i) Federal income taxes;

(ii) an allowance for State and other taxes, determined in accordance with paragraph (2);

(iii) an allowance for social security taxes, determined in accordance with paragraph (3);

(iv) an income protection allowance of the following amount (or a successor amount prescribed by the Secretary under section 1087rr of this title)—

(I) $5,000 for single students;

(II) $5,000 for married students where both are enrolled pursuant to subsection (a)(2) of this section; and

(III) $8,000 for married students where one is enrolled pursuant to subsection (a)(2) of this section;

(v) in the case where a spouse is present, an employment expense allowance, as determined in accordance with paragraph (4); and

(vi) the amount of any tax credit taken under section 25A of title 26; and

(B) assessing such available income in accordance with paragraph (5).

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount earned by the student (and spouse, if appropriate), multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Employment expenses allowance

The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 1087rr of this title):

(A) If the student is married and the student's spouse is employed in the year for which income is reported, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income.

(B) If a student is not married, the employment expense allowance is zero.

(5) Assessment of available income

The family's available income (determined in accordance with paragraph (1)(A) of this subsection) is assessed at 50 percent.

(c) Family contribution from assets

(1) In general

The family's contribution from assets is equal to—

(A) the family's net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4));

except that the family's contribution from assets shall not be less than zero.

(2) Family's net worth

The family's net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as ''NW''), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) Asset protection allowance

The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is	
	married	single
	then the allowance is—	
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 35 percent.

(d) Computations in case of separation, divorce, or death

In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's contribution from income or assets.

(Pub. L. 89–329, title IV, § 476, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1463; amended Pub. L. 100–50, § 14(1), (3), (4), (13)–(17), June 3, 1987, 101 Stat. 349, 351; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 594; Pub. L. 103–208, § 2(g)(6), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, § 609(h), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, § 474, Oct. 7, 1998, 112 Stat. 1730.)

AMENDMENTS

1998—Subsec. (a)(3). Pub. L. 105–244, § 474(a), added par. (3).

Subsec. (b)(1)(A)(iv). Pub. L. 105–244, § 474(b)(1), in introductory provisions, substituted ''allowance of the following amount (or a successor amount prescribed by the Secretary under section 1087rr of this title)—'' for ''allowance of—''.

Subsec. (b)(1)(A)(iv)(I), (II). Pub. L. 105–244, § 474(b)(2), substituted ''$5,000'' for ''$3,000''.

Subsec. (b)(1)(A)(iv)(III). Pub. L. 105–244, § 474(b)(3), substituted ''$8,000'' for ''$6,000''.

1997—Subsec. (b)(1)(A)(vi). Pub. L. 105–78 added cl. (vi).

1993—Subsec. (d). Pub. L. 103–208 added subsec. (d).

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to family contribution for independent students without dependents other than a spouse for provisions relating to family contribution for independent students without dependents (including a spouse).

1987—Subsec. (b)(1)(A), (B). Pub. L. 100–50, § 14(13)(B), (C), substituted subpar. (A) and introductory provisions of subpar. (B) for introductory provisions of former subpar. (A) which read as follows: ''computing the student's available taxable income by deducting from the student's adjusted gross income—''. Former subpar. (B) redesignated (C).

Subsec. (b)(1)(C). Pub. L. 100–50, § 14(13)(B), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(1)(D). Pub. L. 100–50, § 14(15), which directed that subsec. (b)(1)(C) be amended by inserting

''plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title 28'', was executed to subpar. (D) to reflect the probable intent of Congress and the intervening redesignation of subpar. (C) as (D) by section 14(13)(B) of Pub. L. 100–50.

Pub. L. 100–50, §14(13)(A), (B), redesignated subpar. (C) as (D) and substituted ''subparagraph (C)'' for ''subparagraph (B)''.

Subsec. (b)(2). Pub. L. 100–50, §14(1), (14), substituted ''total income'' for ''total taxable income'' and ''section 1087rr of this title'' for ''section 1087ss of this title''.

Subsec. (b)(4)(A). Pub. L. 100–50, §14(16)(A), substituted ''$8,600'' for ''$8,900''.

Subsec. (b)(4)(B). Pub. L. 100–50, §14(16), substituted ''$8,600'' for ''$8,900'' in two places and ''$6,020'' for ''$6,230''.

Subsec. (c)(1). Pub. L. 100–50, §14(17), substituted a semicolon for a period at end of subpar. (C) and inserted, after subpar. (C), provision that the student's income supplemental amount from assets not be less than zero.

Subsec. (c)(2)(B). Pub. L. 100–50, §14(3), substituted ''displaced homemaker'' for ''dislocated homemaker''.

Subsec. (c)(2)(C). Pub. L. 100–50, §14(4), added table and struck out former table which read as follows:

''Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000''.

Pub. L. 100–50, §14(1), substituted ''section 1087rr of this title'' for ''section 1087ss of this title''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1087qq. Family contribution for independent students with dependents other than a spouse

(a) Computation of expected family contribution

For each independent student with dependents other than a spouse, the expected family contribution is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the family's available income (determined in accordance with subsection (b) of this section); and

(B) the family's contribution from assets (determined in accordance with subsection (c) of this section);

(2) assessing such adjusted available income in accordance with an assessment schedule set forth in subsection (d) of this section;

(3) dividing the assessment resulting under paragraph (2) by the number of family members who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title during the award period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 is requested; and

(4) for periods of enrollment of less than 9 months, for purposes other than subpart 2 of part A of this subchapter—

(A) dividing the quotient resulting under paragraph (3) by 9; and

(B) multiplying the result by the number of months in the period of enrollment;

except that the amount determined under this subsection shall not be less than zero.

(b) Family's available income

(1) In general

The family's available income is determined by deducting from total income (as defined in section 1087vv of this title)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) an income protection allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5); and

(F) the amount of any tax credit taken under section 25A of title 26.

(2) Allowance for State and other taxes

The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 1087vv of this title) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And family's total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2

Percentages for Computation of State and Other Tax Allowance—Continued

If student's State or territory of residence is—	And family's total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

(3) Allowance for social security taxes

The allowance for social security taxes is equal to the amount estimated to be earned by the student (and spouse, if appropriate) multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Income protection allowance

The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Income Protection Allowance

Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	$10,520	$8,720				$1,790
3	13,100	11,310	$9,510			
4	16,180	14,380	12,590	$10,790		
5	19,090	17,290	15,500	13,700	$11,910	
6	22,330	20,530	18,740	16,940	15,150	
For each additional add:	2,520	2,520	2,520	2,520	2,520	

(5) Employment expense allowance

The employment expense allowance is determined as follows (or a successor table prescribed by the Secretary under section 1087rr of this title):

(A) If the student is married and the student's spouse is employed in the year for which their income is reported, such allowance is equal to the lesser of $2,500 or 35 percent of the earned income of the student or spouse with the lesser earned income.

(B) If a student qualifies as a surviving spouse or as a head of household as defined in section 2 of title 26, such allowance is equal to the lesser of $2,500 or 35 percent of the student's earned income.

(c) Family's contribution from assets

(1) In general

The family's contribution from assets is equal to—

(A) the family net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

(2) Family net worth

The family net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as ''NW''), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 1087rr of this title), except as provided under section 1087vv(f) of this title:

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$375,000	$105,000 plus 60 percent of NW over $225,000
$375,001 or more	$195,000 plus 100 percent of NW over $375,000

(3) Asset protection allowance

The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is	
	married	single
	then the allowance is—	
25 or less	$ 0	$0
26	2,200	1,600
27	4,300	3,200
28	6,500	4,700
29	8,600	6,300
30	10,800	7,900
31	13,000	9,500
32	15,100	11,100
33	17,300	12,600
34	19,400	14,200
35	21,600	15,800
36	23,800	17,400
37	25,900	19,000
38	28,100	20,500
39	30,200	22,100
40	32,400	23,700
41	33,300	24,100
42	34,100	24,700
43	35,000	25,200
44	35,700	25,800
45	36,600	26,300
46	37,600	26,900
47	38,800	27,600
48	39,800	28,200
49	40,800	28,800
50	41,800	29,500
51	43,200	30,200
52	44,300	31,100
53	45,700	31,800
54	47,100	32,600
55	48,300	33,400
56	49,800	34,400
57	51,300	35,200
58	52,900	36,200
59	54,800	37,200
60	56,500	38,100
61	58,500	39,200
62	60,300	40,300
63	62,400	41,500
64	64,600	42,800
65 or more	66,800	44,000

(4) Asset conversion rate

The asset conversion rate is 12 percent.

(d) Assessment schedule

The adjusted available income (as determined under subsection (a)(1) of this section and hereafter referred to as ''AAI'') is assessed according to the following table (or a successor table prescribed by the Secretary under section 1087rr of this title):

Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $9,400	22% of AAI
$9,401 to $11,800	$2,068 + 25% of AAI over $9,400
$11,801 to $14,200	$2,668 + 29% of AAI over $11,800
$14,201 to $16,600	$3,364 + 34% of AAI over $14,200
$16,601 to $19,000	$4,180 + 40% of AAI over $16,600
$19,001 or more	$5,140 + 47% of AAI over $19,000

(e) Computations in case of separation, divorce, or death

In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income and assets shall not be considered in determining the family's available income or assets.

(Pub. L. 89–329, title IV, §477, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1465; amended Pub. L. 100–50, §14(1)–(6), (8), (18), (19), June 3, 1987, 101 Stat. 349–351; Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 597; Pub. L. 103–208, §2(g)(2), (7), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–78, title VI, §609(i), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, §475, Oct. 7, 1998, 112 Stat. 1730.)

AMENDMENTS

1998—Subsec. (a)(4). Pub. L. 105–244 added par. (4).

1997—Subsec. (b)(1)(F). Pub. L. 105–78 added subpar. (F).

1993—Subsec. (b)(4). Pub. L. 103–208, §2(g)(2), substituted ''$9,510'' for ''9,510'' in table.

Subsec. (e). Pub. L. 103–208, §2(g)(7), added subsec. (e).

1992—Pub. L. 102–325 amended section generally, substituting provisions relating to family contribution for independent students with dependents other than a spouse for provisions relating to family contribution for independent students with dependents (including a spouse).

1987—Subsec. (a)(1)(C). Pub. L. 100–50, §14(18), added subpar. (C).

Subsec. (b)(2). Pub. L. 100–50, §14(1), substituted ''section 1087rr of this title'' for ''section 1087ss of this title''.

Subsec. (b)(5)(A). Pub. L. 100–50, §14(19), substituted ''$2,100'' for ''$2,000''.

Subsec. (b)(7). Pub. L. 100–50, §14(2), struck out ''National'' before ''Center''.

Subsec. (c)(2)(B). Pub. L. 100–50, §14(3), substituted ''displaced homemaker'' for ''dislocated homemaker''.

Subsec. (c)(2)(C). Pub. L. 100–50, §14(1), (4), substituted ''section 1087rr of this title'' for ''section 1087ss of this title'' in text, added table, and struck out former table which read as follows:

''Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$65,000	40 percent of NW
$65,001–$195,000	$26,000 plus 50 percent of NW over $65,000

''Adjusted Net Worth of a Business or Farm—Continued

If the net worth of a business or farm is—	Then the adjusted net worth is:
$195,001–$325,000	$91,000 plus 60 percent of NW over $195,000
$325,001 or more	$169,000 plus 100 percent of NW over $325,000''.

Subsec. (c)(4)(B). Pub. L. 100–50, §14(5), substituted ''$15,999'' for ''$15,000''.

Subsec. (c)(4)(C). Pub. L. 100–50, §14(6), substituted ''$16,000'' for ''$15,000'' in three places.

Subsec. (d). Pub. L. 100–50, §14(1), (8), substituted ''section 1087rr of this title'' for ''section 1087ss of this title'' in text and inserted a minus sign before ''$3,409'' in two places in table.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244, effective Oct. 7, 1998, and applicable with respect to determinations of need under this part for academic years beginning on or after July 1, 2000, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1087rr. Regulations; updated tables

(a) Authority to prescribe regulations restricted

(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this part except—

(A) to prescribe updated tables in accordance with subsections (b) through (h) of this section; or

(B) to propose modifications in the need analysis methodology required by this part.

(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsections (b) through (h) of this section, or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 1089 of this title. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 1089 of this title updated tables for the applicable award year that are prescribed in accordance with subsections (b) through (h) of this section.

(b) Income protection allowance

(1) Revised tables

For each academic year after academic year 1993–1994, the Secretary shall publish in the Federal Register a revised table of income protection allowances for the purpose of sections 1087*oo*(c)(4) and 1087qq(b)(4) of this title. Such revised table shall be developed by increasing each of the dollar amounts contained in the table in each such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

(2) Revised amounts

For each academic year after academic year 2000–2001, the Secretary shall publish in the Federal Register revised income protection allowances for the purpose of sections 1087*oo*(g)(2)(D) and 1087pp(b)(1)(A)(iv) of this title. Such revised allowances shall be developed by increasing each of the dollar amounts contained in such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1999 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

(c) Adjusted net worth of a farm or business

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of adjusted net worth of a farm or business for purposes of sections 1087*oo*(d)(2)(C), 1087pp(c)(2)(C), and 1087qq(c)(2)(C) of this title. Such revised table shall be developed—

(1) by increasing each dollar amount that refers to net worth of a farm or business by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such award year, and rounding the result to the nearest $5,000; and

(2) by adjusting the dollar amounts ''$30,000'', ''$105,000'', and ''$195,000'' to reflect the changes made pursuant to paragraph (1).

(d) Education savings and asset protection allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of allowances for the purpose of sections 1087*oo*(d)(3), 1087pp(c)(3), and 1087qq(c)(3) of this title. Such revised table shall be developed by determining the present value cost, rounded to the nearest $100, of an annuity that would provide, for each age cohort of 40 and above, a supplemental income at age 65 (adjusted for inflation) equal to the difference between the moderate family income (as most recently determined by the Bureau of Labor Statistics), and the current average social security retirement benefits. For each age cohort below 40, the allowance shall be computed by decreasing the allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100. In making such determinations—

(1) inflation shall be presumed to be 6 percent per year;

(2) the rate of return of an annuity shall be presumed to be 8 percent; and

(3) the sales commission on an annuity shall be presumed to be 6 percent.

(e) Assessment schedules and rates

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of assessments from adjusted available income for the purpose of sections 1087*oo*(e) and 1087qq(d) of this title. Such revised table shall be developed—

(1) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

(2) by adjusting the other dollar amounts to reflect the changes made pursuant to paragraph (1).

(f) "Consumer Price Index" defined

As used in this section, the term ''Consumer Price Index'' means the Consumer Price Index for All Urban Consumers published by the Department of Labor. Each annual update of tables to reflect changes in the Consumer Price Index shall be corrected for misestimation of actual changes in such Index in previous years.

(g) State and other tax allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of State and other tax allowances for the purpose of sections 1087*oo*(c)(2), 1087*oo*(g)(3), 1087pp(b)(2), and 1087qq(b)(2) of this title. The Secretary shall develop such revised table after review of the Department of the Treasury's Statistics of Income file and determination of the percentage of income that each State's taxes represent.

(h) Employment expense allowance

For each award year after award year 1993–1994, the Secretary shall publish in the Federal Register a revised table of employment expense allowances for the purpose of sections 1087*oo*(c)(5), 1087pp(b)(4), and 1087qq(b)(5) of this title. Such revised table shall be developed by increasing the dollar amount specified in sections 1087*oo*(c)(5)(A), 1087*oo*(c)(5)(B), 1087pp(b)(4)(A), 1087pp(b)(4)(B), 1087qq (b)(5)(A), and 1087qq(b)(5)(B) of this title to reflect increases in the amount and percent of the Bureau of Labor Statistics budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-worker versus one-worker family.

(Pub. L. 89–329, title IV, §478, as added Pub. L. 99–498, title IV, §406(a), Oct. 17, 1986, 100 Stat. 1470; amended Pub. L. 100–50, §14(20)–(22), June 3, 1987, 101 Stat. 351, 352; Pub. L. 102–325, title IV, §471(a), July 23, 1992, 106 Stat. 602; Pub. L. 103–208, §2(g)(8), (9), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–244, title IV, §476, Oct. 7, 1998, 112 Stat. 1730.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–244 designated existing provisions as par. (1), inserted heading, and added par. (2).

1993—Subsec. (b). Pub. L. 103–208, §2(g)(8)(A), substituted ''1993–1994'' for ''1992–1993''.

Subsec. (c). Pub. L. 103–208, §2(g)(8), substituted ''1993–1994'' for ''1992–1993'' in introductory provisions and inserted ''December'' before ''1992'' in par. (1).

Subsecs. (d), (e), (g). Pub. L. 103–208, §2(g)(8)(A), substituted ''1993–1994'' for ''1992–1993''.

Subsec. (h). Pub. L. 103–208, §2(g)(8)(A), (9), substituted ''1993–1994'' for ''1992–1993'' and ''Bureau of Labor Statistics'' for ''Bureau of Labor Standards''.

1992—Pub. L. 102–325 amended section generally, revising and restating as subsecs. (a) to (h) provisions formerly contained in subsecs. (a) to (f).

1987—Subsec. (c)(2). Pub. L. 100–50, §14(21), substituted '' '$24,000', '$84,000', and '$156,000' '' for '' '$26,000', '$91,000', and '$169,000' ''.

Subsec. (d). Pub. L. 100–50, §14(20), inserted '', rounded to the nearest $100,'' after ''present value cost'' and ''of 40 and above'' after ''each age cohort'' in second sentence and, after second sentence, inserted ''For each age cohort below 40, the asset protection allowance shall be computed by decreasing the asset protection allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100.''

Subsec. (f). Pub. L. 100–50, §14(22), substituted ''Consumer Price Index for All Urban Consumers'' for ''Consumer Price Index for Wage Earners and Clerical Workers''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1087ss. Simplified needs test

(a) Simplified application section

(1) In general

The Secretary shall develop and use an easily identifiable simplified application section as part of the common financial reporting form prescribed under section 1090(a) of this title for families described in subsections (b) and (c) of this section.

(2) Reduced data requirements

The simplified application form shall—

(A) in the case of a family meeting the requirements of subsection (b)(1) of this section, permit such family to submit only the data elements required under subsection (b)(2) of this section for the purposes of establishing eligibility for student financial aid under this part; and

(B) in the case of a family meeting the requirements of subsection (c) of this section,

permit such family to be treated as having an expected family contribution equal to zero for purposes of establishing such eligibility and to submit only the data elements required to make a determination under subsection (c) of this section.

(b) Simplified needs test

(1) Eligibility

An applicant is eligible to file a simplified form containing the elements required by paragraph (2) if—

(A) in the case of an applicant who is a dependent student—

(i) the student's parents file or are eligible to file a form described in paragraph (3) or certify that they are not required to file an income tax return and the student files or is eligible to file such a form or certifies that the student is not required to file an income tax return; and

(ii) the total adjusted gross income of the parents (excluding any income of the dependent student) is less than $50,000; or

(B) in the case of an applicant who is an independent student—

(i) the student (and the student's spouse, if any) files or is eligible to file a form described in paragraph (3) or certifies that the student (and the student's spouse, if any) is not required to file an income tax return; and

(ii) the adjusted gross income of the student (and the student's spouse, if any) is less than $50,000.

(2) Simplified test elements

The six elements to be used for the simplified needs analysis are—

(A) adjusted gross income,

(B) Federal taxes paid,

(C) untaxed income and benefits,

(D) the number of family members,

(E) the number of family members in postsecondary education, and

(F) an allowance (A) for State and other taxes, as defined in section 1087*oo*(c)(2) of this title for dependent students and in section 1087qq(b)(2) of this title for independent students with dependents other than a spouse, or (B) for State and other income taxes, as defined in section 1087pp(b)(2) of this title for independent students without dependents other than a spouse.

(3) Qualifying forms

A student or family files a form described in this subsection, or subsection (c) of this section, as the case may be, if the student or family, respectively, files—

(A) a form 1040A or 1040EZ (including any prepared or electronic version of such form) required pursuant to title 26;

(B) a form 1040 (including any prepared or electronic version of such form) required pursuant to title 26, except that such form shall be considered a qualifying form only if the student or family files such form in order to take a tax credit under section 25A of title 26, and would otherwise be eligible to file a form described in subparagraph (A); or

(C) an income tax return (including any prepared or electronic version of such return) required pursuant to the tax code of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau.

(c) Zero expected family contribution

The Secretary shall consider an applicant to have an expected family contribution equal to zero if—

(1) in the case of a dependent student—

(A) the student's parents file, or are eligible to file, a form described in subsection (b)(3) of this section, or certify that the parents are not required to file an income tax return and the student files, or is eligible to file, such a form, or certifies that the student is not required to file an income tax return; and

(B) the sum of the adjusted gross income of the parents is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in 1992 or the current year, whichever is higher, in order to claim the maximum Federal earned income credit; or

(2) in the case of an independent student with dependents other than a spouse—

(A) the student (and the student's spouse, if any) files, or is eligible to file, a form described in subsection (b)(3) of this section, or certifies that the student (and the student's spouse, if any) is not required to file an income tax return; and

(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in 1992 or the current year, whichever is higher, in order to claim the maximum Federal earned income credit.

An individual is not required to qualify or file for the earned income credit in order to be eligible under this subsection.

(Pub. L. 89–329, title IV, § 479, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472; amended Pub. L. 100–50, § 14(23)–(25), June 3, 1987, 101 Stat. 352; Pub. L. 100–369, § 7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–26, § 11, Apr. 9, 1991, 105 Stat. 129; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 604; Pub. L. 103–208, § 2(g)(10)–(15), Dec. 20, 1993, 107 Stat. 2472; Pub. L. 105–244, title IV, § 477, Oct. 7, 1998, 112 Stat. 1731.)

AMENDMENTS

1998—Subsec. (b)(3). Pub. L. 105–244, § 477(1)(A), substituted ''this subsection, or subsection (c) of this section, as the case may be,'' for ''this paragraph'' in introductory provisions.

Subsec. (b)(3)(A). Pub. L. 105–244, § 477(1)(B), struck out ''or'' at end.

Subsec. (b)(3)(B), (C). Pub. L. 105–244, § 477(1)(C), (D), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (c)(1)(A). Pub. L. 105–244, § 477(2)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the student's parents were not required to file an income tax return under section 6012(a)(1) of title 26; and''.

Subsec. (c)(2)(A). Pub. L. 105–244, § 477(2)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the student (and the student's spouse, if any) was not required to file an income tax return under section 6012(a)(1) of title 26; and''.

1993—Subsec. (a)(1). Pub. L. 103–208, § 2(g)(10), inserted ''of'' after ''(c)''.

Subsec. (b)(1)(B)(i). Pub. L. 103–208, § 2(g)(11), inserted ''(and the student's spouse, if any)'' after ''student'' in two places and struck out ''such'' before ''an income tax return''.

Subsec. (b)(2). Pub. L. 103–208, § 2(g)(12), (13), substituted ''six elements'' for ''five elements'' in introductory provisions and a comma for semicolon in subpar. (E).

Subsec. (b)(3)(A). Pub. L. 103–208, § 2(g)(14)(A), inserted ''(including any prepared or electronic version of such form)'' before ''required''.

Subsec. (b)(3)(B). Pub. L. 103–208, § 2(g)(14)(B), inserted ''(including any prepared or electronic version of such return)'' before ''required''.

Subsec. (c)(1)(A). Pub. L. 103–208, § 2(g)(15)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the student's parents did not file, and were not required to file, a form 1040 required pursuant to title 26; and''.

Subsec. (c)(1)(B). Pub. L. 103–208, § 2(g)(15)(C), inserted ''in 1992 or the current year, whichever is higher,'' after ''that may be earned''.

Subsec. (c)(2)(A). Pub. L. 103–208, § 2(g)(15)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the student (and the student's spouse, if any) did not file, and was not required to file, a form 1040 required pursuant to title 26; and''.

Subsec. (c)(2)(B). Pub. L. 103–208, § 2(g)(15)(C), inserted ''in 1992 or the current year, whichever is higher,'' after ''that may be earned''.

1992—Pub. L. 102–325 amended section generally, substituting present provisions for provisions which related to: in subsec. (a), analysis applicable to all title IV programs; in subsec. (b), elements in tests; and in subsec. (c), simplified application form.

1991—Subsec. (a). Pub. L. 102–26 inserted before period at end '', or who file an income tax return pursuant to the tax code of the Commonwealth of Puerto Rico or who are not required to file pursuant to that tax code''.

1988—Subsec. (a). Pub. L. 100–369 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1987—Subsec. (a). Pub. L. 100–50, § 14(23), substituted ''subsection (b) of this section'' for ''paragraph (2)'', ''families (1) who'' for ''families which'', and ''and (2) who file a form 1040A or 1040EZ pursuant to title 26, or are not required to file pursuant to such title'' for ''and which file a form 1040A pursuant to title 26''.

Subsec. (b)(2). Pub. L. 100–50, § 14(24)(A), struck out ''and State'' after ''Federal''.

Subsec. (b)(6). Pub. L. 100–50, § 14(24)(B)–(D), added par. (6).

Subsec. (c). Pub. L. 100–50, § 14(25), added subsec. (c).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1087tt. Discretion of student financial aid administrators

(a) In general

Nothing in this part shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case-by-case basis to the cost of attendance or the values of the data items required to calculate the expected student or parent contribution (or both) to allow for treatment of an individual eligible applicant with special circumstances. However, this authority shall not be construed to permit aid administrators to deviate from the contributions expected in the absence of special circumstances. Special circumstances may include tuition expenses at an elementary or secondary school, medical or dental expenses not covered by insurance, unusually high child care costs, recent unemployment of a family member, the number of parents enrolled at least half-time in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 1094 of this title, or other changes in a family's income, a family's assets, or a student's status. Special circumstances shall be conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students. Adequate documentation for such adjustments shall substantiate such special circumstances of individual students. In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator in such cases to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this subchapter and part C of subchapter I of chapter 34 of title 42. No student or parent shall be charged a fee for collecting, processing, or delivering such supplementary information.

(b) Adjustments to assets taken into account

A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) of this section if—

(1) the administrator makes adjustments excluding from family income any proceeds of a sale of farm or business assets of a family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation; or

(2) the administrator makes adjustments in the award level of a student with a disability so as to take into consideration the additional costs such student incurs as a result of such student's disability.

(c) Refusal or adjustment of loan certifications

On a case-by-case basis, an eligible institution may refuse to certify a statement that permits

a student to receive a loan under part B or C of this subchapter, or may certify a loan amount or make a loan that is less than the student's determination of need (as determined under this part), if the reason for the action is documented and provided in written form to the student. No eligible institution shall discriminate against any borrower or applicant in obtaining a loan on the basis of race, national origin, religion, sex, marital status, age, or disability status.

(Pub. L. 89–329, title IV, § 479A, as added Pub. L. 100–50, § 14(26), June 3, 1987, 101 Stat. 352; amended Pub. L. 101–239, title II, § 2009, Dec. 19, 1989, 103 Stat. 2122; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 605; Pub. L. 103–208, § 2(g)(16), Dec. 20, 1993, 107 Stat. 2473; Pub. L. 105–244, title IV, § 478, Oct. 7, 1998, 112 Stat. 1731.)

PRIOR PROVISIONS

A prior section 1087tt, Pub. L. 89–329, title IV, § 479A, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472, related to discretion of student financial aid administrators under this part, prior to repeal by section 14(26) of Pub. L. 100–50.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 478(1), inserted after second sentence ''Special circumstances may include tuition expenses at an elementary or secondary school, medical or dental expenses not covered by insurance, unusually high child care costs, recent unemployment of a family member, the number of parents enrolled at least half-time in a degree, certificate, or other program leading to a recognized educational credential at an institution with a program participation agreement under section 1094 of this title, or other changes in a family's income, a family's assets, or a student's status.''

Subsec. (c). Pub. L. 105–244, § 478(2), amended heading and text of subsec. (c) generally. Prior to amendment, subsec. (c) related to student financial aid administrators making adjustments for special circumstances.

1993—Subsec. (c). Pub. L. 103–208 added subsec. (c).

1992—Pub. L. 102–325 amended section generally, revising and restating provisions of subsecs. (a) and (b) and striking out former subsec. (c) which related to asset adjustment as example.

1989—Subsec. (a). Pub. L. 101–239 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B and D of this subchapter and part C of subchapter I of chapter 34 of title 42.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(a) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

§ 1087uu. Disregard of student aid in other Federal programs

Notwithstanding any other provision of law, student financial assistance received under this subchapter and part C of subchapter I of chapter 34 of title 42, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.

(Pub. L. 89–329, title IV, § 479B, as added Pub. L. 100–50, § 14(27), June 3, 1987, 101 Stat. 353; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 606.)

PRIOR PROVISIONS

A prior section 1087uu, Pub. L. 89–329, title IV, § 479B, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472, related to exclusion of student financial assistance for attendance costs in determining student eligibility for assistance under any other program funded in whole or part with Federal funds, prior to repeal by section 14(27) of Pub. L. 100–50.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, revising and restating as a single paragraph provisions formerly contained in subsec. (a) which proscribed consideration of aid for attendance costs as income or resources, and in subsec. (b) which delineated elements of attendance costs.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

Section applicable with respect to financial assistance provided for any academic year beginning after Oct. 17, 1986, see section 406(b)(4) of Pub. L. 99–498, as amended, set out as a note under section 1087kk of this title.

§ 1087uu–1. Native American students

In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

(1) any income and assets of $2,000 or less per individual payment received by the student

(and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act [25 U.S.C. 1401 et seq.]; and

(2) any income received by the student (and spouse) and student's parents under the Alaskan Native Claims Settlement Act [43 U.S.C. 1601 et seq.] or the Maine Indian Claims Settlement Act [25 U.S.C. 1721 et seq.].

(Pub. L. 89–329, title IV, § 479C, as added Pub. L. 100–50, § 14(27), June 3, 1987, 101 Stat. 353; amended Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 606.)

REFERENCES IN TEXT

The Per Capita Act, referred to in par. (1), probably means Pub. L. 98–64, Aug. 2, 1983, 97 Stat. 365, which enacted sections 117a to 117c of Title 25, Indians, and repealed section 117 of Title 25. For complete classification of this Act to the Code, see Tables.

The Distribution of Judgment Funds Act, referred to in par. (1), is Pub. L. 93–134, Oct. 19, 1973, 87 Stat. 466, as amended, also known as the Indian Tribal Judgment Funds Use or Distribution Act, which is classified generally to chapter 16 (§ 1401 et seq.) of Title 25. For complete classification of this Act to the Code, see Tables.

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

The Maine Indian Claims Settlement Act, referred to in par. (2), probably means the Maine Indian Claims Settlement Act of 1980, Pub. L. 96–420, Oct. 10, 1980, 94 Stat. 1785, which is classified generally to subchapter II (§ 1721 et seq.) of chapter 19 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1721 of Title 25 and Tables.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, reenacting provisions without change.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE

Section effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as an Effective Date of 1987 Amendment note under section 1001 of this title.

§ 1087vv. Definitions

As used in this part:

(a) Total income

(1) Except as provided in paragraph (2), the term ''total income'' is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income (as defined in subsection (e) of this section).

(2) No portion of any student financial assistance received from any program by an individual, no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990 [42 U.S.C. 12511 et seq.], and no portion of any tax credit taken under section 25A of title 26, shall be included as income or assets in the computation of expected family contribution for any program funded in whole or in part under this chapter.

(b) Untaxed income and benefits

The term ''untaxed income and benefits'' means—

(1) child support received;

(2) welfare benefits, including assistance under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] and aid to dependent children;

(3) workman's compensation;

(4) veterans' benefits such as death pension, dependency, and indemnity compensation, but excluding veterans' education benefits as defined in subsection (c) of this section;

(5) interest on tax-free bonds;

(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

(7) cash support or any money paid on the student's behalf, except, for dependent students, funds provided by the student's parents;

(8) the amount of earned income credit claimed for Federal income tax purposes;

(9) untaxed portion of pensions;

(10) credit for Federal tax on special fuels;

(11) the amount of foreign income excluded for purposes of Federal income taxes;

(12) untaxed social security benefits;

(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.].

(c) Veteran and veterans' education benefits

(1) The term ''veteran'' means any individual who—

(A) has engaged in the active duty in the United States Army, Navy, Air Force, Marines, or Coast Guard; and

(B) was released under a condition other than dishonorable.

(2) The term ''veterans' education benefits'' means veterans' benefits the student will receive during the award year, including but not limited to the following:

(A) Title 10, chapter 2: Reserve Officer Training Corps scholarship.

(B) Title 10, chapter 106: Selective Reserve.

(C) Title 10, chapter 107: Selective Reserve Educational Assistance Program.

(D) Title 37, chapter 2: Reserve Officer Training Corps Program.

(E) Title 38, chapter 30: Montgomery GI Bill—active duty.

(F) Title 38, chapter 31: vocational rehabilitation.

(G) Title 38, chapter 32: Post-Vietnam Era Veterans' Educational Assistance Program.

(H) Title 38, chapter 35: Dependents Educational Assistance Program.

(I) Public Law 97–376, section 156: Restored Entitlement Program for Survivors (or Quayle benefits).

(J) Public Law 96–342, section 903: Educational Assistance Pilot Program.

(d) Independent student

The term ''independent'', when used with respect to a student, means any individual who—

(1) is 24 years of age or older by December 31 of the award year;

(2) is an orphan or ward of the court or was a ward of the court until the individual reached the age of 18;

(3) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1) of this section);

(4) is a graduate or professional student;

(5) is a married individual;

(6) has legal dependents other than a spouse; or

(7) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

(e) Excludable income

The term ''excludable income'' means—

(1) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of subchapter I of chapter 34 of title 42;

(2) any living allowance received by a participant in a program established under the National and Community Service Act of 1990 [42 U.S.C. 12501 et seq.];

(3) child support payments made by the student or parent; and

(4) payments made and services provided under part E of title IV of the Social Security Act [42 U.S.C. 670 et seq.].

(f) Assets

(1) The term ''assets'' means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

(2) With respect to determinations of need under this subchapter and part C of subchapter I of chapter 34 of title 42, other than for subpart 4 of part A of this subchapter, the term ''assets'' shall not include the net value of—

(A) the family's principal place of residence; or

(B) a family farm on which the family resides.

(g) Net assets

The term ''net assets'' means the current market value at the time of application of the assets (as defined in subsection (f) of this section), minus the outstanding liabilities or indebtedness against the assets.

(h) Treatment of income taxes paid to other jurisdictions

(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

(2) References in this part to title 26, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may provide by regulation.

(i) Current balance

The term ''current balance of checking and savings accounts'' does not include any funds over which an individual is barred from exercising discretion and control because of the actions of any State in declaring a bank emergency due to the insolvency of a private deposit insurance fund.

(j) Other financial assistance; tuition prepayment plans

(1) For purposes of determining a student's eligibility for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, estimated financial assistance not received under this subchapter and part C of subchapter I of chapter 34 of title 42 shall include all scholarships, grants, loans, or other assistance known to the institution at the time the determination of the student's need is made, including veterans' education benefits as defined in subsection (c) of this section, and national service educational awards or post-service benefits under title I of the National and Community Service Act of 1990 [42 U.S.C. 12511 et seq.].

(2)(A) Except as provided in subparagraph (B), for purposes of determining a student's eligibility for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, tuition prepayment plans shall reduce the cost of attendance (as determined under section 1087*ll* of this title) by the amount of the prepayment, and shall not be considered estimated financial assistance.

(B) If the institutional expense covered by the prepayment must be part of the student's cost of attendance for accounting purposes, the prepayment shall be considered estimated financial assistance.

(3) Notwithstanding paragraph (1), a tax credit taken under section 25A of title 26 shall not be treated as estimated financial assistance for purposes of section 1087kk(3) of this title.

(k) Dependents

(1) Except as otherwise provided, the term ''dependent of the parent'' means the student, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this subchapter and part C of subchapter I of chapter 34 of title 42, and other persons who live with and receive more than one-half of their support from the parent and will continue to receive more than half of their support from the parent during the award year.

(2) Except as otherwise provided, the term ''dependent of the student'' means the student's dependent children and other persons (except the student's spouse) who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year.

(*l*) Family size

(1) In determining family size in the case of a dependent student—

(A) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

(B) if the parents are divorced or separated, family members include the parent whose income is included in computing available income and that parent's dependents, including the student; and

(C) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining the parents' adjusted available income.

(2) In determining family size in the case of an independent student—

(A) family members include the student, the student's spouse, and the dependents of the student; and

(B) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

(m) Business assets

The term ''business assets'' means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

(Pub. L. 89–329, title IV, § 480, as added Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1472; amended Pub. L. 100–50, § 14(28), June 3, 1987, 101 Stat. 353; Pub. L. 100–369, § 7(b), July 18, 1988, 102 Stat. 837; Pub. L. 101–610, title I, § 185(3), (4), Nov. 16, 1990, 104 Stat. 3168; Pub. L. 102–325, title IV, § 471(a), July 23, 1992, 106 Stat. 606; Pub. L. 103–82, title I, § 102(c)(4), (5), Sept. 21, 1993, 107 Stat. 824; Pub. L. 103–208, § 2(g)(17)–(20), Dec. 20, 1993, 107 Stat. 2474; Pub. L. 104–193, title I, § 110(h)(2), Aug. 22, 1996, 110 Stat. 2172; Pub. L. 105–78, title VI, § 609(j), (k), Nov. 13, 1997, 111 Stat. 1524; Pub. L. 105–244, title IV, § 479, Oct. 7, 1998, 112 Stat. 1732; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(15)(B), (f)(12)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–421, 2681–431.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsecs. (a)(2), (e)(2), and (j)(1), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended, which is classified principally to chapter 129 (§ 12501 et seq.) of Title 42, The Public Health and Welfare. Title I of the Act enacted subchapter I (§ 12511 et seq.) of chapter 129 of Title 42 and amended sections 1070a–6 and 1087vv of this title. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

This chapter, referred to in subsec. (a)(2), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Social Security Act, referred to in subsecs. (b)(2) and (e)(4), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Parts A and E of title IV of the Act are classified generally to parts A (§ 601 et seq.) and E (§ 670 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Workforce Investment Act of 1998, referred to in subsec. (b)(14), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

Title 10, chapter 2, referred to in subsec. (c)(2)(A), relates to the organization of the Department of Defense. For provisions relating to the Reserve Officer Training Corps, see chapters 102 and 103 of Title 10, Armed Forces.

Title 10, chapter 107, referred to in subsec. (c)(2)(C), relates to educational assistance for active duty enlistees. For provisions relating to the Selective Reserve educational assistance program, see chapter 106 of Title 10.

Title 37, chapter 2, referred to in subsec. (c)(2)(D), has never been enacted. For provisions relating to the Reserve Officer Training Corps, see chapters 102 and 103 of Title 10.

Public Law 97–376, section 156, referred to in subsec. (c)(2)(I), probably means Pub. L. 97–377, title I, § 156, Dec. 21, 1982, 96 Stat. 1920, as amended, which is set out as a note under section 402 of Title 42, The Public Health and Welfare. Pub. L. 97–376 does not contain a section 156.

Public Law 96–342, section 903, referred to in subsec. (c)(2)(J), is set out as a note under section 2141 of Title 10, Armed Forces.

CODIFICATION

Amendment by section 2(g)(19) of Pub. L. 103–208 (which was effective as if included in Pub. L. 102–325) was executed to this section as amended by Pub. L. 102–325 and Pub. L. 103–82, to reflect the probable intent of Congress.

AMENDMENTS

1998—Subsec. (b)(14). Pub. L. 105–277, § 101(f) [title VIII, § 405(f)(12)(B)], struck out ''Job Training Partnership Act noneducational benefits or'' after ''railroad retirement benefits, or''.

Pub. L. 105–277, § 101(f) [title VIII, § 405(d)(15)(B)], substituted ''Job Training Partnership Act noneducational benefits or benefits received through participation in employment and training activities under title I of the Workforce Investment Act of 1998'' for ''Job Training Partnership Act noneducational benefits''.

Subsec. (j)(1). Pub. L. 105–244, § 479(1), inserted before period at end '', and national service educational awards or post-service benefits under title I of the National and Community Service Act of 1990''.

Subsec. (j)(3), (4). Pub. L. 105–244, § 479(2), (3), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: ''Notwithstanding paragraph (1), a national service educational award or post-service benefit under title I of the National and Community Service Act of 1990 shall not be treated as financial assistance for purposes of section 1087kk(3) of this title.''

1997—Subsec. (a)(2). Pub. L. 105–78, § 609(j), substituted ''program by an individual, no'' for ''program by an individual, and no'' and inserted ''and no portion of any

tax credit taken under section 25A of title 26,'' before ''shall be included''.

Subsec. (j)(4). Pub. L. 105–78, § 609(k), added par. (4).

1996—Subsec. (b)(2). Pub. L. 104–193 substituted ''assistance under a State program funded'' for ''aid to families with dependent children under a State plan approved''.

1993—Subsec. (a)(2). Pub. L. 103–82, § 102(c)(4), inserted '', and no portion of a national service educational award or post-service benefit received by an individual under title I of the National and Community Service Act of 1990,'' after ''by an individual''.

Subsec. (c)(2). Pub. L. 103–208, § 2(g)(17), made technical amendment to references to titles of the United States Code in subpars. (A) to (H).

Subsec. (d)(2). Pub. L. 103–208, § 2(g)(18), inserted before semicolon ''or was a ward of the court until the individual reached the age of 18''.

Subsec. (j)(3). Pub. L. 103–208, § 2(g)(19), realigned margin. See Codification note above.

Pub. L. 103–82, § 102(c)(5), added par. (3).

Subsecs. (k) to (m). Pub. L. 103–208, § 2(g)(20), added subsecs. (k) to (m).

1992—Pub. L. 102–325 amended section generally, substituting subsecs. (a) to (j) for former subsecs. (a) to (i).

1990—Subsec. (d)(2)(F). Pub. L. 101–610, § 185(4), inserted ''and living allowances as a result of participation in a program established under the National and Community Service Act of 1990)'' after ''other than parents''.

Subsec. (f)(3). Pub. L. 101–610, § 185(3), added par. (3).

1988—Subsec. (i). Pub. L. 100–369 added subsec. (i).

1987—Subsec. (a)(1). Pub. L. 100–50, § 14(28)(A), (B), substituted ''paragraphs (2) through (4)'' for ''paragraphs (2) and (3)'' and inserted ''minus excludable income (as defined in subsection (f) of this section)'' before period at end.

Subsec. (a)(2). Pub. L. 100–50, § 14(28)(C), added par. (2) and struck out former par. (2) which read as follows: ''The Secretary shall promulgate special regulations to permit, in the computation of family contributions for the programs under subpart 2 of part A and parts B and D of this subchapter and part C of subchapter I of chapter 34 of title 42 for any academic year the exclusion from family income of any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, liquidation, or bankruptcy.''

Subsec. (a)(4). Pub. L. 100–50, § 14(28)(D), added par. (4).

Subsecs. (b), (c). Pub. L. 100–50, § 14(28)(E), substituted subsec. (b) consisting of pars. (1) to (14) for former subsec. (b) consisting of pars. (1) to (19), and substituted subsec. (c) consisting of pars. (1) to (14) for former subsec. (c) consisting of pars. (1) to (16).

Subsec. (d)(2)(F). Pub. L. 100–50, § 14(28)(F), substituted ''annual total resources (including all sources of resources other than parents)'' for ''an annual total income''.

Subsecs. (f) to (h). Pub. L. 100–50, § 14(28)(G), added subsecs. (f) to (h).

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–244 effective Oct. 7, 1998, see section 480A of Pub. L. 105–244, set out as a note under section 1087kk of this title.

Amendment by section 101(f) [title VIII, § 405(d)(15)(B)] of Pub. L. 105–277 effective Oct. 21, 1998, and amendment by section 101(f) [title VIII, § 405(f)(12)(B)] of Pub. L. 105–277 effective July 1, 2000, see section 101(f) [title VIII, § 405(g)(1), (2)(B)] of Pub. L. 105–277, set out as a note under section 3502 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1993 AMENDMENTS

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

Amendment by Pub. L. 103–82 effective Oct. 1, 1993, see section 123 of Pub. L. 103–82, set out as a note under section 1701 of Title 16, Conservation.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 applicable with respect to determinations of need under this part for award years beginning on or after July 1, 1993, see section 471(b) of Pub. L. 102–325, set out as a note under section 1087kk of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

TRANSFER OF FUNCTIONS

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

DEFINITION OF ''INDEPENDENT STUDENT''; APPLICATION TO SPECIFIED PERIODS OF ENROLLMENT

Section 406(b)(5), formerly section 406(b)(4), of Pub. L. 99–498, renumbered Pub. L. 100–50, § 22(e)(2), June 3, 1987, 101 Stat. 361, provided that: ''The definition of independent student contained in section 480(d) of the Act [20 U.S.C. 1087vv(d)] as amended by subsection (a) of this section shall apply with respect to the determination of such need for periods of enrollment beginning on or after January 1, 1987, in the case of programs operated under part B of title IV of the Act [part B of this subchapter], or for periods of enrollment beginning on or after July 1, 1987, in the case of programs operated under subpart 2 of part A and parts C and E of such title [subpart 2 of part A of this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, and part D of this subchapter].''

[References to subpart 2 of part A of title IV of Pub. L. 89–329 deemed, after July 23, 1992, to refer to subpart 3 of such part, see section 402(b) of Pub. L. 102–325, set out as a note under section 1070a–11 of this title.]

PART F—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

CODIFICATION

This part was originally added as part E of title IV of Pub. L. 89–329 by Pub. L. 90–575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032, and subsequently redesignated part F of said title IV by Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 273, and then part G of said title IV by Pub. L. 99–498, title IV, § 406(a), Oct. 17, 1986, 100 Stat. 1454. For codification purposes, the letter designation of this part was originally changed from ''E'' to ''D.'' It was subsequently rechanged to ''E'' when this part was redesignated ''F'', and then to ''F'' when this part was redesignated ''G''. See Codification notes preceding sections 1087a and 1087aa of this title.

Part G of title IV of the Higher Education Act of 1965, comprising this part which was editorially designated as part F of this subchapter, see Codification note above, was originally enacted by Pub. L. 89–329, title IV, §§ 461 to 464 and 469, as added by Pub. L. 90–575, title I, §§ 151, 152, Oct. 16, 1968, 82 Stat. 1032, 1033; amended Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 95–566, Nov. 1, 1978, 92 Stat. 2402; S. Res. 30, Mar. 7, 1979; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98–79, Aug. 15, 1983, 97 Stat. 476; Pub. L. 99–272, Apr. 7, 1986, 100 Stat. 82. Such part is shown herein, however, as having been added by Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1475, without reference to such intervening amendments because of the extensive revision of the part's provisions by Pub. L. 99–498.

§ 1088. Definitions

(a) Academic and award year

(1) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''award year'' shall be defined as the period beginning July 1 and ending June 30 of the following year.

(2) For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''academic year'' shall require a minimum of 30 weeks of instructional time, and, with respect to an undergraduate course of study, shall require that during such minimum period of instructional time a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution that measures program length in credit hours, or at least 900 clock hours at an institution that measures program length in clock hours. The Secretary may reduce such minimum of 30 weeks to not less than 26 weeks for good cause, as determined by the Secretary on a case-by-case basis, in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree.

(b) Eligible program

(1) For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''eligible program'' means a program of at least—

(A) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—

(i) provides a program of training to prepare students for gainful employment in a recognized profession; and

(ii) admits students who have not completed the equivalent of an associate degree; or

(B) 300 clock hours of instruction, 8 semester hours, or 12 hours, offered during a minimum of 10 weeks, in the case of—

(i) an undergraduate program that requires the equivalent of an associate degree for admissions; or

(ii) a graduate or professional program.

(2)(A) A program is an eligible program for purposes of part B of this subchapter if it is a program of at least 300 clock hours of instruction, but less than 600 clock hours of instruction, offered during a minimum of 10 weeks, that—

(i) has a verified completion rate of at least 70 percent, as determined in accordance with the regulations of the Secretary;

(ii) has a verified placement rate of at least 70 percent, as determined in accordance with the regulations of the Secretary; and

(iii) satisfies such further criteria as the Secretary may prescribe by regulation.

(B) In the case of a program being determined eligible for the first time under this paragraph, such determination shall be made by the Secretary before such program is considered to have satisfied the requirements of this paragraph.

(c) Third party servicer

For purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, the term ''third party servicer'' means any individual, or any State, or private, profit or nonprofit organization which enters into a contract with—

(1) any eligible institution of higher education to administer, through either manual or automated processing, any aspect of such institution's student assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(2) any guaranty agency, or any eligible lender, to administer, through either manual or automated processing, any aspect of such guaranty agency's or lender's student loan programs under part B of this subchapter, including originating, guaranteeing, monitoring, processing, servicing, or collecting loans.

(Pub. L. 89–329, title IV, § 481, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1476; amended Pub. L. 100–50, § 15(1), June 3, 1987, 101 Stat. 355; Pub. L. 101–239, title II, § 2007(b), (c), Dec. 19, 1989, 103 Stat. 2120, 2121; Pub. L. 101–508, title III, § 3005(b), Nov. 5, 1990, 104 Stat. 1388–28; Pub. L. 102–26, § 2(a)(2), (3), (d)(2)(A), Apr. 9, 1991, 105 Stat. 123, 124; Pub. L. 102–325, title IV, § 481, July 23, 1992, 106 Stat. 609; Pub. L. 103–208, § 2(h)(1)–(6), Dec. 20, 1993, 107 Stat. 2475, 2476; Pub. L. 105–216, § 12, July 29, 1998, 112 Stat. 908; Pub. L. 105–244, title I, § 101(c), Oct. 7, 1998, 112 Stat. 1617.)

Prior Provisions

A prior section 1088, Pub. L. 89–329, title IV, § 481, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1443, defined ''institution of higher education'' for this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare, prior to the general amendment of this part by Pub. L. 99–498.

Another prior section 1088, Pub. L. 89–329, title IV, § 491, formerly § 461, as added Pub. L. 90–575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032, renumbered § 491 and amended Pub. L. 92–318, title I, §§ 131(c), 137(b), title X, § 1001(c)(3), June 23, 1972, 86 Stat. 259, 272, 381; amended Pub. L. 95–180, § 1(b), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 95–566, § 6, Nov. 1, 1978, 92 Stat. 2403; Pub. L. 96–49, § 5(e), Aug. 13, 1979, 93 Stat. 352, defined terms for this subchapter and part C of subchapter I of chapter 34 of title 42, prior to the general revision of this part by Pub. L. 96–374.

Amendments

1998—Pub. L. 105–244 redesignated subsecs. (d) to (f) as (a) to (c), respectively, and struck out former subsecs.

(a) to (c) which defined the terms ''institution of higher education'', ''proprietary institution of higher education'', and ''postsecondary vocational institution''. See section 1002 of this title.

Subsec. (a)(4). Pub. L. 105–216, which directed the amendment of par. (4), effective 1 year after July 29, 1998, by designating existing provisions as subpar. (A), redesignating former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), and by adding subpar. (B) to read as follows: ''Subparagraph (A)(i) shall not apply to a nonprofit institution whose primary function is to provide health care educational services (or an affiliate of such an institution that has the power, by contract or ownership interest, to direct or cause the direction of the institution's management or policies) that files for bankruptcy under chapter 11 of title 11 between July 1, and December 31, 1998.'', could not be executed because subsec. (a) did not contain a par. (4) subsequent to amendment by Pub. L. 105–244. See above.

1993—Subsec. (a)(3)(B). Pub. L. 103–208, § 2(h)(1), inserted before semicolon at end '', except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree''.

Subsec. (a)(3)(D). Pub. L. 103–208, § 2(h)(2), substituted ''do not have a high school diploma or its recognized equivalent'' for ''are admitted pursuant to section 1091(d) of this title'' and inserted before period at end '', except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that it exceeds such limitation because it serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a high school diploma or its recognized equivalent''.

Subsec. (a)(4)(A). Pub. L. 103–208, § 2(h)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''such institution has filed for bankruptcy; or''.

Subsec. (d)(2). Pub. L. 103–208, § 2(h)(4), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term 'academic year' shall require a minimum of 30 weeks of instructional time in which a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution which measures program length in credit hours or at least 900 clock hours at an institution which measures program length in clock hours.''

Subsec. (e)(2). Pub. L. 103–208, § 2(h)(5), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary shall develop regulations to determine the quality of programs of less than 600 clock hours in length. Such regulations shall require, at a minimum, that the programs have a verified rate of completion of at least 70 percent and a verified rate of placement of at least 70 percent. Pursuant to these regulations and notwithstanding paragraph (1), the Secretary shall allow programs of less than 600 clock hours, but greater than 300 clock hours, in length to be eligible to participate in the programs authorized under part B of this subchapter.''

Subsec. (f). Pub. L. 103–208, § 2(h)(6), substituted ''individual, or any State,'' for ''State'' in introductory provisions.

1992—Pub. L. 102–325, § 481(a), amended section catchline.

Subsec. (a). Pub. L. 102–325, § 481(a), added subsec. (a) and struck out former subsec. (a) which contained pars. (1) and (2) defining ''institution of higher education'' and ''accredited'' and par. (3) which related to recognition of accreditation of eligible institutions of higher education.

Subsec. (b). Pub. L. 102–325, § 481(b)(4), struck out at end ''For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.''

Subsec. (b)(1). Pub. L. 102–325, § 481(b)(1), substituted ''an eligible program'' for ''not less than a 6-month program''.

Subsec. (b)(4). Pub. L. 102–325, § 481(b)(2), substituted ''pursuant to part G of this subchapter,'' for ''for this purpose, and''.

Subsec. (b)(5), (6). Pub. L. 102–325, § 481(b)(3), substituted ''years, and'' for ''years.'' in cl. (5) and added cl. (6).

Subsec. (c)(1). Pub. L. 102–325, § 481(c), substituted ''an eligible program'' for ''not less than a six-month program''.

Subsec. (d). Pub. L. 102–325, § 481(d), inserted ''and award'' after ''Academic'' in heading and amended text generally. Prior to amendment, text read as follows: ''For the purpose of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, the term 'academic year' shall be defined by the Secretary by regulation.''

Subsec. (e). Pub. L. 102–325, § 481(e), amended subsec. (e) generally, substituting provisions relating to eligible program for provisions relating to impact of loss of accreditation.

Subsec. (f). Pub. L. 102–325, § 481(f), added subsec. (f).

1991—Subsec. (b). Pub. L. 102–26, § 2(d)(2)(A), repealed Pub. L. 101–508, § 3005(b). See 1990 Amendment note below.

Pub. L. 102–26, § 2(a)(2), struck out ''and who have the ability to benefit (as determined by the institution under section 1091(d) of this title) from the training offered by the institution'' before period at end of second sentence, and struck out at end ''The Secretary shall not promulgate regulations defining the admissions procedures or remediation programs that must be used by an institution in admitting students on the basis of their ability to benefit from the training offered and shall not, as a condition of recognition under section 413(e) of this Act, impose upon any accrediting body or bodies standards which are different or more restrictive than the standards provided in this subsection.''

Subsec. (c). Pub. L. 102–26, § 2(a)(3), struck out before period at end ''and who have the ability to benefit (as determined by the institution under section 1091(d) of this title) from the training offered by the institution''.

1990—Subsec. (b). Pub. L. 101–508, which inserted '', except in accordance with section 1091(d) of this title,'' after ''shall not'' in fourth sentence, was repealed by Pub. L. 102–26, § 2(d)(2)(A). See Construction of 1991 Amendment note below.

1989—Subsec. (a)(1). Pub. L. 101–239, § 2007(b)(1), substituted ''Subject to subsection (e) of this section, for the purpose'' for ''For the purpose''.

Subsec. (a)(3). Pub. L. 101–239, § 2007(c), added par. (3).

Subsec. (e). Pub. L. 101–239, § 2007(b)(2), added subsec. (e).

1987—Subsec. (c). Pub. L. 100–50 substituted ''section 1091(d) of this title'' for ''subsection (d) of this section''.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Amendment by Pub. L. 105–216 effective 1 year after July 29, 1998, see section 13 of Pub. L. 105–216, set out as an Effective Date note under section 4901 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 498 of Pub. L. 102–325 provided that: ''The changes made in part G of title IV of the Act [20 U.S.C. 1088 et seq.] by the amendments made by this part [part G (§§ 481–498) of title IV of Pub. L. 102–325, enacting sections 1091b, 1092c, 1094a, 1094b, 1098a, and 1098b of this title, amending sections 1088 to 1091, 1092, 1092b, 1093, 1094, 1095, 1096, 1097, and 1098 of this title, and repealing section 1096a of this title] shall take effect on the date of enactment of this Act [July 23, 1992], except that—

''(1) as otherwise provided in such part G;

''(2) the changes in section 481(a) [20 U.S.C. 1088(a)], relating to the definition of institution of higher education, other than paragraph (4) of such section, shall be effective on and after October 1, 1992;

''(3) section 481(e) as added by such amendments, relating to the definition of eligible program, shall be effective on and after July 1, 1993;

''(4) section 484(m)(1) [20 U.S.C. 1091(m)(1)], relating to proportion of courses permitted to be correspondence courses, as added by such amendments shall be effective on and after October 1, 1992;

''(5) the changes in section 485 [20 U.S.C. 1092], relating to disclosures, shall be effective with respect to periods of enrollment beginning on or after July 1, 1993;

''(6) the changes in section 488 [20 U.S.C. 1095], relating to transfers of allotments, shall apply with respect to funds provided for award years beginning on or after July 1, 1993; and

''(7) the changes in section 489 [20 U.S.C. 1096], relating to payments for administrative expenses, shall apply with respect to funds provided for award years beginning on or after July 1, 1993.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102–26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 3005(c) of Pub. L. 101–508, which provided that the amendments made by section 3005 (amending this section and section 1091 of this title) were to apply to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after Jan. 1, 1991, was repealed by section 2(d)(2)(A) of Pub. L. 102–26. See Construction of 1991 Amendment note below.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

CONSTRUCTION OF 1991 AMENDMENT

Section 2(d)(2)(A) of Pub. L. 102–26 provided that: ''Section 3005 of the Omnibus Reconciliation Act of 1990 [Pub. L. 101–508, amending this section and section 1091 of this title and enacting provisions set out as a note above] is repealed. Sections 484(d) and 481(b) of the Act [20 U.S.C. 1091(d), 1088(b)] shall be applied as if such section 3005 had not been enacted.''

NEED-BASED AID

Section 1544 of Pub. L. 102–325 authorized institutions of higher education to voluntarily agree with other such institutions to award financial aid not awarded under this chapter to students attending such institutions only on basis of demonstrated financial need for such aid, and to discuss and adopt principles of professional judgment for determining student financial need for such aid, with exceptions for cases pending on July 23, 1992, and for discussions or agreements on prospective financial aid awards to specific common applicants, and provided that such authorization was to expire on Sept. 30, 1994, prior to repeal by Pub. L. 103–382, title V, § 568(e)(2), Oct. 20, 1994, 108 Stat. 4061. See section 568(a)–(d) of Pub. L. 103–382, set out as a note under section 1 of Title 15, Commerce and Trade.

§ 1088a. Clock and credit hour treatment of diploma nursing schools

Notwithstanding any other provision of this chapter, any regulations promulgated by the Secretary concerning the relationship between clock hours and semester, trimester, or quarter hours in calculating student grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, shall not apply to a public or private nonprofit hospital-based school of nursing that awards a diploma at the completion of the school's program of education.

(Pub. L. 89–329, title IV, § 481A, as added Pub. L. 103–382, title III, § 360(a), Oct. 20, 1994, 108 Stat. 3969.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

Prior sections 1088a to 1088g were omitted in the general amendment of this part by Pub. L. 96–374.

Section 1088a, Pub. L. 89–329, title IV, § 492, formerly § 462, as added Pub. L. 90–575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032; renumbered § 492, Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 272, related to the eligibility of residents of the Trust Territory of the Pacific Islands. See section 1091(b) of this title.

Section 1088b, Pub. L. 89–329, title IV, § 493, formerly § 463, as added Pub. L. 90–575, title I, § 152, Oct. 16, 1968, 82 Stat. 1033; renumbered § 493, Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 272; amended Pub. L. 94–482, title I, § 131(a), Oct. 12, 1976, 90 Stat. 2147; Pub. L. 95–43, § 1(a)(40), June 15, 1977, 91 Stat. 217, related to administration expenses. See section 1096 of this title.

Section 1088b–1, Pub. L. 89–329, title IV, § 493A, as added Pub. L. 94–482, title I, § 131(b), Oct. 12, 1976, 90 Stat. 2148, related to institutional and financial assistance information for students. See section 1092 of this title.

Section 1088b–2, Pub. L. 89–329, title IV, § 493B, as added Pub. L. 94–482, title I, § 131(b), Oct. 12, 1976, 90 Stat. 2149, related to student aid information services.

Section 1088b–3, Pub. L. 89–329, title IV, § 493C, as added Pub. L. 94–482, title I, § 131(b), Oct. 12, 1976, 90 Stat. 2149, related to the student financial assistance training program.

Section 1088c, Pub. L. 89–329, title IV, § 494, formerly § 464, as added Pub. L. 90–575, title I, § 152, Oct. 16, 1968, 82 Stat. 1033; renumbered § 494 and amended Pub. L. 92–318, title I, §§ 137(b), 138(a), June 23, 1972, 86 Stat. 272, 280, related to maintenance of effort requirement.

Section 1088d, Pub. L. 89–329, title IV, § 495, as added Pub. L. 92–318, title I, § 139, June 23, 1972, 86 Stat. 280; amended S. Res. 4, Feb. 4, 1977; S. Res. 30, Mar. 7, 1979, related to requirement that copies of rules, regulations, instructions, and application forms be supplied to Congressional committees. See section 1090(b) of this title.

Section 1088e, Pub. L. 89–329, title IV, § 496, as added Pub. L. 92–318, title I, § 139A(a), June 23, 1972, 86 Stat. 281, related to transfer of funds between programs. See section 1095 of this title.

Section 1088f, Pub. L. 89–329, title IV, § 497, as added Pub. L. 92–318, title I, § 139B(a), June 23, 1972, 86 Stat. 281; amended Pub. L. 94–482, title I, § 132, Oct. 12, 1976,

90 Stat. 2150; Pub. L. 95–566, §7, Nov. 1, 1978, 92 Stat. 2404, related to eligibility for student assistance. See section 1091 of this title.

Section 1088f–1, Pub. L. 89–329, title IV, §497A, as added Pub. L. 94–482, title I, §133(a), Oct. 12, 1976, 90 Stat. 2150; amended Pub. L. 95–43, §1(a)(41), June 15, 1977, 91 Stat. 217; Pub. L. 95–561, title XII, §1231(b), Nov. 1, 1978, 92 Stat. 2346, related to fiscal eligibility of institutions.

Section 1088g, Pub. L. 89–329, title IV, §498, as added Pub. L. 92–318, title I, §139C(a), June 23, 1972, 86 Stat. 282, related to requirement of an affidavit of educational purpose.

EFFECTIVE DATE

Section 360(b) of Pub. L. 103–382 provided that: ''Subsection (a) [enacting this section] and the amendment made by subsection (a) shall take effect on July 1, 1994.''

§ 1089. Master calendar

(a) Secretary required to comply with schedule

To assure adequate notification and timely delivery of student aid funds under this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall adhere to the following calendar dates in the year preceding the award year:

(1) Development and distribution of Federal and multiple data entry forms—

(A) by February 1: first meeting of the technical committee on forms design of the Department;

(B) by March 1: proposed modifications and updates pursuant to section 1087rr of this title published in the Federal Register;

(C) by June 1: final modifications and updates pursuant to section 1087rr of this title published in the Federal Register;

(D) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

(E) by August 30: final approved forms delivered to servicers and printers;

(F) by October 1: Federal and multiple data entry forms and instructions printed; and

(G) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

(2) Allocations of campus-based and Pell Grant funds—

(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

(B) by October 1: final date for submission of FISAP by institutions to the Department;

(C) by November 15: edited FISAP and computer printout received by institutions;

(D) by December 1: appeals procedures received by institutions;

(E) by December 15: edits returned by institutions to the Department;

(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

(G) by February 15: closing date for receipt of institutional appeals by the Department;

(H) by March 1: appeals process completed;

(I) by April 1: final award notifications sent to institutions; and

(J) by June 1: Pell Grant authorization levels sent to institutions.

(3) The Secretary shall, to the extent practicable, notify eligible institutions, guaranty agencies, lenders, interested software providers, and, upon request, other interested parties, by December 1 prior to the start of an award year of minimal hardware and software requirements necessary to administer programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(4) The Secretary shall attempt to conduct training activities for financial aid administrators and others in an expeditious and timely manner prior to the start of an award year in order to ensure that all participants are informed of all administrative requirements.

(b) Timing for reallocations

With respect to any funds reallocated under section 1070b–3(e)[1] of this title, section 2752(e)[1] of title 42, or section 1087bb(j)[1] of this title, the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purpose of the programs under subpart 3 of part A of this subchapter, part C of subchapter I of chapter 34 of title 42, and part D of this subchapter, respectively. However, such reallocation shall occur at least once each year, not later than September 30 of that year.

(c) Delay of effective date of late publications

(1) Except as provided in paragraph (2), any regulatory changes initiated by the Secretary affecting the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date.

(2)(A) The Secretary may designate any regulatory provision that affects the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and is published in final form after November 1 as one that an entity subject to the provision may, in the entity's discretion, choose to implement prior to the effective date described in paragraph (1). The Secretary may specify in the designation when, and under what conditions, an entity may implement the provision prior to that effective date. The Secretary shall publish any designation under this subparagraph in the Federal Register.

(B) If an entity chooses to implement a regulatory provision prior to the effective date described in paragraph (1), as permitted by subparagraph (A), the provision shall be effective with respect to that entity in accordance with the terms of the Secretary's designation.

(d) Notice to Congress

The Secretary shall notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives when a deadline included in the calendar described in subsection (a) of this section is not met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.

[1] See References in Text note below.

(Pub. L. 89–329, title IV, § 482, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1477; amended Pub. L. 100–50, § 15(2), June 3, 1987, 101 Stat. 355; Pub. L. 102–325, title IV, § 482, July 23, 1992, 106 Stat. 612; Pub. L. 103–208, § 2(h)(7), Dec. 20, 1993, 107 Stat. 2476; Pub. L. 104–66, title I, § 1042(b), Dec. 21, 1995, 109 Stat. 715; Pub. L. 105–244, title IV, § 481, Oct. 7, 1998, 112 Stat. 1732.)

REFERENCES IN TEXT

Section 1070b–3 of this title, referred to in subsec. (b), was amended by Pub. L. 105–244, title IV, § 406(c)(2)(D), Oct. 7, 1998, 112 Stat. 1665, which redesignated subsecs. (e) and (f) as (d) and (e), respectively.

Section 2752 of title 42, referred to in subsec. (b), was amended by Pub. L. 105–244, title IV, § 442(b)(2), Oct. 7, 1998, 112 Stat. 1712, which redesignated subsecs. (e) and (f) as (d) and (e), respectively.

Section 1087bb(j) of this title, referred to in subsec. (b), was redesignated section 1087bb(i) by Pub. L. 105–244, title IV, § 462(a)(2)(H), Oct. 7, 1998, 112 Stat. 1721.

PRIOR PROVISIONS

A prior section 1089, Pub. L. 89–329, title IV, § 482, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1445; amended Pub. L. 97–35, title V, § 533(a)(1), (2), (b), Aug. 13, 1981, 95 Stat. 453; Pub. L. 99–272, title XVI, § 16031, Apr. 7, 1986, 100 Stat. 354, related to analysis of student's need for financial assistance, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1089, Pub. L. 89–329, title IV, § 499, formerly § 469, as added Pub. L. 90–575, title I, § 151, Oct. 16, 1968, 82 Stat. 1032; amended Pub. L. 91–230, title IV, § 401(h)(4), Apr. 13, 1970, 84 Stat. 174; renumbered Pub. L. 92–318, title I, § 137(b), June 23, 1972, 86 Stat. 272, related to the Advisory Council on Financial Aid to Students, prior to the general revision of this part by Pub. L. 96–374.

AMENDMENTS

1998—Subsec. (a)(3), (4). Pub. L. 105–244, § 481(a), added pars. (3) and (4).

Subsec. (c). Pub. L. 105–244, § 481(b), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: ''Any regulatory changes initiated by the Secretary affecting the programs pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such December 1 date. For award year 1994–95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting this part and parts B and G of this subchapter that are published in final form by May 1, 1994.''

1995—Subsec. (d). Pub. L. 104–66, in first sentence substituted ''a deadline included in the calendar described in subsection (a) of this section is not met'' for ''the items specified in the calendar have been completed and provide all relevant forms, rules, and instructions with such notice'' and after first sentence struck out ''When a deadline included in the calendar is not met, the Secretary, within 7 days, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a written report, including proper documentation, as to why the deadline was not adhered to and a detailed plan for ensuring that subsequent dates are met.''

1993—Subsec. (c). Pub. L. 103–208 inserted at end ''For award year 1994–95, this subsection shall not require a delay in the effectiveness of regulatory changes affecting this part and parts B and G of this subchapter that are published in final form by May 1, 1994.''

1992—Subsec. (a)(1)(B), (C). Pub. L. 102–325, § 482(b)(1), substituted ''section 1087rr'' for ''sections 1070a–5 and 1087rr''.

Subsec. (b). Pub. L. 102–325, § 482(b)(2), substituted ''subpart 3'' for ''subpart 2''.

Subsec. (c). Pub. L. 102–325, § 482(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''Any additional regulatory changes initiated by the Secretary affecting the general administration of the programs pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after the December 1 date.''

1987—Subsec. (b). Pub. L. 100–50 inserted reference to section 1087bb(j) of this title and part D of this subchapter.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

ESTABLISHMENT OF SEPARATE SYSTEMS OF NEED ANALYSIS FOR ACADEMIC YEARS 1983–1984 THROUGH 1987–1988

Pub. L. 97–301, § 4, Oct. 13, 1982, 96 Stat. 1400, as amended by Pub. L. 98–79, § 4(a), Aug. 15, 1983, 97 Stat. 480; Pub. L. 98–511, title VII, § 707(3), Oct. 19, 1984, 98 Stat. 2407; Pub. L. 99–498, title IV, § 408(a)(1), Oct. 17, 1986, 100 Stat. 1495, which required Secretary of Education to establish or approve separate systems of need analysis for the academic years 1983–1984, 1984–1985, 1985–1986, 1986–1987, and 1987–1988 for the programs authorized under subpart 2 [now 3] of part A [20 U.S.C. 1070b et seq.], part C [42 U.S.C. 2751 et seq.], and part E [20 U.S.C. 1087aa et seq.] of title IV of the Higher Education Act of 1965, was repealed by Pub. L. 99–498, title IV, § 408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

DETERMINATION OF INDEPENDENT STUDENT STATUS FOR ACADEMIC YEARS 1982–1983 THROUGH 1987–1988

Pub. L. 97–301, § 6, Oct. 13, 1982, 96 Stat. 1400, as amended by Pub. L. 98–79, § 4(a), Aug. 15, 1983, 97 Stat. 481; Pub. L. 98–516, title VII, § 707(3), Oct. 19, 1984, 98 Stat. 2407; Pub. L. 99–498, title IV, § 408(a)(1), Oct. 17, 1986, 100 Stat. 1495, which provided that notwithstanding any rule or regulation, the criteria for the determination of independent student status, prescribed under subsec. (c)(2) of this section, in effect for academic year 1982–1983, was to be the criteria for such de-

terminations for each of the academic years 1983–1984, 1984–1985, 1985–1986, 1986–1987, and 1987–1988, was repealed by Pub. L. 99–498, title IV, § 408(b), Oct. 17, 1986, 100 Stat. 1495, eff. with respect to any academic year beginning on or after July 1, 1988.

§ 1090. Forms and regulations

(a) Common financial aid form development and processing

(1) Single form required

The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge a common financial reporting form to be used to determine the need and eligibility of a student for financial assistance under parts A through D of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than under subpart 4 of part A of this subchapter). The Secretary shall include on the form developed under this subsection such data items as the Secretary determines are appropriate for inclusion. Such items shall be selected in consultation with States to assist in the awarding of State financial assistance. In no case shall the number of such data items be less than the number included on the form on October 7, 1998. Such form shall satisfy the requirements of section 1070a(d) of this title.

(2) Charges to students and parents for use of form prohibited

The common financial reporting form prescribed by the Secretary under paragraph (1) shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee for the collection, processing, or delivery of financial aid through the use of such form. The need and eligibility of a student for financial assistance under parts A through D of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than under subpart 4 of part A of this subchapter) may only be determined by using the form developed by the Secretary pursuant to paragraph (1) of this subsection. No student may receive assistance under parts A through D of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than under subpart 4 of part A of this subchapter), except by use of the form developed by the Secretary pursuant to this section. No data collected on a form for which a fee is charged shall be used to complete the form prescribed under paragraph (1).

(3) Distribution of data

Institutions of higher education, guaranty agencies, and States shall receive, without charge, the data collected by the Secretary using the form developed pursuant to this section for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education, guaranty agencies, or States to receive such data shall be subject to all the requirements of this section, unless such requirements are waived by the Secretary.

(4) Contracts for collection and processing

(A) The Secretary shall, to the extent practicable, enter into not less than 5 contracts with States, institutions of higher education, or private organizations for the purposes of the timely collection and processing of the form developed pursuant to paragraph (1) and the timely delivery of the data submitted on such form. The Secretary shall use such contracts to assist States and institutions of higher education with the collection of additional data required to award State or institutional financial assistance, except that the Secretary shall not include these additional data items on the common financial reporting form developed pursuant to this section. The Secretary shall include in each such contract a requirement that—

(i) any charges by the contractor to the student or parent for additional data items required by a State or institution for any purpose (regardless of the method of collection) shall be reasonable and shall not exceed the marginal cost of collecting, processing, and delivering such additional data, taking into account any payment received by the contractor to produce, distribute, and process the common financial reporting form prescribed by the Secretary pursuant to paragraph (1); and

(ii) the contractor will require any person or entity to whom the contractor provides such additional data to agree not to collect from any student or parent any charge that would not be permitted under this subparagraph for any such additional data.

(B) To the extent practicable, the Secretary shall ensure that at least one contractor, or a portion of one contract, under this paragraph will serve graduate and professional students.

(C) As part of the procurement process for the 1993–1994 award year, and for all procurements thereafter pertaining to the contracts under this paragraph, the Secretary shall require all entities competing for such contracts to comply with all requirements of this subsection and to—

(i) use the common financial reporting form as prescribed in paragraph (1), which shall be clearly identified as the ''Free Application for Federal Student Aid''; and

(ii) use a common, simplified reapplication form as the Secretary shall prescribe pursuant to subsection (b) of this section, in each award year.

(D) The Secretary shall reimburse all approved contractors at a reasonable predetermined rate for processing such applications, for issuing eligibility reports, and for carrying out other services or requirements that may be prescribed by the Secretary.

(E) All approved contractors shall be required to adhere to all editing, processing, and reporting requirements established by the Secretary to ensure consistency.

(F) No approved contractor shall enter into exclusive arrangements with guarantors, lenders, secondary markets, or institutions of higher education for the purpose of reselling or sharing of data collected for the multiple

data entry process. All data collected under a contract issued by the Secretary pursuant to this paragraph for the multiple data entry process is the exclusive property of the Secretary and may not be transferred to a third party by an approved contractor without the Secretary's express written approval.

(5) Electronic forms

(A) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, including private computer software providers, shall develop an electronic version of the form described in paragraph (1). As permitted by the Secretary, such an electronic version shall not require a signature to be collected at the time such version is submitted, if a signature is subsequently submitted by the applicant. The Secretary shall prescribe such version not later than 120 days after October 7, 1998.

(B) Nothing in this section shall be construed to prohibit the use of the form developed by the Secretary pursuant to subparagraph (A) by an eligible institution, eligible lender, guaranty agency, State grant agency, private computer software providers, a consortium thereof, or such other entities as the Secretary may designate.

(C) No fee shall be charged to students in connection with the use of the electronic version of the form, or of any other electronic forms used in conjunction with such form in applying for Federal or State student financial assistance.

(D) The Secretary shall ensure that data collection complies with section 552a of title 5 and that any entity using the electronic version of the form developed by the Secretary pursuant to subparagraph (A) shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the form. Data collected by such version of the form shall be used only for the application, award, and administration of aid awarded under this subchapter and part C of subchapter I of chapter 34 of title 42, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such version of the form shall be used for making final aid awards under this subchapter and part C of subchapter I of chapter 34 of title 42 until such data have been processed by the Secretary or a contractor or designee of the Secretary.

(6) Third party servicers and private software providers

To the extent practicable and in a timely manner, the Secretary shall provide, to private organizations and consortia that develop software used by eligible institutions for the administration of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, all the necessary specifications that the organizations and consortia must meet for the software the organizations and consortia develop, produce, and distribute (including any diskette, modem, or network communications) which are so used. The specifications shall contain record layouts for required data. The Secretary shall develop in advance of each processing cycle an annual schedule for providing such specifications. The Secretary, to the extent practicable, shall use means of providing such specifications, including conferences and other meetings, outreach, and technical support mechanisms (such as training and printed reference materials). The Secretary shall, from time to time, solicit from such organizations and consortia means of improving the support provided by the Secretary.

(7) Parent's social security number and birth date

The Secretary is authorized to include on the form developed under this subsection space for the social security number and birth date of parents of dependent students seeking financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Streamlined reapplication process

(1) The Secretary shall develop a streamlined reapplication form and process, including electronic reapplication process, consistent with the requirements of subsection (a) of this section, for those recipients who apply for financial aid funds under this subchapter and part C of subchapter I of chapter 34 of title 42 in the next succeeding academic year subsequent to the initial year in which such recipients apply.

(2) The Secretary shall develop appropriate mechanisms to support reapplication.

(3) The Secretary shall determine, in cooperation with States, institutions of higher education, agencies and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

(4) Nothing in this subchapter and part C of subchapter I of chapter 34 of title 42 shall be interpreted as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

(5) Individuals determined to have a zero family contribution pursuant to section 1087ss of this title shall not be required to provide any financial data, except that which is necessary to determine eligibility under that section.

(c) Information to committees of Congress

Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this subchapter and part C of subchapter I of chapter 34 of title 42 shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives at least 45 days prior to their effective date.

(d) Toll-free information

The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this subchapter and part C of subchapter I of chapter 34

of title 42. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national clearinghouse on postsecondary education that is authorized under section 1485(d)(2)(C) of this title.

(e) Preparer

Any financial aid application required to be made under this subchapter and part C of subchapter I of chapter 34 of title 42 shall include the name, signature, address or employer's address, social security number or employer identification number, and organizational affiliation of the preparer of such financial aid application.

(Pub. L. 89–329, title IV, § 483, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1478; amended Pub. L. 100–50, § 15(3)–(6), June 3, 1987, 101 Stat. 356; Pub. L. 102–325, title IV, § 483, July 23, 1992, 106 Stat. 612; Pub. L. 103–208, § 2(h)(8)–(12), Dec. 20, 1993, 107 Stat. 2476; Pub. L. 105–244, title IV, § 482, Oct. 7, 1998, 112 Stat. 1733.)

PRIOR PROVISIONS

A prior section 1090, Pub. L. 89–329, title IV, § 483, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1448, related to forms and regulations for student assistance programs, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 482(a)(1), substituted ''form development'' for ''form'' in heading.

Subsec. (a)(1). Pub. L. 105–244, § 482(a)(2)(D), struck out at end ''For the purpose of collecting eligibility and other data for the purpose of part B of this subchapter, the Secretary shall develop a separate, identifiable loan application document (pursuant to section 1082(m) of this title) that applicants or institutions in which the students are enrolled or accepted for enrollment shall submit directly to eligible lenders and on which the applicant shall clearly indicate a choice of a lender.''

Pub. L. 105–244, § 482(a)(2)(C), substituted ''The Secretary shall include on the form developed under this subsection such data items as the Secretary determines are appropriate for inclusion. Such items shall be selected in consultation with States to assist in the awarding of State financial assistance. In no case shall the number of such data items be less than the number included on the form on October 7, 1998.'' for ''The Secretary may include on the form developed pursuant to this paragraph not more than eight nonfinancial data items selected in consultation with the States to assist the States in awarding State student financial assistance.''

Pub. L. 105–244, § 482(a)(2)(A), (B), substituted ''A through D'' for ''A, C, and D'' and struck out ''and to determine the need of a student for the purpose of part B of this subchapter'' after ''part A of this subchapter)''.

Subsec. (a)(2). Pub. L. 105–244, § 482(a)(3), substituted ''A through D'' for ''A, C, and D'' in two places and struck out ''and the need of a student for the purpose of part B of this subchapter,'' before ''may only be determined'' and ''or have the student's need established for the purpose of part B of this subchapter'' before '', except by use of''.

Subsec. (a)(3). Pub. L. 105–244, § 482(a)(4), amended heading and text of par. (3) generally. Prior to amendment, text read as follows: ''Institutions of higher education and States shall receive, without charge, the data collected by the Secretary using the form developed pursuant to this section for the purposes of determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.''

Subsec. (a)(5) to (7). Pub. L. 105–244, § 482(a)(5), added pars. (5) to (7).

Subsec. (b)(1). Pub. L. 105–244, § 482(b), struck out '', within 240 days after July 23, 1992,'' after ''The Secretary shall''.

Subsec. (c). Pub. L. 105–244, § 482(c), substituted ''and the Workforce'' for ''and Labor''.

Subsec. (d). Pub. L. 105–244, § 482(d), substituted ''section 1485(d)(2)(C)'' for ''section 1433(c)''.

Subsec. (f). Pub. L. 105–244, § 482(e), struck out heading and text of subsec. (f). Text read as follows: ''Nothing in section 1544 of the Higher Education Amendments of 1992 shall relieve processors or institutions of higher education of any or all obligations under this section.''

1993—Subsec. (a)(1). Pub. L. 103–208, § 2(h)(8), made technical amendment to reference to section 1070a(d) of this title to correct reference to corresponding section of original act.

Subsec. (a)(2). Pub. L. 103–208, § 2(h)(9), inserted at end ''No data collected on a form for which a fee is charged shall be used to complete the form prescribed under paragraph (1).''

Subsec. (a)(3). Pub. L. 103–208, § 2(h)(10), inserted at end ''Entities designated by institutions of higher education or States to receive such data shall be subject to all requirements of this section, unless such requirements are waived by the Secretary.''

Subsecs. (d), (e). Pub. L. 103–208, § 2(h)(12), redesignated subsecs. (e) and (f) as (d) and (e), respectively.

Subsec. (f). Pub. L. 103–208, § 2(h)(12), redesignated subsec. (g) as (f). Former subsec. (f) redesignated (e).

Pub. L. 103–208, § 2(h)(11), substituted ''address or employer's address, social security number or employer identification number,'' for ''address, social security number,''.

Subsec. (g). Pub. L. 103–208, § 2(h)(12), redesignated subsec. (g) as (f).

1992—Subsec. (a). Pub. L. 102–325, § 483(a), added subsec. (a) and struck out former subsec. (a) which contained pars. (1) to (5) relating to a common financial aid form and processing of financial aid applications.

Subsec. (b). Pub. L. 102–325, § 483(a), added subsec. (b) and struck out former subsec. (b) which related to certifications of capability of systems for determining expected family contributions.

Subsec. (d). Pub. L. 102–325, § 483(b)(1), struck out subsec. (d) which related to provision of early notice to students of their potential eligibility for financial aid.

Subsec. (e). Pub. L. 102–325, § 483(b)(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: ''The Secretary shall contract for, or establish, and publicize a toll-free telephone number to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing application forms for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.''

Subsecs. (f), (g). Pub. L. 102–325, § 483(b)(1), (3), added subsecs. (f) and (g) and struck out former subsec. (f) which related to notice of student aid receipt.

1987—Subsec. (a)(1). Pub. L. 100–50, § 15(3), (4), inserted in second sentence ''or institutions in which the students are enrolled or accepted for enrollment'' after ''that applicants'' and ''and on which the applicant shall clearly indicate a choice of lender'' before period at end.

Subsec. (a)(2). Pub. L. 100–50, § 15(5), substituted ''not less than 5'' for ''not less than 3'' and inserted sentence at end providing that the Secretary not select new multiple data entry processors until certain examinations and recommendations are made by the Advisory Commission on Student Financial Assistance.

Subsecs. (b) to (f). Pub. L. 100–50, § 15(6), added subsec. (b) and redesignated former subsecs. (b) to (e) as (c) to (f), respectively.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsec. (e) of this section applicable to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99–498, set out as a note under section 1091 of this title.

§ 1091. Student eligibility

(a) In general

In order to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, a student must—

(1) be enrolled or accepted for enrollment in a degree, certificate, or other program (including a program of study abroad approved for credit by the eligible institution at which such student is enrolled) leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 1094 of this title, except as provided in subsections (b)(3) and (b)(4) of this section, and not be enrolled in an elementary or secondary school;

(2) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with the provisions of subsection (c) of this section;

(3) not owe a refund on grants previously received at any institution under this subchapter and part C of subchapter I of chapter 34 of title 42, or be in default on any loan from a student loan fund at any institution provided for in part D of this subchapter, or a loan made, insured, or guaranteed by the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42 for attendance at any institution;

(4) file with the Secretary, as part of the original financial aid application process, a certification,,[1] which need not be notarized, but which shall include—

(A) a statement of educational purpose stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

(B) such student's social security number, except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau; [2]

(5) be a citizen or national of the United States, a permanent resident of the United States, able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident,[3] a citizen of any one of the Freely Associated States.

(b) Eligibility for student loans

(1) In order to be eligible to receive any loan under this subchapter and part C of subchapter I of chapter 34 of title 42 (other than a loan under section 1078–2 or 1078–3 of this title) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this subchapter, shall—

(A)(i) have received a determination of eligibility or ineligibility for a Pell Grant under such subpart 1 for such period of enrollment; and (ii) if determined to be eligible, have filed an application for a Pell Grant for such enrollment period; or

(B) have (A) filed an application with the Pell Grant processor for such institution for such enrollment period, and (B) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.

(2) In order to be eligible to receive any loan under section 1078–1[4] of this title for any period of enrollment, a student shall—

(A) have received a determination of need for a loan under section 1078(a)(2)(B) of this title;

(B) if determined to have need for a loan under section 1078 of this title, have applied for such a loan; and

(C) has applied for a loan under section 1078–8 of this title, if such student is eligible to apply for such a loan.

(3) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study that the student is pursuing, as determined by an eligible institution, and

(B) is enrolled in a course of study necessary for enrollment in a program leading to a degree or certificate,

[1] So in original.

[2] So in original. Probably should be followed by ''and''.

[3] So in original. Probably should be followed by ''or''.

[4] See References in Text note below.

shall be, notwithstanding paragraph (1) of subsection (a) of this section, eligible to apply for loans under part B or C of this subchapter. The eligibility described in this paragraph shall be restricted to one 12-month period.

(4) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

(B) is enrolled or accepted for enrollment in a program at an eligible institution necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a) of this section, eligible to apply for loans under part B, C, or D of this subchapter or work-study assistance under part C of subchapter I of chapter 34 of title 42.

(5) Notwithstanding any other provision of this subsection, no incarcerated student is eligible to receive a loan under this subchapter and part C of subchapter I of chapter 34 of title 42.

(c) Satisfactory progress

(1) For the purpose of subsection (a)(2) of this section, a student is maintaining satisfactory progress if—

(A) the institution at which the student is in attendance, reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and

(B) the student has a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

(2) Whenever a student fails to meet the eligibility requirements of subsection (a)(2) of this section as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(2) of this section for a grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(3) Any institution of higher education at which the student is in attendance may waive the provisions of paragraph (1) or paragraph (2) of this subsection for undue hardship based on—

(A) the death of a relative of the student,

(B) the personal injury or illness of the student, or

(C) special circumstances as determined by the institution.

(d) Students who are not high school graduates

In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 3, and 4 of part A and parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall meet one of the following standards:

(1) The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that such student can benefit from the education or training being offered. Such examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

(2) The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves such process. In determining whether to approve or disapprove such process, the Secretary shall take into account the effectiveness of such process in enabling students without high school diplomas or the equivalent thereof to benefit from the instruction offered by institutions utilizing such process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.

(3) The student has completed a secondary school education in a home school setting that is treated as a home school or private school under State law.

(e) Certification for GSL eligibility

Each eligible institution may certify student eligibility for a loan by an eligible lender under part B of this subchapter prior to completing the review for accuracy of the information submitted by the applicant required by regulations issued under this subchapter and part C of subchapter I of chapter 34 of title 42, if—

(1) checks for the loans are mailed to the eligible institution prior to disbursements;

(2) the disbursement is not made until the review is complete; and

(3) the eligible institution has no evidence or documentation on which the institution may base a determination that the information submitted by the applicant is incorrect.

(f) Loss of eligibility for violation of loan limits

(1) No student shall be eligible to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the eligible institution determines that the student fraudulently borrowed in violation of the annual loan limits under part B, part C, or part D of this subchapter in the same academic year, or if the student fraudulently borrowed in excess of the aggregate maximum loan limits under such part B, part C, or part D.

(2) If the institution determines that the student inadvertently borrowed amounts in excess of such annual or aggregate maximum loan limits, such institution shall allow the student to repay any amount borrowed in excess of such limits prior to certifying the student's eligibility for further assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(g) Verification of immigration status

(1) In general

The Secretary shall implement a system under which the statements and supporting documentation, if required, of an individual declaring that such individual is in compliance with the requirements of subsection (a)(5) of this section shall be verified prior to the individual's receipt of a grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42.

(2) Special rule

The documents collected and maintained by an eligible institution in the admission of a student to the institution may be used by the student in lieu of the documents used to establish both employment authorization and identity under section 1324a(b)(1)(B) of title 8 to verify eligibility to participate in work-study programs under part C of subchapter I of chapter 34 of title 42.

(3) Verification mechanisms

The Secretary is authorized to verify such statements and supporting documentation through a data match, using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.

(4) Review

In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the institution—

(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the institution determines constitute reasonable evidence indicating such status—

(i) the institution shall transmit to the Immigration and Naturalization Service either photostatic or other similar copies of such documents, or information from such documents, as specified by the Immigration and Naturalization Service, for official verification,

(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(h) Limitations of enforcement actions against institutions

The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the institution, under subsection (h)(4)(A)(i)[5] of this section, was required to provide a reasonable opportunity to submit documentation, or

(3) because the institution, under subsection (h)(4)(B)(i)[5] of this section, was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student.

(i) Validity of loan guarantees for loan payments made before immigration status verification completed

Notwithstanding subsection (h)[5] of this section, if—

(1) a guaranty is made under this subchapter and part C of subchapter I of chapter 34 of title 42 for a loan made with respect to an individual,

(2) at the time the guaranty is entered into, the provisions of subsection (h)[5] of this section had been complied with,

(3) amounts are paid under the loan subject to such guaranty, and

(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date the entity receives the notice.

(j) Assistance under subparts 1 and 3 of part A, and part C

Notwithstanding any other provision of law, a student shall be eligible until September 30, 2004, for assistance under subparts 1 and 3 of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42, if the student is otherwise qualified and—

(1) is a citizen of any one of the Freely Associated States and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Freely Associated States; or

(2) meets the requirements of subsection (a)(5) of this section and attends a public or nonprofit private institution of higher education in any one of the Freely Associated States.

(k) Special rule for correspondence courses

A student shall not be eligible to receive grant, loan, or work assistance under this sub-

[5] See References in Text note below.

chapter and part C of subchapter I of chapter 34 of title 42 for a correspondence course unless such course is part of a program leading to an associate, bachelor or graduate degree.

(*l*) Courses offered through telecommunications

(1) Relation to correspondence courses

(A) In general

A student enrolled in a course of instruction at an institution of higher education that is offered in whole or in part through telecommunications and leads to a recognized certificate for a program of study of 1 year or longer, or a recognized associate, baccalaureate, or graduate degree, conferred by such institution, shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of the total amount of all courses at the institution.

(B) Requirement

An institution of higher education referred to in subparagraph (A) is an institution of higher education—

(i) that is not an institute or school described in section 2471(4)(C)[6] of this title; and

(ii) for which at least 50 percent of the programs of study offered by the institution lead to the award of a recognized associate, baccalaureate, or graduate degree.

(2) Restriction or reductions of financial aid

A student's eligibility to receive grants, loans, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be reduced if a financial aid officer determines under the discretionary authority provided in section 1087tt of this title that telecommunications instruction results in a substantially reduced cost of attendance to such student.

(3) Special rule

For award years prior to July 23, 1992, the Secretary shall not take any compliance, disallowance, penalty, or other action against a student or an eligible institution when such action arises out of such institution's prior award of student assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the institution demonstrates to the satisfaction of the Secretary that its course of instruction would have been in conformance with the requirements of this subsection.

(4) "Telecommunications" defined

For the purposes of this subsection, the term ''telecommunications'' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that such term does not include a course that is delivered using video cassette or disc recordings at such institution and that is not delivered in person to other students of that institution.

[6] See References in Text note below.

(m) Students with a first baccalaureate or professional degree

A student shall not be ineligible for assistance under parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42 because such student has previously received a baccalaureate or professional degree.

(n) Data base matching

To enforce the Selective Service registration provisions of section 1113 of Public Law 97–252, the Secretary shall conduct data base matches with the Selective Service, using common demographic data elements. Appropriate confirmation, through an application output document or through other means, of any person's registration shall fulfill the requirement to file a separate statement of compliance. In the absence of a confirmation from such data matches, an institution may also use data or documents that support either the student's registration, or the absence of a registration requirement for the student, to fulfill the requirement to file a separate statement of compliance. The mechanism for reporting the resolution of nonconfirmed matches shall be prescribed by the Secretary in regulations.

(*o*) Study abroad

Nothing in this chapter shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, without regard to whether such study abroad program is required as part of the student's degree program.

(p) Verification of social security number

The Secretary of Education, in cooperation with the Commissioner of the Social Security Administration, shall verify any social security number provided by a student to an eligible institution under subsection (a)(4) of this section and shall enforce the following conditions:

(1) Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this part because social security number verification is pending.

(2) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 until such time as the student provides documented evidence of a social security number that is determined by the institution to be correct.

(3) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, and a correct social security number cannot be provided by such student, and a loan has been guaranteed for such student

under part B of this subchapter, the institution shall notify and instruct the lender and guaranty agency making and guaranteeing the loan, respectively, to cease further disbursements of the loan, but such guaranty shall not be voided or otherwise nullified with respect to such disbursements made before the date that the lender and the guaranty agency receives such notice.

(4) Nothing in this subsection shall permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

(A) any institution of higher education with respect to any error in a social security number, unless such error was a result of fraud on the part of the institution; or

(B) any student with respect to any error in a social security number, unless such error was a result of fraud on the part of the student.

(q) Verification of income data

(1) Confirmation with IRS

The Secretary of Education, in cooperation with the Secretary of the Treasury, is authorized to confirm with the Internal Revenue Service the adjusted gross income, Federal income taxes paid, filing status, and exemptions reported by applicants (including parents) under this subchapter and part C of subchapter I of chapter 34 of title 42 on their Federal income tax returns for the purpose of verifying the information reported by applicants on student financial aid applications.

(2) Notification

The Secretary shall establish procedures under which an applicant is notified that the Internal Revenue Service will disclose to the Secretary tax return information as authorized under section 6103(*l*)(13) of title 26.

(r) Suspension of eligibility for drug-related offenses

(1) In general

A student who has been convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 during the period beginning on the date of such conviction and ending after the interval specified in the following table:

If convicted of an offense involving:	
The possession of a controlled substance:	**Ineligibility period is:**
First offense	1 year
Second offense	2 years
Third offense	Indefinite.
The sale of a controlled substance:	**Ineligibility period is:**
First offense	2 years
Second offense	Indefinite.

(2) Rehabilitation

A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the ineligibility period determined under such paragraph if—

(A) the student satisfactorily completes a drug rehabilitation program that—

(i) complies with such criteria as the Secretary shall prescribe in regulations for purposes of this paragraph; and

(ii) includes two unannounced drug tests; or

(B) the conviction is reversed, set aside, or otherwise rendered nugatory.

(3) Definitions

In this subsection, the term ''controlled substance'' has the meaning given the term in section 802(6) of title 21.

(Pub. L. 89–329, title IV, §484, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1479; amended Pub. L. 99–603, title I, §121(a)(3), Nov. 6, 1986, 100 Stat. 3388; Pub. L. 100–50, §15(7)–(9), June 3, 1987, 101 Stat. 356, 357; Pub. L. 100–369, §§1, 2, 6, July 18, 1988, 102 Stat. 835, 836; Pub. L. 100–525, §2(g), Oct. 24, 1988, 102 Stat. 2611; Pub. L. 101–508, title III, §3005(a), Nov. 5, 1990, 104 Stat. 1388–27; Pub. L. 102–26, §2(b), (c)(2), (d)(2)(A), Apr. 9, 1991, 105 Stat. 123, 124; Pub. L. 102–73, title VIII, §801(a), July 25, 1991, 105 Stat. 359; Pub. L. 102–325, title IV, §484(a), (b)(1), (c)–(h), July 23, 1992, 106 Stat. 615–619; Pub. L. 103–208, §2(h)(13)–(25), Dec. 20, 1993, 107 Stat. 2476, 2477; Pub. L. 103–382, title III, §360A, Oct. 20, 1994, 108 Stat. 3969; Pub. L. 104–208, div. C, title V, §507(b), Sept. 30, 1996, 110 Stat. 3009–673; Pub. L. 105–244, title IV, §483(a)–(f)(1), Oct. 7, 1998, 112 Stat. 1735, 1736.)

REFERENCES IN TEXT

Section 1078–1 of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 103–66, title IV, §4047(b)–(d), Aug. 10, 1993, 107 Stat. 364, eff. July 1, 1994, except with respect to loans provided under that section as it existed prior to Aug. 10, 1993. Subsequently, a new section 1078–1, relating to voluntary flexible agreements with guaranty agencies, was enacted by Pub. L. 105–244, title IV, §418, Oct. 7, 1998, 112 Stat. 1691.

Subsection (h) of this section, referred to in subsecs. (h)(2), (3) and (i), was redesignated subsec. (g) of this section by Pub. L. 103–208, §2(h)(25), Dec. 20, 1993, 107 Stat. 2477.

Section 2471 of this title, referred to in subsec. (*l*)(1)(B)(i), was omitted in the general amendment of chapter 44 (§2301 et seq.) of this title by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076.

Section 1113 of Public Law 97–252, referred to in subsec. (n), amended section 462 of Title 50, Appendix, War and National Defense, and enacted provisions set out as a note under section 462 of Title 50, Appendix.

This chapter, referred to in subsec. (*o*), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1091, Pub. L. 89–329, title IV, §484, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1448; Pub. L. 99–272, title XVI, §16032(a), (b), Apr. 7, 1986, 100 Stat. 354, related to student eligibility for assistance, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1091, Pub. L. 89–329, title V, §501, Nov. 8, 1965, 79 Stat. 1254; Pub. L. 90–35, §2(c), June 29, 1967, 81 Stat. 82; Pub. L. 92–318, title I, §141(b)(1), June 23, 1972, 86 Stat. 285, set forth statement of purpose and authorization of appropriations for education professions development program, prior to repeal effec-

tive Sept. 30, 1976, by Pub. L. 94–482, title I, §151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

AMENDMENTS

1998—Subsec. (a)(4). Pub. L. 105–244, §483(a)(1), substituted ''the Secretary, as part of the original financial aid application process, a certification,'' for ''the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a document'' in introductory provisions.

Subsec. (a)(5). Pub. L. 105–244, §483(a)(2), substituted ''a citizen of any one of the Freely Associated States'' for ''or a permanent resident of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands''.

Subsec. (d). Pub. L. 105–244, §483(b), struck out ''either'' after ''shall meet'' in introductory provisions and added par. (3).

Subsec. (j). Pub. L. 105–244, §483(c), amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: ''Notwithstanding any other provision of law, a student shall be eligible, if otherwise qualified, for assistance under subparts 1, 3, and 6, and division 1 of subpart 2, of part A of this subchapter, and part C of subchapter I of chapter 34 of title 42, if the student is otherwise qualified and—

''(1) is a citizen of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, and attends an institution of higher education in a State or a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau; or

''(2) meets the requirements of subsection (a)(5) of this section and attends a public or nonprofit private institution of higher education in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau.''

Subsec. (*l*)(1). Pub. L. 105–244, §483(d), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: ''A student enrolled in a course of instruction at an eligible institution of higher education (other than an institution that meets the definition in section 2471(4)(C) of this title) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by such institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of such courses.''

Subsec. (q). Pub. L. 105–244, §483(e), added subsec. (q).

Subsec. (r). Pub. L. 105–244, §483(f)(1), added subsec. (r).

1996—Subsec. (g)(4)(B)(i). Pub. L. 104–208 amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,''.

1994—Subsec. (j). Pub. L. 103–382 amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: ''Notwithstanding any other provision of law, a student who meets the requirements of paragraph (a)(5) of this section or who is a resident of the freely associated states, and who attends a public or nonprofit institution of higher education located in any of the freely associated states rather than a State, shall be eligible, if otherwise qualified, for assistance under subpart 1, 2, or 4 of part A of this subchapter or part C of subchapter I of chapter 34 of title 42.''

1993—Subsec. (a)(4)(B). Pub. L. 103–208, §2(h)(13), inserted '', except that the provisions of this subparagraph shall not apply to a student from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau'' after ''number''.

Subsec. (a)(5). Pub. L. 103–208, §2(h)(14), substituted ''able to provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident'' for ''in the United States for other than a temporary purpose and able to provide evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident''.

Subsec. (b)(2)(C). Pub. L. 103–208, §2(h)(15), added subpar. (C).

Subsec. (b)(3). Pub. L. 103–208, §2(h)(16), substituted ''part B or C of this subchapter'' for ''part B of this subchapter'' in closing provisions.

Subsec. (f). Pub. L. 103–208, §2(h)(17), (25), redesignated subsec. (g) as (f) and struck out heading and text of former subsec. (f). Text read as follows: ''Notwithstanding any other provision of law, the Secretary may not require, or prescribe regulations that require, institutions to verify the accuracy of data used to determine the eligibility for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 for more than 30 percent of the applicants in any award year. In carrying out the provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applicants in any award year. Nothing in this subsection shall preclude the Secretary from verifying all applications for aid through the use of any means available, including through the exchange of information with any other Federal agency.''

Subsec. (g). Pub. L. 103–208, §2(h)(25), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

Pub. L. 103–208, §2(h)(18), which directed insertion of a comma after '', Part C'' wherever appearing, was executed by inserting a comma after '', part C'' wherever appearing, to reflect the probable intent of Congress.

Subsec. (h). Pub. L. 103–208, §2(h)(25), redesignated subsec. (i) as (h). Former subsec. (h) redesignated (g).

Pub. L. 103–208, §2(h)(19), substituted ''constitute'' for ''constitutes'' in introductory provisions of par. (4)(B).

Subsec. (i). Pub. L. 103–208, §2(h)(25), redesignated subsec. (j) as (i). Former subsec. (i) redesignated (h).

Pub. L. 103–208, §2(h)(22), struck out par. (4) which read as follows: ''because of a fair hearing process described in subsection (h)(5)(B) of this section.''

Pub. L. 103–208, §2(h)(21), substituted ''(h)(4)(B)(i)'' for ''(h)(4)(B)(ii)'' and ''student.'' for ''student, or'' in par. (3).

Pub. L. 103–208, §2(h)(20), inserted ''or'' after ''documentation,'' and substituted ''(h)(4)(A)(i)'' for ''(h)(4)(A)(ii)'' in par. (2).

Subsecs. (j) to (m). Pub. L. 103–208, §2(h)(25), redesignated subsecs. (k) to (n) as (j) to (m), respectively. Former subsec. (j) redesignated (i).

Subsec. (n). Pub. L. 103–208, §2(h)(25), redesignated subsec. (*o*) as (n). Former subsec. (n) redesignated (m).

Pub. L. 103–208, §2(h)(23), substituted ''parts B, C,'' for ''part B, C,''.

Subsecs. (*o*), (p). Pub. L. 103–208, §2(h)(25), redesignated subsecs. (p) and (q) as (*o*) and (p), respectively. Former subsec. (*o*) redesignated (n).

Subsec. (q). Pub. L. 103–208, §2(h)(25), redesignated subsec. (q) as (p).

Pub. L. 103–208, §2(h)(24), substituted ''documented evidence of a social security number that is determined by the institution to be correct'' for ''a correct social security number'' in par. (2).

1992—Subsec. (a)(1). Pub. L. 102–325, §484(a)(1), inserted ''(including a program of study abroad approved for credit by the eligible institution at which such student is enrolled)'' after ''or other program''.

Subsec. (a)(4). Pub. L. 102–325, §484(a)(2), added par. (4) and struck out former par. (4) which read as follows: ''file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number) stating that the money attributable to such grant, loan, or loan guarantee will be used solely

for expenses related to attendance or continued attendance at such institution; and''.

Subsec. (b)(4)(B). Pub. L. 102–325, §484(b)(1)(A), substituted ''part B, C, or D of this subchapter or work-study assistance under part C of subchapter I of chapter 34 of title 42'' for ''part B of this subchapter'' in concluding provisions.

Subsec. (b)(5). Pub. L. 102–325, §484(b)(1)(B), added par. (5).

Subsec. (d). Pub. L. 102–325, §484(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 2, and 3 of part A and parts B, C, and D of this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall pass an independently administered examination approved by the Secretary.''

Subsec. (f). Pub. L. 102–325, §484(d), inserted at end ''Nothing in this subsection shall preclude the Secretary from verifying all applications for aid through the use of any means available, including through the exchange of information with any other Federal agency.''

Subsec. (g). Pub. L. 102–325, §484(e), designated existing provisions as par. (1), inserted '', part C'' after ''part B'' in two places and ''fraudulently'' before ''borrowed'' in two places, and added par. (2).

Subsec. (h). Pub. L. 102–325, §484(f), amended subsec. (h) generally. Prior to amendment, subsec. (h) contained pars. (1) to (6) relating to requirements for verification of student immigration status.

Subsec. (k). Pub. L. 102–325, §484(h), made technical amendment to directory language of Pub. L. 102–73, §801(a). See 1991 Amendment note below.

Subsecs. (*l*) to (q). Pub. L. 102–325, §484(g), added subsecs. (*l*) to (q).

1991—Subsec. (a)(1). Pub. L. 102–26, §2(c)(2), inserted before semicolon at end '', and not be enrolled in an elementary or secondary school''.

Subsec. (d). Pub. L. 102–26, §2(d)(2)(A), repealed Pub. L. 101–508, §3005(a). See 1990 Amendment note below.

Pub. L. 102–26, §2(b), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''A student who is admitted on the basis of the ability to benefit from the education or training in order to remain eligible for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 shall—

''(1) receive the general education diploma prior to the student's certification or graduation from the program of study, or by the end of the first year of the course of study, whichever is earlier;

''(2) be counseled prior to admission and be enrolled in and successfully complete the institutionally prescribed program of remedial or developmental education not to exceed one academic year or its equivalent; or

''(3)(A) be administered a nationally recognized, standardized, or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which the applicant has applied; and

''(B) with respect to applicants who are unable to satisfy the institutions' admissions testing requirements specified in subparagraph (A), be enrolled in and successfully complete an institutionally prescribed program or course of remedial or developmental education not to exceed one academic year or its equivalent.

In order to be eligible for assistance a student cannot be enrolled in either an elementary or a secondary school.''

Subsec. (k). Pub. L. 102–73, as amended by Pub. L. 102–325, §484(h), added subsec. (k).

1990—Subsec. (d). Pub. L. 101–508, which amended subsec. (d) generally to read: ''In order for a student who is admitted on the basis of ability to benefit from the education or training offered to be eligible for any grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, the student shall, prior to enrollment, pass an independently administered examination approved by the Secretary.'', was repealed by Pub. L. 102–26, §2(d)(2)(A). See Construction of 1991 Amendment note below.

1988—Subsec. (a)(1). Pub. L. 100–369, §6(1), substituted ''subsections (b)(3) and (b)(4)'' for ''subsection (b)(2)''.

Subsec. (b)(1). Pub. L. 100–369, §1(1), substituted ''section 1078–2 or 1078–3'' for ''section 1078–1, 1078–2, or 1078–3''.

Subsec. (b)(1)(A). Pub. L. 100–369, §1(2), added subpar. (A) and struck out former subpar. (A) which read as follows: ''have received a determination of eligibility or ineligibility for a grant under such subpart 1 for such period of enrollment; or''.

Subsec. (b)(2), (3). Pub. L. 100–369, §2, added par. (2) and redesignated former par. (2) as (3).

Subsec. (b)(4). Pub. L. 100–369, §6(2), added par. (4).

Subsecs. (c) to (e), (h) to (j). Pub. L. 100–525 redesignated subsecs. (c) to (e) enacted by Pub. L. 99–603 as (h) to (j), respectively, and inserted headings, substituted references to subsec. (h) for references to subsec. (c) wherever appearing, and in closing provisions of subsec. (j) substituted ''date'' for ''date of''.

1987—Subsec. (a)(1). Pub. L. 100–50, §15(7)(A), inserted '', except as provided in subsection (b)(2) of this section'' before semicolon at end.

Subsec. (b). Pub. L. 100–50, §15(7)(B)–(D), designated existing provision as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (d). Pub. L. 100–50, §15(8), added pars. (2) and (3) and last sentence relating to ineligibility for assistance if a student is enrolled in either an elementary or a secondary school, and struck out former par. (2) which read as follows:

''(A) be counseled prior to admissions or be administered a nationally recognized standardized or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which he has applied; and

''(B) with respect to applicants who are unable to satisfy the institution's admissions testing requirements specified in subparagraph (A), be enrolled in an institutionally prescribed program or course of remedial or developmental education, not to exceed one academic year or its equivalent.''

Subsec. (f). Pub. L. 100–50, §15(9), inserted at end ''In carrying out provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applications in any award year.''

1986—Subsec. (c). Pub. L. 99–603 added subsec. (c) requiring immigration status verification.

Subsec. (d). Pub. L. 99–603 added subsec. (d) limiting enforcement actions against institutions.

Subsec. (e). Pub. L. 99–603 added subsec. (e) relating to validity of loan guarantees for loan payments made before completion of immigration status verification.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 483(a)–(e) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, §483(f)(2), Oct. 7, 1998, 112 Stat. 1737, provided that: ''The amendment made by paragraph (1) [amending this section], regarding suspension of eligibility for drug-related offenses, shall apply with respect to financial assistance to cover the costs of attendance for periods of enrollment beginning after the date of enactment of this Act [Oct. 7, 1998].''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of

Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 484(a), (b)(1)(B), and (c) to (h) of Pub. L. 102–325 effective July 23, 1992, except that subsec. (m)(1) of this section, relating to proportion of courses permitted to be correspondence courses, as added by such amendment, effective on and after Oct. 1, 1992, see section 498 of Pub. L. 102–325, set out as a note under section 1088 of this title, and subsec. (n) of this section, relating to eligibility of students with first baccalaureate or professional degree for assistance, as added by such amendment, effective on and after Dec. 1, 1987, see section 484(i) of Pub. L. 102–325, set out below.

Section 484(b)(2) of Pub. L. 102–325 provided that: ''The amendments made by paragraph (1)(A) of this subsection [amending this section] shall be effective on and after December 1, 1987.''

Section 484(i) of Pub. L. 102–325, as added by Pub. L. 103–208, § 2(k)(8), Dec. 20, 1993, 107 Stat. 2486, provided that: ''The amendments made by subsection (g) [section 484(g) of Pub. L. 102–325] with respect to the addition of subsection (n) [adding subsec. (n) of this section] shall be effective on and after December 1, 1987.''

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102–26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100–525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99–603, see section 2(s) of Pub. L. 100–525, set out as a note under section 1101 of Title 8, Aliens and Nationality.

Section 13 of Pub. L. 100–369 provided that:

''(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this Act to title IV of the Higher Education Act of 1965 [amending this section and section 1078–1 of this title] shall be effective for any loan for which the eligibility of the borrower is certified by the institution 30 days after the date of enactment of this Act [July 18, 1988].

''(b) SPECIAL RULES.—(1) The amendments made by section 5 [amending this section and sections 1077 and 1078 of this title] shall be effective with respect to loans made on or after October 1, 1988.

''(2) The amendments made by sections 6, 7, 8, 9, 10, 11, and 12 [amending this section, sections 1058, 1061, 1062, 1070a–1, 1070a–3, 1070a–4, 1070a–6, 1071, 1077, 1078, 1087–2, 1087dd, 1087ee, 1087nn, 1087ss, 1087vv, 1132d–1, 1132g–1, and 1134m of this title, and section 1905 of Title 48, Territories and Insular Possessions] shall take effect on the date of enactment of this Act [July 18, 1988].''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–603 effective Oct. 1, 1988, with certain exceptions and qualifications, see section 121(c)(3), (4) of Pub. L. 99–603, set out as a note under section 1320b–7 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Section 407(b) of Pub. L. 99–498 provided that:

''(1) Sections 483(e) and 484(d) of the Act [20 U.S.C. 1090(e), 1091(d)] as amended by this section shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

''(2) The changes made in section 484(a)(1) of the Act [20 U.S.C. 1091(a)(1)] shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

''(3) Section 484(c) of the Act [20 U.S.C. 1091(c)] as amended by this section shall apply only to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, to individuals who were not awarded such assistance for any preceding period of enrollment.

''(4) Sections 484(f), 485(b), and 487(a)(10) of the Act [20 U.S.C. 1091(f), 1092(b), 1094(a)(10)] as amended by this section shall apply only to periods of enrollment beginning on or after July 1, 1987.''

CONSTRUCTION OF 1991 AMENDMENT

For repeal of section 3005 of Pub. L. 101–508 and application of subsec. (d) of this section as if such section 3005 had not been enacted, see section 2(d)(2)(A) of Pub. L. 102–26, set out as a note under section 1088 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

SATISFACTORY PROGRESS

Section 1301 of Pub. L. 99–498, as amended by Pub. L. 100–50, § 23(1), June 3, 1987, 101 Stat. 362, directed Secretary, through the Office of Educational Research and Improvement, to conduct survey over 5-year period ending Sept. 30, 1991, on impact on grades of students of amendments made by Pub. L. 99–498 to subsec. (c) of this section and to submit annual reports to Congress of survey, prior to repeal by Pub. L. 105–332, § 6(a), Oct. 31, 1998, 112 Stat. 3127.

DENIAL OF STUDENT ASSISTANCE TO CERTAIN NONCITIZENS

Section 1361 of Pub. L. 99–498 established in Department of Education the Alien Youth Education Opportunity Panel and provided for Panel's composition, duties, reports, administrative and clerical support, compensation and expenses, and access to information, prior to repeal by Pub. L. 105–332, § 6(a), Oct. 31, 1998, 112 Stat. 3127.

FINANCIAL AID TO STUDENTS NOT DEEMED INCOME OR RESOURCES FOR PURPOSES OF CERTAIN SOCIAL SECURITY ACT PROGRAMS

Pub. L. 90–575, title V, § 507, Oct. 16, 1968, 82 Stat. 1063, as amended by Pub. L. 96–88, title III, § 301(a)(1), Oct. 17, 1979, 93 Stat. 677, provided that: ''For the purpose of any program assisted under title I, IV, X, XIV, XVI, or XIX of the Social Security Act [subchapters I, IV, X, XIV, XVI, or XIX of chapter 7 of Title 42, The Public Health and Welfare], no grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Secretary of Education shall be considered to be income or resources.''

§ 1091a. Statute of limitations, and State court judgments

(a) In general

(1) It is the purpose of this subsection to ensure that obligations to repay loans and grant overpayments are enforced without regard to any Federal or State statutory, regulatory, or

administrative limitation on the period within which debts may be enforced.

(2) Notwithstanding any other provision of statute, regulation, or administrative limitation, no limitation shall terminate the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action initiated or taken by—

(A) an institution that receives funds under this subchapter and part C of subchapter I of chapter 34 of title 42 that is seeking to collect a refund due from a student on a grant made, or work assistance awarded, under this subchapter and part C of subchapter I of chapter 34 of title 42;

(B) a guaranty agency that has an agreement with the Secretary under section 1078(c) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part B of this subchapter after such guaranty agency reimburses the previous holder of the loan for its loss on account of the default of the borrower;

(C) an institution that has an agreement with the Secretary pursuant to section 1087c or 1087cc(a) of this title that is seeking the repayment of the amount due from a borrower on a loan made under part C or D of this subchapter after the default of the borrower on such loan; or

(D) the Secretary, the Attorney General, or the administrative head of another Federal agency, as the case may be, for payment of a refund due from a student on a grant made under this subchapter and part C of subchapter I of chapter 34 of title 42, or for the repayment of the amount due from a borrower on a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been assigned to the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Assessment of costs and other charges

Notwithstanding any provision of State law to the contrary—

(1) a borrower who has defaulted on a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be required to pay, in addition to other charges specified in this subchapter and part C of subchapter I of chapter 34 of title 42 reasonable collection costs; and

(2) in collecting any obligation arising from a loan made under part B of this subchapter, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.

(c) State court judgments

A judgment of a State court for the recovery of money provided as grant, loan, or work assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been assigned or transferred to the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42 may be registered in any district court of the United States by filing a certified copy of the judgment and a copy of the assignment or transfer. A judgment so registered shall have the same force and effect, and may be enforced in the same manner, as a judgment of the district court of the district in which the judgment is registered.

(Pub. L. 89–329, title IV, § 484A, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1482; amended Pub. L. 102–26, § 3(a), Apr. 9, 1991, 105 Stat. 124; Pub. L. 105–244, title IV, § 484, Oct. 7, 1998, 112 Stat. 1737.)

PRIOR PROVISIONS

A prior section 1091a, Pub. L. 89–329, title IV, § 484A, as added Pub. L. 99–272, title XVI, § 16033, Apr. 7, 1986, 100 Stat. 355, related to statute of limitations, collection costs, and defense of infancy, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1091a, Pub. L. 89–329, title V, § 502, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 82; amended Pub. L. 91–230, title IV, § 401(h)(4), title VIII, § 802, Apr. 13, 1970, 84 Stat. 174, 190; Pub. L. 92–318, title I, § 141(c)(1)(A), June 23, 1972, 86 Stat. 285, established the National Advisory Council on Education Professions Development and set forth functions, composition, etc., of the Council, prior to repeal by Pub. L. 94–482, title I, § 151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151, effective Sept. 30, 1976.

AMENDMENTS

1998—Pub. L. 105–244, § 484(1), inserted ‘‘, and State court judgments’’ after ‘‘limitations’’ in section catchline.

Subsec. (c). Pub. L. 105–244, § 484(2), added subsec. (c).

1991—Subsec. (a). Pub. L. 102–26 amended subsec. (a) generally, substituting provisions eliminating statute of limitations for student loan collections for provisions establishing six year limitations period for collection of such loans.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 3(c) of Pub. L. 102–26, as amended by Pub. L. 102–325, title XV, § 1551, July 23, 1992, 105 Stat. 838, provided that: ‘‘The amendments made by this section [amending this section] shall be effective as if enacted by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99–272), and shall apply to any actions pending on or after the date of enactment of the Higher Education Technical Amendments of 1991 [Apr. 9, 1991].’’

§ 1091b. Institutional refunds

(a) Return of title IV funds

(1) In general

If a recipient of assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 withdraws from an institution during a payment period or period of enrollment in which the recipient began attendance, the amount of grant or loan assistance (other than assistance received under part C of subchapter I of chapter 34 of title 42) to be returned to the title IV programs is calculated according to paragraph (3) and returned in accordance with subsection (b) of this section.

(2) Leave of absence

(A) Leave not treated as withdrawal

In the case of a student who takes a leave of absence from an institution for not more than a total of 180 days in any 12-month period, the institution may consider the stu-

dent as not having withdrawn from the institution during the leave of absence, and not calculate the amount of grant and loan assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42 that is to be returned in accordance with this section if—

(i) the institution has a formal policy regarding leaves of absence;

(ii) the student followed the institution's policy in requesting a leave of absence; and

(iii) the institution approved the student's request in accordance with the institution's policy.

(B) Consequences of failure to return

If a student does not return to the institution at the expiration of an approved leave of absence that meets the requirements of subparagraph (A), the institution shall calculate the amount of grant and loan assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42 that is to be returned in accordance with this section based on the day the student withdrew (as determined under subsection (c) of this section).

(3) Calculation of amount of title IV assistance earned

(A) In general

The amount of grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that is earned by the recipient for purposes of this section is calculated by—

(i) determining the percentage of grant and loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been earned by the student, as described in subparagraph (B); and

(ii) applying such percentage to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment for which the assistance was awarded, as of the day the student withdrew.

(B) Percentage earned

For purposes of subparagraph (A)(i), the percentage of grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been earned by the student is—

(i) equal to the percentage of the payment period or period of enrollment for which assistance was awarded that was completed (as determined in accordance with subsection (d) of this section) as of the day the student withdrew, provided that such date occurs on or before the completion of 60 percent of the payment period or period of enrollment; or

(ii) 100 percent, if the day the student withdrew occurs after the student has completed 60 percent of the payment period or period of enrollment.

(C) Percentage and amount not earned

For purposes of subsection (b) of this section, the amount of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 that has not been earned by the student shall be calculated by—

(i) determining the complement of the percentage of grant or loan assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 that has been earned by the student described in subparagraph (B); and

(ii) applying the percentage determined under clause (i) to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period or period of enrollment, as of the day the student withdrew.

(4) Differences between amounts earned and amounts received

(A) In general

If the student has received less grant or loan assistance than the amount earned as calculated under subparagraph (A) of paragraph (3), the institution of higher education shall comply with the procedures for late disbursement specified by the Secretary in regulations.

(B) Return

If the student has received more grant or loan assistance than the amount earned as calculated under paragraph (3)(A), the unearned funds shall be returned by the institution or the student, or both, as may be required under paragraphs (1) and (2) of subsection (b) of this section, to the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 in the order specified in subsection (b)(3) of this section.

(b) Return of title IV program funds

(1) Responsibility of the institution

The institution shall return, in the order specified in paragraph (3), the lesser of—

(A) the amount of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 that has not been earned by the student, as calculated under subsection (a)(3)(C) of this section; or

(B) an amount equal to—

(i) the total institutional charges incurred by the student for the payment period or period of enrollment for which such assistance was awarded; multiplied by

(ii) the percentage of grant and loan assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 that has not been earned by the student, as described in subsection (a)(3)(C)(i) of this section.

(2) Responsibility of the student

(A) In general

The student shall return assistance that has not been earned by the student as described in subsection (a)(3)(C)(ii) of this section in the order specified in paragraph (3) minus the amount the institution is required to return under paragraph (1).

(B) Special rule

The student (or parent in the case of funds due to a loan borrowed by a parent under part B or C of this subchapter) shall return or repay, as appropriate, the amount determined under subparagraph (A) to—

(i) a loan program under this subchapter and part C of subchapter I of chapter 34 of title 42 in accordance with the terms of the loan; and

(ii) a grant program under this subchapter and part C of subchapter I of chapter 34 of title 42, as an overpayment of such grant and shall be subject to—

(I) repayment arrangements satisfactory to the institution; or

(II) overpayment collection procedures prescribed by the Secretary.

(C) Requirement

Notwithstanding subparagraphs (A) and (B), a student shall not be required to return 50 percent of the grant assistance received by the student under this subchapter and part C of subchapter I of chapter 34 of title 42, for a payment period or period of enrollment, that is the responsibility of the student to repay under this section.

(D) Waivers of Federal Pell Grant repayment by students affected by disasters

The Secretary may waive the amounts that students are required to return under this section with respect to Federal Pell Grants if the withdrawals on which the returns are based are withdrawals by students—

(i) who were residing in, employed in, or attending an institution of higher education that is located in an area in which the President has declared that a major disaster exists, in accordance with section 5170 of title 42;

(ii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

(iii) whose withdrawal ended within the academic year during which the designation occurred or during the next succeeding academic year.

(E) Waivers of grant assistance repayment by students affected by disasters

In addition to the waivers authorized by subparagraph (D), the Secretary may waive the amounts that students are required to return under this section with respect to any other grant assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 if the withdrawals on which the returns are based are withdrawals by students—

(i) who were residing in, employed in, or attending an institution of higher education that is located in an area in which the President has declared that a major disaster exists, in accordance with section 5170 of title 42;

(ii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

(iii) whose withdrawal ended within the academic year during which the designation occurred or during the next succeeding academic year.

(3) Order of return of title IV funds

(A) In general

Excess funds returned by the institution or the student, as appropriate, in accordance with paragraph (1) or (2), respectively, shall be credited to outstanding balances on loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 to the student or on behalf of the student for the payment period or period of enrollment for which a return of funds is required. Such excess funds shall be credited in the following order:

(i) To outstanding balances on loans made under section 1078–8 of this title for the payment period or period of enrollment for which a return of funds is required.

(ii) To outstanding balances on loans made under section 1078 of this title for the payment period or period of enrollment for which a return of funds is required.

(iii) To outstanding balances on unsubsidized loans (other than parent loans) made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(iv) To outstanding balances on subsidized loans made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(v) To outstanding balances on loans made under part D of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(vi) To outstanding balances on loans made under section 1078–2 of this title for the payment period or period of enrollment for which a return of funds is required.

(vii) To outstanding balances on parent loans made under part C of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(B) Remaining excesses

If excess funds remain after repaying all outstanding loan amounts, the remaining excess shall be credited in the following order:

(i) To awards under subpart 1 of part A of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(ii) To awards under subpart 3 of part A of this subchapter for the payment period or period of enrollment for which a return of funds is required.

(iii) To other assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42 for which a return of funds is required.

(c) Withdrawal date

(1) In general

In this section, the term ''day the student withdrew''—

(A) is the date that the institution determines—

(i) the student began the withdrawal process prescribed by the institution;

(ii) the student otherwise provided official notification to the institution of the intent to withdraw; or

(iii) in the case of a student who does not begin the withdrawal process or otherwise notify the institution of the intent to withdraw, the date that is the mid-point of the payment period for which assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 was disbursed or a later date documented by the institution; or

(B) for institutions required to take attendance, is determined by the institution from such attendance records.

(2) Special rule

Notwithstanding paragraph (1), if the institution determines that a student did not begin the withdrawal process, or otherwise notify the institution of the intent to withdraw, due to illness, accident, grievous personal loss, or other such circumstances beyond the student's control, the institution may determine the appropriate withdrawal date.

(d) Percentage of the payment period or period of enrollment completed

For purposes of subsection (a)(3)(B)(i) of this section, the percentage of the payment period or period of enrollment for which assistance was awarded that was completed, is determined—

(1) in the case of a program that is measured in credit hours, by dividing the total number of calendar days comprising the payment period or period of enrollment for which assistance is awarded into the number of calendar days completed in that period as of the day the student withdrew; and

(2) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the payment period or period of enrollment for which assistance is awarded into the number of clock hours—

(A) completed by the student in that period as of the day the student withdrew; or

(B) scheduled to be completed as of the day the student withdrew, if the clock hours completed in the period are not less than a percentage, to be determined by the Secretary in regulations, of the hours that were scheduled to be completed by the student in the period.

(e) Effective date

The provisions of this section shall take effect 2 years after October 7, 1998. An institution of higher education may choose to implement such provisions prior to that date.

(Pub. L. 89–329, title IV, § 484B, as added Pub. L. 102–325, title IV, § 485(a), July 23, 1992, 106 Stat. 619; amended Pub. L. 103–208, § 2(h)(26), (27), Dec. 20, 1993, 107 Stat. 2477; Pub. L. 105–244, title IV, § 485, Oct. 7, 1998, 112 Stat. 1737; Pub. L. 109–66, § 2, Sept. 21, 2005, 119 Stat. 1999; Pub. L. 109–67, § 2, Sept. 21, 2005, 119 Stat. 2001.)

REFERENCES IN TEXT

Title IV, referred to in subsecs. (a) and (b), means title IV of the Higher Education Act of 1965, Pub. L. 89–329, which is classified generally to this subchapter and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of title IV to the Code, see Tables.

PRIOR PROVISIONS

Prior sections 1091b to 1091f were repealed, effective Sept. 30, 1976, by Pub. L. 94–482, title I, § 151(a)(2), (b), Oct. 12, 1976, 90 Stat. 2151.

Section 1091b, Pub. L. 89–329, title V, § 503, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 83; amended Pub. L. 92–318, title IV, § 451(a), June 23, 1972, 86 Stat. 344, authorized the Commissioner to appraise and annually report on existing and future education personnel needs.

Section 1091c, Pub. L. 89–329, title V, § 504, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 83; amended Pub. L. 90–575, title II, § 231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), (c)(1)(B), June 23, 1972, 86 Stat. 284, 285, authorized the Commissioner to make grants or contracts with State or local educational agencies for attracting qualified persons to the field of education.

Section 1091d, Pub. L. 89–329, title V, § 505, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 84, required the Commissioner to consult with the National Science Foundation and the National Foundation on the Arts and the Humanities in development and review of programs.

Section 1091e, Pub. L. 89–329, title V, § 506, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 84, authorized transfer of funds for programs for education professions development.

Section 1091f, Pub. L. 89–329, title V, § 507, as added Pub. L. 90–35, § 2(c), June 29, 1967, 81 Stat. 84, authorized employment of experts and consultants and set forth provisions for compensation and travel expenses.

AMENDMENTS

2005—Subsec. (b)(2)(D). Pub. L. 109–66 added subpar. (D).

Subsec. (b)(2)(E). Pub. L. 109–67 added subpar. (E).

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section consisted of subsecs. (a) to (c) requiring each institution of higher education participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42 to have in effect a fair and equitable refund policy for refunding unearned tuition, fees, room and board, and other charges to students or parents who received grant or loan assistance under this subchapter or part C of subchapter I of chapter 34 of title 42.

1993—Subsec. (a). Pub. L. 103–208, § 2(h)(26), substituted ''grant or loan assistance'' for ''grant, loan, or work assistance'' in introductory provisions.

Subsec. (b)(3). Pub. L. 103–208, § 2(h)(27), substituted ''subsection (c) of this section'' for ''subsection (d) of this section''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§ 1092. Institutional and financial assistance information for students

(a) Information dissemination activities

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall carry out information dissemination activities for prospective and enrolled students (including those attending or planning to attend less than full time) regarding the institution and all financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42. The information required by this section shall be produced and be made readily available upon request, through appropriate publications, mailings, and electronic media, to an enrolled student and to any prospective student. Each eligible institution shall, on an annual basis, provide to all enrolled students a list of the information that is required to be provided by institutions to students by this section and section 1232g of this title, together with a statement of the procedures required to obtain such information. The information required by this section shall accurately describe—

(A) the student financial assistance programs available to students who enroll at such institution;

(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

(D) the rights and responsibilities of students receiving financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42;

(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

(F) a statement of—

(i) the requirements of any refund policy with which the institution is required to comply;

(ii) the requirements under section 1091b of this title for the return of grant or loan assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(iii) the requirements for officially withdrawing from the institution;

(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

(H) each person designated under subsection (c) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

(I) special facilities and services available to handicapped students;

(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing;

(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 1091(a)(2) of this title;

(L) the completion or graduation rate of certificate- or degree-seeking, full-time, undergraduate students entering such institutions;

(M) the terms and conditions under which students receiving guaranteed student loans under part B of this subchapter or direct student loans under part D of this subchapter, or both, may—

(i) obtain deferral of the repayment of the principal and interest for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) or under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.], or for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service, and

(ii) obtain partial cancellation of the student loan for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) under[1] the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.] or, for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service;

(N) that enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment in the home institution for purposes of applying for Federal student financial assistance; and

(O) the campus crime report prepared by the institution pursuant to subsection (f) of this section, including all required reporting categories.

(2) For the purpose of this section, the term ''prospective student'' means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

(3) In calculating the completion or graduation rate under subparagraph (L) of paragraph (1) of this subsection or under subsection (e) of this section, a student shall be counted as a completion or graduation if, within 150 percent of the normal time for completion of or graduation from the program, the student has completed or graduated from the program, or enrolled in any program of an eligible institution for which the prior program provides substantial preparation. The information required to be disclosed under such subparagraph—

[1] So in original. Probably should be ''or under''.

(A) shall be made available by July 1 each year to enrolled students and prospective students prior to the students enrolling or entering into any financial obligation; and

(B) shall cover the one-year period ending on August 31 of the preceding year.

(4) For purposes of this section, institutions may exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.

(5) The Secretary shall permit any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection, to use such data to satisfy the requirements of this subsection.

(6) Each institution may provide supplemental information to enrolled and prospective students showing the completion or graduation rate for students described in paragraph (4) or for students transferring into the institution or information showing the rate at which students transfer out of the institution.

(b) Exit counseling for borrowers

(1)(A) Each eligible institution shall, through financial aid officers or otherwise, make available counseling to borrowers of loans which are made, insured, or guaranteed under part B (other than loans made pursuant to section 1078–2 of this title) of this subchapter or made under part C or D of this subchapter prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

(i) the average anticipated monthly repayments, a review of the repayment options available, and such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness; and

(ii) the terms and conditions under which the student may obtain partial cancellation or defer repayment of the principal and interest pursuant to sections 1078(b), 1087dd(c)(2), and 1087ee of this title.

(B) In the case of borrower who leaves an institution without the prior knowledge of the institution, the institution shall attempt to provide the information described in subparagraph (A) to the student in writing.

(2)(A) Each eligible institution shall require that the borrower of a loan made under part B, C, or D of this subchapter submit to the institution, during the exit interview required by this subsection—

(i) the borrower's expected permanent address after leaving the institution (regardless of the reason for leaving);

(ii) the name and address of the borrower's expected employer after leaving the institution;

(iii) the address of the borrower's next of kin; and

(iv) any corrections in the institution's records relating the borrower's name, address, social security number, references, and driver's license number.

(B) The institution shall, within 60 days after the interview, forward any corrected or completed information received from the borrower to the guaranty agency indicated on the borrower's student aid records.

(C) Nothing in this subsection shall be construed to prohibit an institution of higher education from utilizing electronic means to provide personalized exit counseling.

(c) Financial assistance information personnel

Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a) of this section. The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

(d) Departmental publication of descriptions of assistance programs

(1) The Secretary shall make available to eligible institutions, eligible lenders, and secondary schools descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (A) assist students in gaining information through institutional sources, and (B) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs. In particular, such information shall include information to enable students and prospective students to assess the debt burden and monthly and total repayment obligations that will be incurred as a result of receiving loans of varying amounts under this subchapter and part C of subchapter I of chapter 34 of title 42. In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences. The Secretary shall provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that

a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization. Such information shall be provided by eligible institutions and eligible lenders at any time that information regarding loan availability is provided to any student.

(2) The Secretary, to the extent the information is available, shall compile information describing State and other prepaid tuition programs and savings programs and disseminate such information to States, eligible institutions, students, and parents in departmental publications.

(3) The Secretary, to the extent practicable, shall update the Department's Internet site to include direct links to databases that contain information on public and private financial assistance programs. The Secretary shall only provide direct links to databases that can be accessed without charge and shall make reasonable efforts to verify that the databases included in a direct link are not providing fraudulent information. The Secretary shall prominently display adjacent to any such direct link a disclaimer indicating that a direct link to a database does not constitute an endorsement or recommendation of the database, the provider of the database, or any services or products of such provider. The Secretary shall provide additional direct links to information resources from which students may obtain information about fraudulent and deceptive practices in the provision of services related to student financial aid.

(e) Disclosures required with respect to athletically related student aid

(1) Each institution of higher education which participates in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and is attended by students receiving athletically related student aid shall annually submit a report to the Secretary which contains—

(A) the number of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined;

(B) the number of students at the institution of higher education, broken down by race and sex;

(C) the completion or graduation rate for students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track and all other sports combined;

(D) the completion or graduation rate for students at the institution of higher education, broken down by race and sex;

(E) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following categories: basketball, football, baseball, cross country/track, and all other sports combined; and

(F) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education broken down by race and sex.

(2) When an institution described in paragraph (1) of this subsection offers a potential student athlete athletically related student aid, such institution shall provide to the student and the student's parents, guidance counselor, and coach the information contained in the report submitted by such institution pursuant to paragraph (1). If the institution is a member of a national collegiate athletic association that compiles graduation rate data on behalf of the association's member institutions that the Secretary determines is substantially comparable to the information described in paragraph (1), the distribution of the compilation of such data to all secondary schools in the United States shall fulfill the responsibility of the institution to provide information to a prospective student athlete's guidance counselor and coach.

(3) For purposes of this subsection, institutions may exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.

(4) Each institution of higher education described in paragraph (1) may provide supplemental information to students and the Secretary showing the completion or graduation rate when such completion or graduation rate includes students transferring into and out of such institution.

(5) The Secretary, using the reports submitted under this subsection, shall compile and publish a report containing the information required under paragraph (1) broken down by—

(A) individual institutions of higher education; and

(B) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

(6) The Secretary shall waive the requirements of this subsection for any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection.

(7) The Secretary, in conjunction with the National Junior College Athletic Association, shall develop and obtain data on completion or graduation rates from two-year colleges that award athletically related student aid. Such data shall, to the extent practicable, be consistent with the reporting requirements set forth in this section.

(8) For purposes of this subsection, the term ''athletically related student aid'' means any scholarship, grant, or other form of financial assistance the terms of which require the recipient to participate in a program of intercollegiate

athletics at an institution of higher education in order to be eligible to receive such assistance.

(9) The reports required by this subsection shall be due each July 1 and shall cover the 1-year period ending August 31 of the preceding year.

(f) Disclosure of campus security policy and campus crime statistics

(1) Each eligible institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall on August 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution:

(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

(C) A statement of current policies concerning campus law enforcement, including—

(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

(E) A description of programs designed to inform students and employees about the prevention of crimes.

(F) Statistics concerning the occurrence on campus, in or on noncampus buildings or property, and on public property during the most recent calendar year, and during the 2 preceding calendar years for which data are available—

(i) of the following criminal offenses reported to campus security authorities or local police agencies:

(I) murder;
(II) sex offenses, forcible or nonforcible;
(III) robbery;
(IV) aggravated assault;
(V) burglary;
(VI) motor vehicle theft;
(VII) manslaughter;
(VIII) arson; and
(IX) arrests or persons referred for campus disciplinary action for liquor law violations, drug-related violations, and weapons possession; and

(ii) of the crimes described in subclauses (I) through (VIII) of clause (i), and other crimes involving bodily injury to any person in which the victim is intentionally selected because of the actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability of the victim that are reported to campus security authorities or local police agencies, which data shall be collected and reported according to category of prejudice.

(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

(H) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1011i of this title.

(I) A statement advising the campus community where law enforcement agency information provided by a State under section 14071(j) of title 42, concerning registered sex offenders may be obtained, such as the law enforcement office of the institution, a local law enforcement agency with jurisdiction for the campus, or a computer network address.

(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

(3) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences.

(4)(A) Each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 that maintains a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording all crimes reported to such police or security department, including—

(i) the nature, date, time, and general location of each crime; and

(ii) the disposition of the complaint, if known.

(B)(i) All entries that are required pursuant to this paragraph shall, except where disclosure of

such information is prohibited by law or such disclosure would jeopardize the confidentiality of the victim, be open to public inspection within two business days of the initial report being made to the department or a campus security authority.

(ii) If new information about an entry into a log becomes available to a police or security department, then the new information shall be recorded in the log not later than two business days after the information becomes available to the police or security department.

(iii) If there is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until that damage is no longer likely to occur from the release of such information.

(5) On an annual basis, each institution participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall submit to the Secretary a copy of the statistics required to be made available under paragraph (1)(F). The Secretary shall—

(A) review such statistics and report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on campus crime statistics by September 1, 2000;

(B) make copies of the statistics submitted to the Secretary available to the public; and

(C) in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

(6)(A) In this subsection:

(i) The term ''campus'' means—

(I) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution and used by the institution in direct support of, or in a manner related to, the institution's educational purposes, including residence halls; and

(II) property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as a food or other retail vendor).

(ii) The term ''noncampus building or property'' means—

(I) any building or property owned or controlled by a student organization recognized by the institution; and

(II) any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution.

(iii) The term ''public property'' means all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, and is adjacent to a facility owned or controlled by the institution if the facility is used by the institution in direct support of, or in a manner related to the institution's educational purposes.

(B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

(7) The statistics described in paragraph (1)(F) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act. Such statistics shall not identify victims of crimes or persons accused of crimes.

(8)(A) Each institution of higher education participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

(i) such institution's campus sexual assault programs, which shall be aimed at prevention of sex offenses; and

(ii) the procedures followed once a sex offense has occurred.

(B) The policy described in subparagraph (A) shall address the following areas:

(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.

(ii) Possible sanctions to be imposed following the final determination of an on-campus disciplinary procedure regarding rape, acquaintance rape, or other sex offenses, forcible or nonforcible.

(iii) Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

(iv) Procedures for on-campus disciplinary action in cases of alleged sexual assault, which shall include a clear statement that—

(I) the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

(II) both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

(v) Informing students of their options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

(vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

(vii) Notification of students of options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available.

(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.

(9) The Secretary shall provide technical assistance in complying with the provisions of this section to an institution of higher education who requests such assistance.

(10) Nothing in this section shall be construed to require the reporting or disclosure of privileged information.

(11) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

(12) For purposes of reporting the statistics with respect to crimes described in paragraph (1)(F), an institution of higher education shall distinguish, by means of separate categories, any criminal offenses that occur—

(A) on campus;

(B) in or on a noncampus building or property;

(C) on public property; and

(D) in dormitories or other residential facilities for students on campus.

(13) Upon a determination pursuant to section 1094(c)(3)(B) of this title that an institution of higher education has substantially misrepresented the number, location, or nature of the crimes required to be reported under this subsection, the Secretary shall impose a civil penalty upon the institution in the same amount and pursuant to the same procedures as a civil penalty is imposed under section 1094(c)(3)(B) of this title.

(14)(A) Nothing in this subsection may be construed to—

(i) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

(ii) establish any standard of care.

(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection.

(15) This subsection may be cited as the ''Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act''.

(g) Data required

(1) In general

Each coeducational institution of higher education that participates in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, and has an intercollegiate athletic program, shall annually, for the immediately preceding academic year, prepare a report that contains the following information regarding intercollegiate athletics:

(A) The number of male and female full-time undergraduates that attended the institution.

(B) A listing of the varsity teams that competed in intercollegiate athletic competition and for each such team the following data:

(i) The total number of participants, by team, as of the day of the first scheduled contest for the team.

(ii) Total operating expenses attributable to such teams, except that an institution may also report such expenses on a per capita basis for each team and expenditures attributable to closely related teams such as track and field or swimming and diving, may be reported together, although such combinations shall be reported separately for men's and women's teams.

(iii) Whether the head coach is male or female and whether the head coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as head coaches shall be considered to be head coaches for the purposes of this clause.

(iv) The number of assistant coaches who are male and the number of assistant coaches who are female for each team and whether a particular coach is assigned to that team on a full-time or part-time basis. Graduate assistants and volunteers who serve as assistant coaches shall be considered to be assistant coaches for the purposes of this clause.

(C) The total amount of money spent on athletically related student aid, including the value of waivers of educational expenses, separately for men's and women's teams overall.

(D) The ratio of athletically related student aid awarded male athletes to athletically related student aid awarded female athletes.

(E) The total amount of expenditures on recruiting, separately for men's and women's teams overall.

(F) The total annual revenues generated across all men's teams and across all women's teams, except that an institution may also report such revenues by individual team.

(G) The average annual institutional salary of the head coaches of men's teams, across all offered sports, and the average annual institutional salary of the head coaches of women's teams, across all offered sports.

(H) The average annual institutional salary of the assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the assistant coaches of women's teams, across all offered sports.

(I)(i) The total revenues, and the revenues from football, men's basketball, women's basketball, all other men's sports combined

and all other women's sports combined, derived by the institution from the institution's intercollegiate athletics activities.

(ii) For the purpose of clause (i), revenues from intercollegiate athletics activities allocable to a sport shall include (without limitation) gate receipts, broadcast revenues, appearance guarantees and options, concessions, and advertising, but revenues such as student activities fees or alumni contributions not so allocable shall be included in the calculation of total revenues only.

(J)(i) The total expenses, and the expenses attributable to football, men's basketball, women's basketball, all other men's sports combined, and all other women's sports combined, made by the institution for the institution's intercollegiate athletics activities.

(ii) For the purpose of clause (i), expenses for intercollegiate athletics activities allocable to a sport shall include (without limitation) grants-in-aid, salaries, travel, equipment, and supplies, but expenses such as general and administrative overhead not so allocable shall be included in the calculation of total expenses only.

(2) Special rule

For the purposes of subparagraph (G),[2] if a coach has responsibilities for more than one team and the institution does not allocate such coach's salary by team, the institution should divide the salary by the number of teams for which the coach has responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

(3) Disclosure of information to students and public

An institution of higher education described in paragraph (1) shall make available to students and potential students, upon request, and to the public, the information contained in the report described in paragraph (1), except that all students shall be informed of their right to request such information.

(4) Submission; report; information availability

(A) On an annual basis, each institution of higher education described in paragraph (1) shall provide to the Secretary, within 15 days of the date that the institution makes available the report under paragraph (1), the information contained in the report.

(B) The Secretary shall prepare a report regarding the information received under subparagraph (A) and submit such report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate by April 1, 2000. The report shall—

(i) summarize the information and identify trends in the information;

(ii) aggregate the information by divisions of the National Collegiate Athletic Association; and

(iii) contain information on each individual institution of higher education.

(C) The Secretary shall ensure that the reports described in subparagraph (A) and the report to Congress described in subparagraph (B) are made available to the public within a reasonable period of time.

(D) Not later than 180 days after October 7, 1998, the Secretary shall notify all secondary schools in all States regarding the availability of the information reported under subparagraph (B) and the information made available under paragraph (1), and how such information may be accessed.

(5) "Operating expenses" defined

For the purposes of this subsection, the term ''operating expenses'' means expenditures on lodging and meals, transportation, officials, uniforms and equipment.

(Pub. L. 89–329, title IV, §485, as added Pub. L. 99–498, title IV, §407(a), Oct. 17, 1986, 100 Stat. 1482; amended Pub. L. 100–50, §15(10), (11), June 3, 1987, 101 Stat. 357; Pub. L. 101–542, title I, §§103(a), (b), 104(a), title II, §204(a), Nov. 8, 1990, 104 Stat. 2381–2385; Pub. L. 101–610, title II, §§201–203, Nov. 16, 1990, 104 Stat. 3171, 3172; Pub. L. 102–26, §10(a)–(d), Apr. 9, 1991, 105 Stat. 128; Pub. L. 102–164, title VI, §603, Nov. 15, 1991, 105 Stat. 1066; Pub. L. 102–325, title IV, §486(a)–(c)(2), July 23, 1992, 106 Stat. 620, 621; Pub. L. 103–208, §2(h)(28)–(37), (k)(9), Dec. 20, 1993, 107 Stat. 2477, 2486; Pub. L. 103–382, title III, §360B(c), Oct. 20, 1994, 108 Stat. 3970; Pub. L. 104–208, div. A, title I, §101(e) [title III, §308], Sept. 30, 1996, 110 Stat. 3009–233, 3009–262; Pub. L. 105–18, title VI, §60001(a), June 12, 1997, 111 Stat. 214; Pub. L. 105–244, title I, §102(b)(3), title IV, §486, Oct. 7, 1998, 112 Stat. 1622, 1741; Pub. L. 106–386, div. B, title VI, §1601(c)(1), Oct. 28, 2000, 114 Stat. 1537.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (a)(1)(M), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(1)(M), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

The Hate Crime Statistics Act, referred to in subsec. (f)(7), is Pub. L. 101–275, Apr. 23, 1990, 104 Stat. 140, which is set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure.

PRIOR PROVISIONS

A prior section 1092, Pub. L. 89–329, title IV, §485, as added Pub. L. 96–374, title IV, §451(a), Oct. 3, 1980, 94 Stat. 1449, related to provision of institutional and financial assistance information for students, prior to the general revision of this part by Pub. L. 99–498.

Another prior section 1092, Pub. L. 89–329, title V, §508, formerly §502, Nov. 8, 1965, 79 Stat. 1255; renumbered §508 and amended Pub. L. 90–35, §§2(b), 7, June 29, 1967, 81 Stat. 82, 93, prohibited the making of payments for religious purposes for authorized programs, prior to repeal by Pub. L. 94–482, title I, §151(a)(2), Oct. 12, 1976, 90 Stat. 2151.

AMENDMENTS

2000—Subsec. (f)(1)(I). Pub. L. 106–386 added subpar. (I).

[2] So in original. Probably should be ''paragraph (1)(G),''.

1998—Subsec. (a)(1). Pub. L. 105–244, § 486(a)(1)(B), in introductory provisions, inserted after second sentence ''Each eligible institution shall, on an annual basis, provide to all enrolled students a list of the information that is required to be provided by institutions to students by this section and section 1232g of this title, together with a statement of the procedures required to obtain such information.''

Pub. L. 105–244, § 486(a)(1)(A), in introductory provisions, substituted ''upon request, through appropriate publications, mailings, and electronic media, to an enrolled student and to any prospective student'' for '', through appropriate publications and mailings, to all current students, and to any prospective student upon request''.

Subsec. (a)(1)(F). Pub. L. 105–244, § 486(a)(1)(C), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''a statement of the refund policy of the institution, as determined under section 1091b of this title, for the return of unearned tuition and fees or other refundable portion of cost, as described in subparagraph (E) of this paragraph, which refunds shall be credited in the following order:

''(i) to outstanding balances on loans under part B of this subchapter for the period of enrollment for which a refund is required,

''(ii) to outstanding balances on loans under part C of this subchapter for the period of enrollment for which a refund is required,

''(iii) to outstanding balances on loans under part D of this subchapter for the period of enrollment for which a refund is required,

''(iv) to awards under subpart 1 of part A of this subchapter,

''(v) to awards under subpart 3 of part A of this subchapter,

''(vi) to other student assistance, and

''(vii) to the student;''.

Subsec. (a)(1)(O). Pub. L. 105–244, § 486(a)(1)(D)–(F), added subpar. (O).

Subsec. (a)(3)(A). Pub. L. 105–244, § 486(a)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''shall, for any academic year beginning more than 270 days after the Secretary first prescribes final regulations pursuant to such subparagraph (L), be made available to current and prospective students prior to enrolling or entering into any financial obligation; and''.

Subsec. (a)(6). Pub. L. 105–244, § 486(a)(3), added par. (6).

Subsec. (b)(1)(A). Pub. L. 105–244, § 486(b)(1), struck out ''(individually or in groups)'' after ''counseling to borrowers'' in introductory provisions.

Subsec. (b)(2)(C). Pub. L. 105–244, § 486(b)(2), added subpar. (C).

Subsec. (d). Pub. L. 105–244, § 486(c), designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added pars. (2) and (3).

Subsec. (e)(2). Pub. L. 105–244, § 486(d)(1), substituted ''the student's parents, guidance'' for ''his parents, his guidance'' and inserted at end ''If the institution is a member of a national collegiate athletic association that compiles graduation rate data on behalf of the association's member institutions that the Secretary determines is substantially comparable to the information described in paragraph (1), the distribution of the compilation of such data to all secondary schools in the United States shall fulfill the responsibility of the institution to provide information to a prospective student athlete's guidance counselor and coach.''

Subsec. (e)(9). Pub. L. 105–244, § 486(d)(2), amended par. (9) generally. Prior to amendment, par. (9) read as follows: ''This subsection shall not be effective until the first July 1 that follows, by more than 270 days, the date on which the Secretary first prescribes final regulations pursuant to this subsection. The reports required by this subsection shall be due on that July 1 and each succeeding July 1 and shall cover the 1-year period ending August 31 of the preceding year.''

Subsec. (f)(1)(F). Pub. L. 105–244, § 486(e)(1)(A), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

''(i) murder;

''(ii) sex offenses, forcible or nonforcible;

''(iii) robbery;

''(iv) aggravated assault;

''(v) burglary; and

''(vi) motor vehicle theft.''

Subsec. (f)(1)(H). Pub. L. 105–244, § 486(e)(1)(B), (C), redesignated subpar. (I) as (H) and struck out former subpar. (H) which read as follows: ''Statistics concerning the number of arrests for the following crimes occurring on campus:

''(i) liquor law violations;

''(ii) drug abuse violations; and

''(iii) weapons possessions.''

Subsec. (f)(1)(I). Pub. L. 105–244, § 486(e)(1)(C), redesignated subpar. (I) as (H).

Pub. L. 105–244, § 102(b)(3), substituted ''section 1011i'' for ''section 1145g''.

Subsec. (f)(4). Pub. L. 105–244, § 486(e)(6), added par. (4). Former par. (4) redesignated (5).

Pub. L. 105–244, § 486(e)(2)(A), which directed the substitution of ''On an annual basis, each'' for ''Upon request of the Secretary, each'' was executed by making the substitution for ''Upon the request of the Secretary, each'' to reflect the probable intent of Congress.

Pub. L. 105–244, § 486(e)(2)(B), substituted ''paragraph (1)(F)'' for ''paragraphs (1)(F) and (1)(H)''.

Subsec. (f)(4)(A). Pub. L. 105–244, § 486(e)(2)(C)–(E), substituted ''and the Workforce'' for ''and Labor'' and ''2000'' for ''1995'' and struck out ''and'' at end.

Subsec. (f)(4)(B), (C). Pub. L. 105–244, § 486(e)(2)(F), (G), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (f)(5). Pub. L. 105–244, § 486(e)(5), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (f)(5)(A). Pub. L. 105–244, § 486(e)(3), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''For purposes of this subsection, the term 'campus' includes—

''(i) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or

''(ii) any building or property owned or controlled by student organizations recognized by the institution.''

Subsec. (f)(6). Pub. L. 105–244, § 486(e)(5), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Pub. L. 105–244, § 486(e)(4), substituted ''paragraph (1)(F)'' for ''paragraphs (1)(F) and (1)(H)'' and inserted at end ''Such statistics shall not identify victims of crimes or persons accused of crimes.''

Subsec. (f)(7), (8). Pub. L. 105–244, § 486(e)(5), redesignated pars. (6) and (7) as (7) and (8), respectively.

Subsec. (f)(9) to (15). Pub. L. 105–244, § 486(e)(7), added pars. (9) to (15).

Subsec. (g)(1)(I), (J). Pub. L. 105–244, § 486(f)(1), added subpars. (I) and (J).

Subsec. (g)(4), (5). Pub. L. 105–244, § 486(f)(2)–(4), added par. (4), redesignated former par. (4) as (5), and struck out heading and text of former par. (5). Text read as follows: ''The Secretary shall issue final regulations to implement the requirements of this subsection not later than 180 days following October 20, 1994. Each institution described in paragraph (1) shall make available its first report pursuant to this section not later than October 1, 1996.''

1997—Subsec. (a)(3)(B). Pub. L. 105–18, § 60001(a)(1), substituted ''August 31'' for ''June 30''.

Subsec. (e)(9). Pub. L. 105–18, § 60001(a)(2), substituted ''August 31'' for ''August 30''.

1996—Subsec. (e)(9). Pub. L. 104–208 substituted ''August 30'' for ''June 30''.

1994—Subsec. (g). Pub. L. 103–382 added subsec. (g).

1993—Subsec. (a)(1)(F)(i) to (iii). Pub. L. 103–208, § 2(h)(28), inserted before comma at end ''for the period of enrollment for which a refund is required''.

Subsec. (a)(1)(F)(iv). Pub. L. 103–208, § 2(h)(29), inserted ''under'' after ''awards''.

Subsec. (a)(1)(F)(vi). Pub. L. 103–208, § 2(h)(32), redesignated cl. (vii) as (vi) and struck out former cl. (vi) which read as follows: ''to awards under part C of subchapter I of chapter 34 of title 42,''.

Subsec. (a)(1)(F)(vii). Pub. L. 103–208, § 2(h)(32), redesignated cl. (viii) as (vii). Former cl. (vii) redesignated (vi).

Pub. L. 103–208, § 2(h)(30), struck out ''provided under this subchapter and part C of subchapter I of chapter 34 of title 42'' after ''student assistance''.

Subsec. (a)(1)(F)(viii). Pub. L. 103–208, § 2(h)(32), redesignated cl. (viii) as (vii).

Pub. L. 103–208, § 2(h)(31), struck out period after ''student''.

Subsec. (a)(1)(L). Pub. L. 103–208, § 2(k)(9), amended directory language of Pub. L. 102–325, § 486(a)(3). See 1992 Amendment note below.

Pub. L. 103–208, § 2(h)(33), inserted comma after ''full-time''.

Subsec. (a)(3)(A). Pub. L. 103–208, § 2(h)(34), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''shall be available beginning on July 1, 1993, and each year thereafter to current and prospective students prior to enrolling or entering into any financial obligation; and''.

Subsec. (b)(1)(A), (2)(A). Pub. L. 103–208, § 2(h)(35), substituted ''under part'' for ''under parts''.

Subsec. (d). Pub. L. 103–208, § 2(h)(36), inserted period at end of penultimate sentence.

Subsec. (e)(9). Pub. L. 103–208, § 2(h)(37), added subpar. (9).

1992—Subsec. (a)(1)(F). Pub. L. 102–325, § 486(a)(1), inserted '', as determined under section 1091b of this title,'' after ''of the institution'' and '', which refunds shall be credited in the following order:'' after ''of this paragraph'' and added cls. (i) to (viii).

Subsec. (a)(1)(K). Pub. L. 102–325, § 486(a)(2), struck out ''and'' at end.

Subsec. (a)(1)(L). Pub. L. 102–325, § 486(a)(4), redesignated subpar. (L), relating to deferral or partial cancellation of student loans, as (M).

Pub. L. 102–325, § 486(a)(3), as amended by Pub. L. 103–208, § 2(k)(9), amended subpar. (L), relating to completion or graduation rate, by substituting semicolon for period at end.

Subsec. (a)(1)(M). Pub. L. 102–325, § 486(a)(4), (5), redesignated subpar. (L), relating to deferral or partial cancellation of student loans, as (M) and substituted ''; and'' for period at end.

Subsec. (a)(1)(N). Pub. L. 102–325, § 486(a)(6), added subpar. (N).

Subsec. (b). Pub. L. 102–325, § 486(b), amended subsec. (b) generally, making changes in substance and structure of former text which related to exit counseling for borrowers and borrower information.

Subsec. (f)(1)(F). Pub. L. 102–325, § 486(c)(1), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

''(i) murder;

''(ii) rape;

''(iii) robbery;

''(iv) aggravated assault;

''(v) burglary; and

''(vi) motor vehicle theft.''

Subsec. (f)(7). Pub. L. 102–325, § 486(c)(2), added par. (7).

1991—Subsec. (a)(1)(L). Pub. L. 102–26, § 10(a), which directed the insertion of ''undergraduate'' after ''full-time'' in subpar. (L), was executed to the subpar. (L) added by Pub. L. 101–542, § 103(a), relating to completion or graduation rate, to reflect the probable intent of Congress.

Subsec. (a)(3)(A) to (C). Pub. L. 102–26, § 10(b), inserted ''and'' at end of subpar. (A), substituted a period for ''; and'' at end of subpar. (B), and struck out subpar. (C) which read as follows: ''shall be updated not less than biennially.''

Subsec. (a)(5). Pub. L. 102–26, § 10(c), added par. (5).

Subsec. (b). Pub. L. 102–164 substituted ''Exit counseling for borrowers; borrower information'' for ''Exit counseling for borrowers'' in heading and inserted at end ''Each eligible institution shall require that the borrower of a loan made under part B, part C, or part D of this subchapter submit to the institution, during the exit interview required by this subsection, the borrower's expected permanent address after leaving the institution, regardless of the reason for leaving; the name and address of the borrower's expected employer after leaving the institution; and the address of the borrower's next of kin. In the case of a loan made under part B of this subchapter, the institution shall then submit this information to the holder of the loan.''

Subsec. (f)(1). Pub. L. 102–26, § 10(d), substituted ''August 1, 1991,'' for ''September 1, 1991,'' in introductory provisions, and in subpar. (F) substituted ''calendar year'' and ''calendar years'' for ''school year'' and ''school years'', respectively.

1990—Subsec. (a)(1)(L). Pub. L. 101–610, § 201, added subpar. (L) relating to deferral or partial cancellation of student loans.

Pub. L. 101–542, § 103(a), added subpar. (L) relating to completion or graduation rate.

Subsec. (a)(3), (4). Pub. L. 101–542, § 103(b), added pars. (3) and (4).

Subsec. (b)(3). Pub. L. 101–610, § 202, added par. (3).

Subsec. (d). Pub. L. 101–610, § 203, inserted before last sentence ''The Secretary shall provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization''.

Subsec. (e). Pub. L. 101–542, § 104(a), added subsec. (e).

Subsec. (f). Pub. L. 101–542, § 204(a), added subsec. (f).

1987—Subsec. (b). Pub. L. 100–50, § 15(10), inserted ''(other than loans made pursuant to section 1078–2 of this title)'' after ''part B of this subchapter''.

Subsec. (d). Pub. L. 100–50, § 15(11), inserted after second sentence ''In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences.''

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–386, div. B, title VI, § 1601(c)(2), Oct. 28, 2000, 114 Stat. 1538, provided that: ''The amendment made by this subsection [amending this section] shall take effect 2 years after the date of the enactment of this Act [Oct. 28, 2000].''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see sec-

tion 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 60001(b) of Pub. L. 105–18 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) [amending this section] are effective upon enactment [June 12, 1997].

''(2) INFORMATION DISSEMINATION.—No institution shall be required to comply with the amendment made by subsection (a)(1) [amending this section] before July 1, 1998.''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 486(a), (b), and (c)(2) of Pub. L. 102–325 effective July 23, 1992, except that changes relating to disclosures effective with respect to periods of enrollment beginning on or after July 1, 1993, see section 498 of Pub. L. 102–325, set out as a note under section 1088 of this title.

Section 486(c)(3) of Pub. L. 102–325 provided that: ''The amendment made by this subsection to subparagraph (F)(ii) of section 485(f)(1) of the Act [20 U.S.C. 1092(f)(1)(F)(ii)] shall be effective with respect to reports made pursuant to such section on or after September 1, 1993. The statistics required by subparagraph (F) of such section shall—

''(A) in the report required on September 1, 1992, include statistics concerning the occurrence on campus of offenses during the period from August 1, 1991, to July 31, 1992;

''(B) in the report required on September 1, 1993, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar year 1992;

''(C) in the report required on September 1, 1994, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar years 1992 and 1993; and

''(D) in the report required on September 1 of 1995 and each succeeding year, include statistics concerning the occurrence on campus of offenses during the three calendar years preceding the year in which the report is made.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 104(b) of Pub. L. 101–542, as amended by Pub. L. 102–26, § 10(e), Apr. 9, 1991, 105 Stat. 128, provided that: ''The report to the Secretary of Education required by the amendments made by this section [amending this section] shall be due on July 1, 1993, and annually thereafter, and shall cover the one-year period ending on June 30 of the preceding year.''

Section 204(c) of Pub. L. 101–542 provided that: ''The amendments made by this section [amending this section] shall take effect on September 1, 1991, except that the requirement of section 485(f)(1)(F) and (H) of the Higher Education Act of 1965 [subsec. (f)(1)(F), (H) of this section] (as added by this section) shall be applied to require statistics with respect to school years preceding the date of enactment of this Act [Nov. 8, 1990] only to the extent that data concerning such years is reasonably available.''

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsec. (b) of this section applicable only to periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99–498, set out as a note under section 1091 of this title.

REGULATIONS

Section 401(a) of Pub. L. 101–542 provided that: ''The Secretary is authorized to issue regulations to carry out the provisions of this Act [amending this section and sections 1085, 1094, and 1232g of this title and enacting provisions set out as notes under this section and section 1001 of this title].''

CONGRESSIONAL FINDINGS

Section 360B(b) of Pub. L. 103–382 provided that: ''The Congress finds that—

''(1) participation in athletic pursuits plays an important role in teaching young Americans how to work on teams, handle challenges and overcome obstacles;

''(2) participation in athletic pursuits plays an important role in keeping the minds and bodies of young Americans healthy and physically fit;

''(3) there is increasing concern among citizens, educators, and public officials regarding the athletic opportunities for young men and women at institutions of higher education;

''(4) a recent study by the National Collegiate Athletic Association found that in Division I–A institutions, only 20 percent of the average athletic department operations budget of $1,310,000 is spent on women's athletics; 15 percent of the average recruiting budget of $318,402 is spent on recruiting female athletes; the average scholarship expenses for men is $1,300,000 and $505,246 for women; and an average of 143 grants are awarded to male athletes and 59 to women athletes;

''(5) female college athletes receive less than 18 percent of the athletics recruiting dollar and less than 24 percent of the athletics operating dollar;

''(6) male college athletes receive approximately $179,000,000 more per year in athletic scholarship grants than female college athletes;

''(7) prospective students and prospective student athletes should be aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students; and

''(8) knowledge of an institution's expenditures for women's and men's athletic programs would help prospective students and prospective student athletes make informed judgments about the commitments of a given institution of higher education to providing equitable athletic benefits to its men and women students.''

Section 102 of Pub. L. 101–542 provided that: ''The Congress finds that—

''(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

''(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of students at institutions of higher education;

''(3) a recent study by the National Institute of Independent Colleges and Universities found that just 43 percent of students attending 4-year public colleges and universities and 54 percent of students entering private institutions graduated within 6 years of enrolling;

''(4) the academic performance of student athletes, especially student athletes receiving football and basketball scholarships, has been a source of great concern in recent years;

''(5) more than 10,000 athletic scholarships are provided annually by institutions of higher education;

''(6) prospective students and prospective student athletes should be aware of the educational commitments of an institution of higher education; and

''(7) knowledge of graduation rates would help prospective students and prospective student athletes make an informed judgment about the educational benefits available at a given institution of higher education.''

Section 202 of Pub. L. 101–542 provided that: ''The Congress finds that—

''(1) the reported incidence of crime, particularly violent crime, on some college campuses has steadily risen in recent years;

''(2) although annual 'National Campus Violence Surveys' indicate that roughly 80 percent of campus crimes are committed by a student upon another student and that approximately 95 percent of the campus crimes that are violent are alcohol- or drug-related, there are currently no comprehensive data on campus crimes;

''(3) out of 8,000 postsecondary institutions participating in Federal student aid programs, only 352 colleges and universities voluntarily provide crime statistics directly through the Uniform Crime Report of the Federal Bureau of Investigation, and other institutions report data indirectly, through local police agencies or States, in a manner that does not permit campus statistics to be separated;

''(4) several State legislatures have adopted or are considering legislation to require reporting of campus crime statistics and dissemination of security practices and procedures, but the bills are not uniform in their requirements and standards;

''(5) students and employees of institutions of higher education should be aware of the incidence of crime on campus and policies and procedures to prevent crime or to report occurrences of crime;

''(6) applicants for enrollment at a college or university, and their parents, should have access to information about the crime statistics of that institution and its security policies and procedures; and

''(7) while many institutions have established crime preventive measures to increase the safety of campuses, there is a clear need—

''(A) to encourage the development on all campuses of security policies and procedures;

''(B) for uniformity and consistency in the reporting of crimes on campus; and

''(C) to encourage the development of policies and procedures to address sexual assaults and racial violence on college campuses.''

§ 1092a. Combined payment plan

(a) Eligibility for plan

Upon the request of the borrower, a lender described in subparagraph (A), (B), or (C) of section 1078–3(a)(1) of this title, or defined in subpart I[1] of part C of title VII of the Public Health Service Act may, with respect to a consolidation loan made under section 1078–3 of this title (and section 1087–2(*o*) of this title as in effect prior to the enactment of section 1078–3 of this title) and loans guaranteed under subpart I[1] of part C of title VII of the Public Health Service Act (known as Health Education Assistance Loans), offer a combined payment plan under which the lender shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.

(b) Applicability of other requirements

A lender offering a combined payment plan shall comply with all provisions of section 1078–3 of this title applicable to loans consolidated or to be consolidated and shall comply with all provisions of subpart I[1] of part C of title VII of the Public Health Service Act applicable to loans under that subpart which are made part of the combined payment plan, except that a lender offering a combined payment plan under this section may offer consolidation loans pursuant to section 1078–3(b)(1)(A) of this title if such lender holds any outstanding loan of a borrower which is selected for inclusion in a combined payment plan.

(c) Lender eligibility

Such lender may offer a combined payment plan only if—

(1) the lender holds an outstanding loan of that borrower which is selected by the borrower for incorporation into a combined payment plan pursuant to this section (including loans which are selected by the borrower for consolidation under this section); or

(2) the borrower certifies that the borrower has sought and has been unable to obtain a combined payment plan from the holders of the outstanding loans of that borrower.

(d) Borrower selection of competing offers

In the case of multiple offers by lenders to administer a combined payment plan for a borrower, the borrower shall select from among them the lender to administer the combined payment plan including its loan consolidation component.

(e) Effect of plan

Upon selection of a lender to administer the combined payment plan, the lender may reissue any Health Education Assistance Loan selected by the borrower for incorporation in the combined payment plan which is not held by such lender and the proceeds of such reissued loan shall be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans, if—

(1) the lender selected to administer the combined payment plan has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being reissued (A) that the loan is a legal, valid, and binding obligation of the borrower; (B) that each such loan was made and serviced in compliance with applicable laws and regulations; and (C) the insurance on such loan is in full force and effect; and

(2) the loan being reissued was not in default (as defined in section 733(e)(3)[2] of the Public Health Service Act) at the time the request for a combined payment plan is made.

(f) Notes and insurance certificates

(1) Each loan reissued under subsection (e) of this section shall be evidenced by a note executed by the borrower. The Secretary of Health and Human Services shall insure such loan under a certificate of comprehensive insurance with no insurance limit, but any such certificate shall only be issued to an authorized holder of loans insured under subpart I[2] of part C of title VII of the Public Health Service Act (including the Student Loan Marketing Association). Such

[1] See References in Text note below.

[2] See References in Text note below.

certificates shall provide that all loans reissued under this section shall be fully insured against loss of principal and interest. Any insurance issued with respect to loans reissued under this section shall be excluded from the limitation on maximum insurance authority set forth in section 728(a)[2] of the Public Health Service Act. Notwithstanding the provisions of section 729(a)[2] of the Public Health Service Act, the reissued loan shall be made in an amount, including outstanding principal, capitalized interest, accrued unpaid interest not yet capitalized, and authorized late charges. The proceeds of each such loan will be paid by the lender to the holder of the original loan being reissued and the borrower's obligation to that holder on that loan shall be discharged.

(2) Except as otherwise specifically provided for under the provisions of this section, the terms of any reissued loan shall be the same as the terms of the original loan. The maximum repayment period for a loan reissued under this section shall not exceed the remainder of the period which would have been permitted on the original loan. If the lender holds more than one loan insured under subpart I[2] of part C of title VII of the Public Health Service Act, the maximum repayment period for all such loans may extend to the latest date permitted for any individual loan. Any reissued loan may be consolidated with any other Health Education Assistance Loan as provided in the Public Health Service Act [42 U.S.C. 201 et seq.], and, with the concurrence of the borrower, repayment of any such loans during any period may be made in amounts that are less than the interest that accrues on such loans during that period.

(g) Termination of borrower eligibility

The status of an individual as an eligible combined payment plan borrower terminates upon receipt of a combined payment plan.

(h) Fees and premiums

No origination fee or insurance premium shall be charged to the borrower on any combined payment plan, and no origination fee or insurance premium shall be payable by the lender to the Secretary of Health and Human Services.

(i) Commencement of repayment

Repayment of a combined payment plan shall commence within 60 days after the later of the date of acceptance of the lender's offer to administer a combined payment plan, the making of the consolidation loan or the reissuance of any Health Education Assistance Loans pursuant to subsection (e) of this section.

(Pub. L. 89–329, title IV, § 485A, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1484; amended Pub. L. 100–50, § 15(12), June 3, 1987, 101 Stat. 357.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsecs. (a), (b), and (f), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended, which is classified generally to chapter 6A (§ 201 et seq.) of Title 42, The Public Health and Welfare. Subpart I of part C of title VII of the Act was classified generally to subpart I (§ 294 et seq.) of part C of subchapter V of chapter 6A of Title 42 and was omitted in the general revision of subchapter V of chapter 6A by Pub. L. 102–408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. See subpart I (§ 292 et seq.) of part A of subchapter V of chapter 6A. Sections 728, 729, and 733 of the Act were classified to sections 294a, 294b, and 294f, respectively, of Title 42 and were omitted in the general revision of subchapter V by Pub. L. 102–408. Pub. L. 102–408 enacted a new section 728 of act July 1, 1944, relating to distribution of assets, a new section 762, relating to special projects, and a new section 763, relating to preventive medicine and dental public health which are classified to sections 292x, 294a, and 294b, respectively, of Title 42. See sections 292a, 292b, and 292f, respectively, of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100–50 substituted ''subparagraph (A), (B), or (C)'' for ''clause (i), (ii), or (iii)''.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1092b. National Student Loan Data System

(a) Development of System

The Secretary shall consult with a representative group of guaranty agencies, eligible lenders, and eligible institutions to develop a mutually agreeable proposal for the establishment of a National Student Loan Data System containing information regarding loans made, insured, or guaranteed under part B of this subchapter and loans made under parts C and D of this subchapter, and for allowing the electronic exchange of data between program participants and the system. In establishing such data system, the Secretary shall place a priority on providing for the monitoring of enrollment, student status, information about current loan holders and servicers, and internship and residency information. Such data system shall also permit borrowers to use the system to identify the current loan holders and servicers of such borrower's loan not later than one year after October 7, 1998. The information in the data system shall include (but is not limited to)—

(1) the amount and type of each such loan made;

(2) the names and social security numbers of the borrowers;

(3) the guaranty agency responsible for the guarantee of the loan;

(4) the institution of higher education or organization responsible for loans made under parts C and D of this subchapter;

(5)[1] the exact amount of loans partially or totally canceled or in deferment for service under the Peace Corps Act (22 U.S.C. 2501 et seq.)),[2] for service under the Domestic Volunteer Service Act of 1973 [42 U.S.C. 4950 et seq.], and for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness.[3]

(5)[1] the eligible institution in which the student was enrolled or accepted for enrollment at the time the loan was made, and any additional institutions attended by the borrower;

[1] So in original. Two pars. (5) have been enacted.

[2] So in original.

[3] So in original. The period probably should be a semicolon.

(6) the total amount of loans made to any borrower and the remaining balance of the loans;

(7) the lender, holder, and servicer of such loans;

(8) information concerning the date of any default on the loan and the collection of the loan, including any information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 1080(a) of this title or the guaranty agency has made a payment to the previous holder of the loan;

(9) information regarding any deferments or forbearance granted on such loans; and

(10) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 1087 of this title.

(b) Additional information

For the purposes of research and policy analysis, the proposal shall also contain provisions for obtaining additional data concerning the characteristics of borrowers and the extent of student loan indebtedness on a statistically valid sample of borrowers under part B of this subchapter. Such data shall include—

(1) information concerning the income level of the borrower and his family and the extent of the borrower's need for student financial assistance, including loans;

(2) information concerning the type of institution attended by the borrower and the year of the program of education for which the loan was obtained;

(3) information concerning other student financial assistance received by the borrower; and

(4) information concerning Federal costs associated with the student loan program under part B of this subchapter, including the costs of interest subsidies, special allowance payments, and other subsidies.

(c) Verification

The Secretary may require lenders, guaranty agencies, or institutions of higher education to verify information or obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing, or certifying a loan made under part B, C, or D of this subchapter.

(d) Omitted

(e) Standardization of data reporting

(1) In general

The Secretary shall by regulation prescribe standards and procedures (including relevant definitions) that require all lenders and guaranty agencies to report information on all aspects of loans made under this subchapter and part C of subchapter I of chapter 34 of title 42 in uniform formats in order to permit the direct comparison of data submitted by individual lenders, servicers or guaranty agencies.

(2) Activities

For the purpose of establishing standards under this section, the Secretary shall—

(A) consult with guaranty agencies, lenders, institutions of higher education, and organizations representing the groups described in paragraph (1);

(B) develop standards designed to be implemented by all guaranty agencies and lenders with minimum modifications to existing data processing hardware and software; and

(C) publish the specifications selected to be used to encourage the automation of exchanges of information between all parties involved in loans under this subchapter and part C of subchapter I of chapter 34 of title 42.

(f) Common identifiers

The Secretary shall, not later than July 1, 1993—

(1) revise the codes used to identify institutions and students in the student loan data system authorized by this section to make such codes consistent with the codes used in each database used by the Department of Education that contains information of participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(2) modify the design or operation of the system authorized by this section to ensure that data relating to any institution is readily accessible and can be used in a form compatible with the integrated postsecondary education data system (IPEDS).

(g) Integration of databases

The Secretary shall integrate the National Student Loan Data System with the Pell Grant applicant and recipient databases as of January 1, 1994, and any other databases containing information on participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(Pub. L. 89–329, title IV, § 485B, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1486; amended Pub. L. 100–50, § 15(13), June 3, 1987, 101 Stat. 357; Pub. L. 101–239, title II, § 2008, Dec. 19, 1989, 103 Stat. 2121; Pub. L. 101–610, title II, § 204, Nov. 16, 1990, 104 Stat. 3172; Pub. L. 102–325, title IV, § 487, July 23, 1992, 106 Stat. 623; Pub. L. 103–208, § 2(h)(38)–(41), Dec. 20, 1993, 107 Stat. 2478; Pub. L. 105–244, title IV, § 487, Oct. 7, 1998, 112 Stat. 1746.)

REFERENCES IN TEXT

The Peace Corps Act, referred to in subsec. (a)(5), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, as amended, which is classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 22 and Tables.

The Domestic Volunteer Service Act of 1973, referred to in subsec. (a)(5), is Pub. L. 93–113, Oct. 1, 1973, 87 Stat. 394, as amended, which is classified principally to chapter 66 (§ 4950 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4950 of Title 42 and Tables.

CODIFICATION

Subsec. (d) of this section, which required the Secretary to prepare and submit to appropriate committees of Congress, in each fiscal year, a report describing the results obtained by the establishment and operation of the student loan data system authorized by

this section, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 80 of House Document No. 103–7.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244 inserted ''not later than one year after October 7, 1998'' before period at end of third sentence.

1993—Subsec. (a). Pub. L. 103–208, § 2(h)(38), substituted ''parts C and D of this subchapter'' for ''part D of this subchapter'' and struck out second period at end of third sentence.

Subsec. (a)(4). Pub. L. 103–208, § 2(h)(39), substituted ''parts C and D of this subchapter'' for ''part D of this subchapter''.

Subsec. (c). Pub. L. 103–208, § 2(h)(40), substituted ''part B, C, or D of this subchapter'' for ''part B or part D of this subchapter''.

Subsec. (e)(1), (2)(C). Pub. L. 103–208, § 2(h)(41), substituted ''under this subchapter and part C of subchapter I of chapter 34 of title 42'' for ''under this part''.

1992—Subsec. (a). Pub. L. 102–325, § 487(a), inserted '', and for allowing the electronic exchange of data between program participants and the system. In establishing such data system, the Secretary shall place a priority on providing for the monitoring of enrollment, student status, information about current loan holders and servicers, and internship and residency information. Such data system shall also permit borrowers to use the system to identify the current loan holders and servicers of such borrower's loan.'' after ''part D of this subchapter''.

Subsecs. (e) to (g). Pub. L. 102–325, § 487(b), added subsecs. (e) to (g).

1990—Subsec. (a)(5). Pub. L. 101–610 added subsec. (a)(5) relating to loan cancellations and deferments.

1989—Pub. L. 101–239 amended section generally, substituting subsecs. (a) to (d) for former subsec. (a) relating to authority of Secretary, subsec. (b) relating to access to information, subsec. (c) relating to verification not required, and subsec. (d) relating to report to Congress.

1987—Subsec. (b)(1). Pub. L. 100–50, § 15(13)(A), substituted ''public agencies'' for ''Federal agencies''.

Subsec. (b)(2)(D). Pub. L. 100–50, § 15(13)(B), substituted ''of any borrower'' for ''of a borrower for whom the guaranty agency provides insurance''.

Subsec. (b)(3). Pub. L. 100–50, § 15(13)(C), substituted ''public agency'' for ''Federal agency''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1092c. Simplification of lending process for borrowers

(a) All like loans treated as one

To the extent practicable, and with the cooperation of the borrower, eligible lenders shall treat all loans made to a borrower under the same section of part B of this subchapter as one loan and shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment. Any deferments on one such loan will be considered a deferment on the total amount of all such loans.

(b) One lender, one guaranty agency

To the extent practicable, and with the cooperation of the borrower, the guaranty agency shall ensure that a borrower only have one lender, one holder, one guaranty agency, and one servicer with which to maintain contact.

(Pub. L. 89–329, title IV, § 485C, as added Pub. L. 102–325, title IV, § 488, July 23, 1992, 106 Stat. 624.)

§ 1092d. Scholarship fraud assessment and awareness activities

(a) Annual report on scholarship fraud

(1) Requirement

The Attorney General and the Secretary of Education, in conjunction with the Federal Trade Commission, shall jointly submit to Congress each year a report on fraud in the offering of financial assistance for purposes of financing an education at an institution of higher education. Each report shall contain an assessment of the nature and quantity of incidents of such fraud during the one-year period ending on the date of such report.

(2) Initial report

The first report under paragraph (1) shall be submitted not later than 18 months after November 1, 2000.

(b) National awareness activities

The Secretary of Education shall, in conjunction with the Federal Trade Commission, maintain a scholarship fraud awareness site on the Internet web site of the Department of Education. The scholarship fraud awareness site may include the following:

(1) Appropriate materials from the Project Scholarscam awareness campaign of the Commission, including examples of common fraudulent schemes.

(2) A list of companies and individuals who have been convicted of scholarship fraud in Federal or State court.

(3) An Internet-based message board to provide a forum for public complaints and experiences with scholarship fraud.

(4) An electronic comment form for individuals who have experienced scholarship fraud or have questions about scholarship fraud, with appropriate mechanisms for the transfer of comments received through such forms to the Department and the Commission.

(5) Internet links to other sources of information on scholarship fraud, including Internet web sites of appropriate nongovernmental organizations, colleges and universities, and government agencies.

(6) An Internet link to the Better Business Bureau in order to assist individuals in assessing the business practices of other persons and entities.

(7) Information on means of communicating with the Federal Student Aid Information

Center, including telephone and Internet contact information.

(Pub. L. 106–420, § 5, Nov. 1, 2000, 114 Stat. 1868.)

CODIFICATION

Section was enacted as part of the College Scholarship Fraud Prevention Act of 2000, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

FINDINGS

Pub. L. 106–420, § 2, Nov. 1, 2000, 114 Stat. 1867, provided that: ''Congress makes the following findings:

''(1) A substantial amount of fraud occurs in the offering of college education financial assistance services to consumers.

''(2) Such fraud includes the following:

''(A) Misrepresentations regarding the provision of sources from which consumers may obtain financial assistance (including scholarships, grants, loans, tuition, awards, and other assistance) for purposes of financing a college education.

''(B) Misrepresentations regarding the provision of portfolios of such assistance tailored to the needs of specific consumers.

''(C) Misrepresentations regarding the pre-selection of students as eligible to receive such assistance.

''(D) Misrepresentations that such assistance will be provided to consumers who purchase specified services from specified entities.

''(E) Misrepresentations regarding the business relationships between particular entities and entities that award or may award such assistance.

''(F) Misrepresentations regarding refunds of processing fees if consumers are not provided specified amounts of such assistance, and other misrepresentations regarding refunds.

''(3) In 1996, the Federal Trade Commission launched 'Project Scholarscam', a joint law enforcement and consumer education campaign directed at fraudulent purveyors of so-called 'scholarship services'.

''(4) Despite the efforts of the Federal Trade Commission, colleges and universities, and nongovernmental organizations, the continued lack of awareness about scholarship fraud permits a significant amount of fraudulent activity to occur.''

§ 1093. Distance education demonstration programs

(a) Purpose

It is the purpose of this section—

(1) to allow demonstration programs that are strictly monitored by the Department of Education to test the quality and viability of expanded distance education programs currently restricted under this chapter;

(2) to provide for increased student access to higher education through distance education programs; and

(3) to help determine—

(A) the most effective means of delivering quality education via distance education course offerings;

(B) the specific statutory and regulatory requirements which should be altered to provide greater access to high quality distance education programs; and

(C) the appropriate level of Federal assistance for students enrolled in distance education programs.

(b) Demonstration programs authorized

(1) In general

In accordance with the provisions of subsection (d) of this section, the Secretary is authorized to select institutions of higher education, systems of such institutions, or consortia of such institutions for voluntary participation in a Distance Education Demonstration Program that provides participating institutions with the ability to offer distance education programs that do not meet all or a portion of the sections or regulations described in paragraph (2).

(2) Waivers

The Secretary is authorized to waive for any institution of higher education, system of institutions of higher education, or consortium participating in a Distance Education Demonstration Program, the requirements of section 1087*ll*(5) of this title as the section relates to computer costs, sections 1088(a) and 1088(b) of this title as such sections relate to requirements for a minimum number of weeks of instruction, sections 1002(a)(3)(A), 1002(a)(3)(B), and 1091(*l*)(1) of this title, or one or more of the regulations prescribed under this part or part E of this subchapter which inhibit the operation of quality distance education programs.

(3) Eligible applicants

(A) Eligible institutions

Except as provided in subparagraphs (B), (C), and (D), only an institution of higher education that is eligible to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 shall be eligible to participate in the demonstration program authorized under this section.

(B) Prohibition

An institution of higher education described in section 1002(a)(1)(C) of this title shall not be eligible to participate in the demonstration program authorized under this section.

(C) Special rule

Subject to subparagraph (B), an institution of higher education that meets the requirements of subsection (a) of section 1002 of this title, other than the requirement of paragraph (3)(A) or (3)(B) of such subsection, and that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree, shall be eligible to participate in the demonstration program authorized under this section.

(D) Requirement

Notwithstanding any other provision of this paragraph, Western Governors University shall be considered eligible to participate in the demonstration program authorized under this section. In addition to the waivers described in paragraph (2), the Secretary may waive the provisions of subchapter I of this chapter and this part and part G of this subchapter for such university that the Secretary determines to be appropriate because of the unique characteristics of such university. In carrying out the preceding sentence, the Secretary shall ensure that adequate program integrity and accountability measures apply to such univer-

sity's participation in the demonstration program authorized under this section.

(c) Application

(1) In general

Each institution, system, or consortium of institutions desiring to participate in a demonstration program under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(2) Contents

Each application shall include—

(A) a description of the institution, system, or consortium's consultation with a recognized accrediting agency or association with respect to quality assurances for the distance education programs to be offered;

(B) a description of the statutory and regulatory requirements described in subsection (b)(2) of this section or, if applicable, subsection (b)(3)(D) of this section for which a waiver is sought and the reasons for which the waiver is sought;

(C) a description of the distance education programs to be offered;

(D) a description of the students to whom distance education programs will be offered;

(E) an assurance that the institution, system, or consortium will offer full cooperation with the ongoing evaluations of the demonstration program provided for in this section; and

(F) such other information as the Secretary may require.

(d) Selection

(1) In general

For the first year of the demonstration program authorized under this section, the Secretary is authorized to select for participation in the program not more than 15 institutions, systems of institutions, or consortia of institutions. For the third year of the demonstration program authorized under this section, the Secretary may select not more than 35 institutions, systems, or consortia, in addition to the institutions, systems, or consortia selected pursuant to the preceding sentence, to participate in the demonstration program if the Secretary determines that such expansion is warranted based on the evaluations conducted in accordance with subsections (f) and (g) of this section.

(2) Considerations

In selecting institutions to participate in the demonstration program in the first or succeeding years of the program, the Secretary shall take into account—

(A) the number and quality of applications received;

(B) the Department's capacity to oversee and monitor each institution's participation;

(C) an institution's—

(i) financial responsibility;

(ii) administrative capability; and

(iii) program or programs being offered via distance education; and

(D) ensuring the participation of a diverse group of institutions with respect to size, mission, and geographic distribution.

(e) Notification

The Secretary shall make available to the public and to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives a list of institutions, systems or consortia selected to participate in the demonstration program authorized by this section. Such notice shall include a listing of the specific statutory and regulatory requirements being waived for each institution, system or consortium and a description of the distance education courses to be offered.

(f) Evaluations and reports

(1) Evaluation

The Secretary shall evaluate the demonstration programs authorized under this section on an annual basis. Such evaluations specifically shall review—

(A) the extent to which the institution, system or consortium has met the goals set forth in its application to the Secretary, including the measures of program quality assurance;

(B) the number and types of students participating in the programs offered, including the progress of participating students toward recognized certificates or degrees and the extent to which participation in such programs increased;

(C) issues related to student financial assistance for distance education;

(D) effective technologies for delivering distance education course offerings; and

(E) the extent to which statutory or regulatory requirements not waived under the demonstration program present difficulties for students or institutions.

(2) Policy analysis

The Secretary shall review current policies and identify those policies that present impediments to the development and use of distance education and other nontraditional methods of expanding access to education.

(3) Reports

(A) In general

Within 18 months of the initiation of the demonstration program, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives with respect to—

(i) the evaluations of the demonstration programs authorized under this section; and

(ii) any proposed statutory changes designed to enhance the use of distance education.

(B) Additional reports

The Secretary shall provide additional reports to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives on an annual basis regarding—

(i) the demonstration programs authorized under this section; and

(ii) the number and types of students receiving assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 for instruction leading to a recognized certificate, as provided for in section 1091(*l*)(1) of this title, including the progress of such students toward recognized certificates and the degree to which participation in such programs leading to such certificates increased.

(g) Oversight

In conducting the demonstration program authorized under this section, the Secretary shall, on a continuing basis—

(1) assure compliance of institutions, systems or consortia with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 (other than the sections and regulations that are waived under subsections (b)(2) and (b)(3)(D) of this section);

(2) provide technical assistance;

(3) monitor fluctuations in the student population enrolled in the participating institutions, systems or consortia; and

(4) consult with appropriate accrediting agencies or associations and appropriate State regulatory authorities.

(h) "Distance education" defined

For the purpose of this section, the term ''distance education'' means an educational process that is characterized by the separation, in time or place, between instructor and student. Such term may include courses offered principally through the use of—

(1) television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission;

(2) audio or computer conferencing;

(3) video cassettes or discs; or

(4) correspondence.

(Pub. L. 89–329, title IV, § 486, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1487; amended Pub. L. 102–325, title IV, § 489, July 23, 1992, 106 Stat. 624; Pub. L. 105–244, title IV, § 488, Oct. 7, 1998, 112 Stat. 1746.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1093, Pub. L. 89–329, title IV, § 486, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1450, related to training in financial aid and student support services, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section authorized Secretary to make grants to nonprofit private organizations to provide training for student financial aid administrators and TRIO personnel.

1992—Pub. L. 102–325 struck out ''and student support'' after ''aid'' in section catchline and amended text generally, substituting present provisions for former subsec. (a) relating to program authority, subsec. (b) relating to use of funds, and subsec. (c) relating to authorization of appropriations.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1094. Program participation agreements

(a) Required for programs of assistance; contents

In order to be an eligible institution for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 4 of part A of this subchapter, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) The institution will use funds received by it for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 or the amount of such assistance.

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this subchapter and part C of subchapter I of chapter 34 of title 42, together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—

(A) the Secretary;

(B) the appropriate guaranty agency; and

(C) the appropriate accrediting agency or association.

(4) The institution will comply with the provisions of subsection (c) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part D of this subchapter, to holders of loans made to the institution's students under such parts at such times and containing such information as the Secretary may reasonably re-

quire to carry out the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42.

(6) The institution will not provide any student with any statement or certification to any lender under part B of this subchapter that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 1075(a), 1078(a)(2), and 1078(b)(1)(A) and (B) of this title.

(7) The institution will comply with the requirements of section 1092 of this title.

(8) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will make available to prospective students, at or before the time of application (A) the most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements, and (B) relevant State licensing requirements of the State in which such institution is located for any job for which the course of instruction is designed to prepare such prospective students.

(9) In the case of an institution participating in a program under part B or C of this subchapter, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance from the State in which the institution is located, and will inform such borrowers from another State of the source for further information concerning such assistance from that State.

(10) The institution certifies that it has in operation a drug abuse prevention program that is determined by the institution to be accessible to any officer, employee, or student at the institution.

(11) In the case of any institution whose students receive financial assistance pursuant to section 1091(d) of this title, the institution will make available to such students a program proven successful in assisting students in obtaining a certificate of high school equivalency.

(12) The institution certifies that—

(A) the institution has established a campus security policy; and

(B) the institution has complied with the disclosure requirements of section 1092(f) of this title.

(13) The institution will not deny any form of Federal financial aid to any student who meets the eligibility requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 on the grounds that the student is participating in a program of study abroad approved for credit by the institution.

(14)(A) The institution, in order to participate as an eligible institution under part B or C of this subchapter, will develop a Default Management Plan for approval by the Secretary as part of its initial application for certification as an eligible institution and will implement such Plan for two years thereafter.

(B) Any institution of higher education which changes ownership and any eligible institution which changes its status as a parent or subordinate institution shall, in order to participate as an eligible institution under part B or C of this subchapter, develop a Default Management Plan for approval by the Secretary and implement such Plan for two years after its change of ownership or status.

(C) This paragraph shall not apply in the case of an institution in which (i) neither the parent nor the subordinate institution has a cohort default rate in excess of 10 percent, and (ii) the new owner of such parent or subordinate institution does not, and has not, owned any other institution with a cohort default rate in excess of 10 percent.

(15) The institution acknowledges the authority of the Secretary, guaranty agencies, lenders, accrediting agencies, the Secretary of Veterans Affairs, and the State agencies under subpart 1 of part G of this subchapter to share with each other any information pertaining to the institution's eligibility to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42 or any information on fraud and abuse.

(16)(A) The institution will not knowingly employ an individual in a capacity that involves the administration of programs under this subchapter and part C of subchapter I of chapter 34 of title 42, or the receipt of program funds under this subchapter and part C of subchapter I of chapter 34 of title 42, who has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, or has been judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42 or contract with an institution or third party servicer that has been terminated under section 1082 of this title involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42, or who has been judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42.

(B) The institution will not knowingly contract with or employ any individual, agency, or organization that has been, or whose officers or employees have been—

(i) convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(ii) judicially determined to have committed fraud involving funds under this subchapter and part C of subchapter I of chapter 34 of title 42.

(17) The institution will complete surveys conducted as a part of the Integrated Postsecondary Education Data System (IPEDS) or any other Federal postsecondary institution data collection effort, as designated by the Secretary, in a timely manner and to the satisfaction of the Secretary.

(18) The institution will meet the requirements established pursuant to section 1092(g) of this title.

(19) The institution will not impose any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that the student borrow additional funds, on any student because of the student's inability to meet his or her financial obligations to the institution as a result of the delayed disbursement of the proceeds of a loan made under this subchapter and part C of subchapter I of chapter 34 of title 42 due to compliance with the provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, or delays attributable to the institution.

(20) The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

(21) The institution will meet the requirements established by the Secretary and accrediting agencies or associations, and will provide evidence to the Secretary that the institution has the authority to operate within a State.

(22) The institution will comply with the refund policy established pursuant to section 1091b of this title.

(23)(A) The institution, if located in a State to which section 1973gg–2(b)[1] of title 42 does not apply, will make a good faith effort to distribute a mail voter registration form, requested and received from the State, to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make such forms widely available to students at the institution.

(B) The institution shall request the forms from the State 120 days prior to the deadline for registering to vote within the State. If an institution has not received a sufficient quantity of forms to fulfill this section from the State within 60 days prior to the deadline for registering to vote in the State, the institution shall not be held liable for not meeting the requirements of this section during that election year.

(C) This paragraph shall apply to general and special elections for Federal office, as defined in section 431(3) of title 2, and to the elections for Governor or other chief executive within such State).[2]

(b) Hearings

(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than 45 days after receipt of notification of the final audit or program review determination.

(2) The Secretary shall, upon receipt of written notice under paragraph (1), arrange for a hearing and notify the institution within 30 days of receipt of such notice the date, time, and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

(c) Audits; financial responsibility; enforcement of standards

(1) Notwithstanding any other provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall prescribe such regulations as may be necessary to provide for—

(A)(i) except as provided in clauses (ii) and (iii), a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution with regard to any funds obtained by it under this subchapter and part C of subchapter I of chapter 34 of title 42 or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this subchapter and part C of subchapter I of chapter 34 of title 42, on at least an annual basis and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the appropriate State agency notifying the Secretary under subpart 1 of part G of this subchapter;

(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit; or

(iii) at the discretion of the Secretary, with regard to an eligible institution (other than an eligible institution described in section 1002(a)(1)(C) of this title) that has obtained less than $200,000 in funds under this subchapter and part C of subchapter I of chapter 34 of title 42 during each of the 2 award years that precede the audit period and submits a letter of credit payable to the Secretary equal to not less than ½ of the annual potential liabilities of such institution as determined by the Secretary, deeming an audit conducted every 3 years to satisfy the requirements of clause (i), except for the award year immediately preceding renewal of the institution's eligibility under section 1099c(g) of this title;

(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this subchapter and part C of subchapter I of chapter 34 of title 42, including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, share-

[1] See References in Text note below.

[2] So in original. The closing parenthesis probably should not appear.

holder, or person exercising control over an eligible institution;

(C)(i) except as provided in clause (ii), a compliance audit of a third party servicer (other than with respect to the servicer's functions as a lender if such functions are otherwise audited under this part and such audits meet the requirements of this clause), with regard to any contract with an eligible institution, guaranty agency, or lender for administering or servicing any aspect of the student assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42, at least once every year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a third party servicer that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by such audit;

(D)(i) a compliance audit of a secondary market with regard to its transactions involving, and its servicing and collection of, loans made under this subchapter and part C of subchapter I of chapter 34 of title 42, at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a secondary market that is audited under chapter 75 of title 31, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by the audit;

(E) the establishment, by each eligible institution under part B of this subchapter responsible for furnishing to the lender the statement required by section 1078(a)(2)(A)(i) of this title, of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll;

(F) the limitation, suspension, or termination of the participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of an eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing, that such institution has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time;

(G) an emergency action against an institution, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to the institution (by registered mail, return receipt requested), withhold funds from the institution or its students and withdraw the institution's authority to obligate funds under any program under this subchapter and part C of subchapter I of chapter 34 of title 42, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the institution is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (D) for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless limitation, suspension, or termination proceedings are initiated by the Secretary against the institution within that period of time, and except that the Secretary shall provide the institution an opportunity to show cause, if it so requests, that the emergency action is unwarranted;

(H) the limitation, suspension, or termination of the eligibility of a third party servicer to contract with any institution to administer any aspect of an institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, or the imposition of a civil penalty under paragraph (2)(B), whenever the Secretary has determined, after reasonable notice and opportunity for a hearing, that such organization, acting on behalf of an institution, has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation, except that no period of suspension under this subparagraph shall exceed 60 days unless the organization and the Secretary agree to an extension, or unless limitation or termination proceedings are initiated by the Secretary against the individual or organization within that period of time; and

(I) an emergency action against a third party servicer that has contracted with an institution to administer any aspect of the institution's student assistance program under this

subchapter and part C of subchapter I of chapter 34 of title 42, under which the Secretary shall, effective on the date on which a notice and statement of the basis of the action is mailed to such individual or organization (by registered mail, return receipt requested), withhold funds from the individual or organization and withdraw the individual or organization's authority to act on behalf of an institution under any program under this subchapter and part C of subchapter I of chapter 34 of title 42, if the Secretary—

(i) receives information, determined by the Secretary to be reliable, that the individual or organization, acting on behalf of an institution, is violating any provision of this subchapter and part C of subchapter I of chapter 34 of title 42, any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, or any applicable special arrangement, agreement, or limitation,

(ii) determines that immediate action is necessary to prevent misuse of Federal funds, and

(iii) determines that the likelihood of loss outweighs the importance of the procedures prescribed under subparagraph (F), for limitation, suspension, or termination,

except that an emergency action shall not exceed 30 days unless the limitation, suspension, or termination proceedings are initiated by the Secretary against the individual or organization within that period of time, and except that the Secretary shall provide the individual or organization an opportunity to show cause, if it so requests, that the emergency action is unwarranted.

(2) If an individual who, or entity that, exercises substantial control, as determined by the Secretary in accordance with the definition of substantial control in subpart 3 of part G of this subchapter, over one or more institutions participating in any program under this subchapter and part C of subchapter I of chapter 34 of title 42, or, for purposes of paragraphs (1)(H) and (I), over one or more organizations that contract with an institution to administer any aspect of the institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42, is determined to have committed one or more violations of the requirements of any program under this subchapter and part C of subchapter I of chapter 34 of title 42, or has been suspended or debarred in accordance with the regulations of the Secretary, the Secretary may use such determination, suspension, or debarment as the basis for imposing an emergency action on, or limiting, suspending, or terminating, in a single proceeding, the participation of any or all institutions under the substantial control of that individual or entity.

(3)(A) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this subchapter and part C of subchapter I of chapter 34 of title 42 of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

(B)(i) Upon determination, after reasonable notice and opportunity for a hearing, that an eligible institution—

(I) has violated or failed to carry out any provision of this subchapter and part C of subchapter I of chapter 34 of title 42 or any regulation prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42; or

(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

(4) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(5) The Secretary shall make readily available to appropriate guaranty agencies, eligible lenders, State agencies notifying the Secretary under subpart 1 of part G of this subchapter, and accrediting agencies or associations the results of the audits of eligible institutions conducted pursuant to paragraph (1)(A).

(6) The Secretary is authorized to provide any information collected as a result of audits conducted under this section, together with audit information collected by guaranty agencies, to any Federal or State agency having responsibilities with respect to student financial assistance, including those referred to in subsection (a)(15) of this section.

(7) Effective with respect to any audit conducted under this subsection after December 31, 1988, if, in the course of conducting any such audit, the personnel of the Department of Education discover, or are informed of, grants or other assistance provided by an institution in accordance with this subchapter and part C of subchapter I of chapter 34 of title 42 for which the institution has not received funds appropriated under this subchapter and part C of subchapter I of chapter 34 of title 42 (in the amount necessary to provide such assistance), including funds for which reimbursement was not requested prior to such discovery or information, such institution shall be permitted to offset

that amount against any sums determined to be owed by the institution pursuant to such audit, or to receive reimbursement for that amount (if the institution does not owe any such sums).

(d) "Eligible institution" defined

For the purpose of this section, the term ''eligible institution'' means any such institution described in section 1002 of this title.

(e) Construction

Nothing in the amendments made by the Higher Education Amendments of 1992 shall be construed to prohibit an institution from recording, at the cost of the institution, a hearing referred to in subsection (b)(2), subsection (c)(1)(D), or subparagraph (A) or (B)(i) of subsection (c)(2), of this section to create a record of the hearing, except the unavailability of a recording shall not serve to delay the completion of the proceeding. The Secretary shall allow the institution to use any reasonable means, including stenographers, of recording the hearing.

(Pub. L. 89–329, title IV, § 487, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1488; amended Pub. L. 101–239, title II, §§ 2003(c)(2), 2006(c), Dec. 19, 1989, 103 Stat. 2114, 2118; Pub. L. 101–542, title II, § 205, Nov. 8, 1990, 104 Stat. 2387; Pub. L. 102–26, § 2(c)(3), Apr. 9, 1991, 105 Stat. 124; Pub. L. 102–325, title IV, § 490, July 23, 1992, 106 Stat. 625; Pub. L. 103–208, § 2(h)(42), (43), Dec. 20, 1993, 107 Stat. 2478; Pub. L. 105–244, title I, § 102(b)(4), title IV, § 489(a), (b)(1), (c), Oct. 7, 1998, 112 Stat. 1622, 1750, 1751; Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 314], Nov. 29, 1999, 113 Stat. 1535, 1501A–266.)

REFERENCES IN TEXT

Section 1973gg–2(b) of title 42, referred to in subsec. (a)(23)(A), was in the original a reference to section 4(b) of the National Voter Registration Act (42 U.S.C. 1973gg–2(b)), and has been translated as if it referred to section 4(b) of the National Voter Registration Act of 1993, Pub. L. 103–31, to reflect the probable intent of Congress.

The Higher Education Amendments of 1992, referred to in subsec. (e), is Pub. L. 102–325, July 23, 1992, 106 Stat. 448. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1094, Pub. L. 89–329, title IV, § 487, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1451; amended Pub. L. 99–272, title XVI, § 16034, Apr. 7, 1986, 100 Stat. 356, related to program participation agreements, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1999—Subsec. (a)(23)(C). Pub. L. 106–113 amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''This paragraph shall apply to elections as defined in section 431(1) of title 2, and includes the election for Governor or other chief executive within such State).''

1998—Subsec. (a)(3)(B) to (D). Pub. L. 105–244, § 489(a)(1), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which read as follows: ''the appropriate State review entity designated under subpart 1 of part G of this subchapter;''.

Subsec. (a)(4). Pub. L. 105–244, § 489(a)(2), substituted ''subsection (c)'' for ''subsection (b)''.

Subsec. (a)(9). Pub. L. 105–244, § 489(a)(3), substituted ''part B or C'' for ''part B''.

Subsec. (a)(14)(A), (B). Pub. L. 105–244, § 489(a)(4)(A), (B), substituted ''part B or C'' for ''part B''.

Subsec. (a)(14)(C). Pub. L. 105–244, § 489(a)(4)(C), added subpar. (C).

Subsec. (a)(15). Pub. L. 105–244, § 489(a)(5), substituted ''the State agencies'' for ''State review entities''.

Subsec. (a)(18). Pub. L. 105–244, § 489(a)(6), amended par. (18) generally. Prior to amendment, par. (18) required institutions to cause an annual compilation to be prepared of revenues and expenses relating to men's and women's sports.

Subsec. (a)(21). Pub. L. 105–244, § 489(a)(7), amended par. (21) generally. Prior to amendment, par. (21) read as follows: ''The institution will meet the requirements established by the Secretary, State postsecondary review entities, and accrediting agencies pursuant to part G of this subchapter.''

Subsec. (a)(23). Pub. L. 105–244, § 489(b)(1), added par. (23).

Subsec. (c)(1)(A)(i). Pub. L. 105–244, § 489(c)(1)(A), substituted ''clauses (ii) and (iii)'' for ''clause (ii)'' and ''appropriate State agency notifying the Secretary under'' for ''State review entities referred to in'' and struck out ''or'' after semicolon.

Subsec. (c)(1)(A)(iii). Pub. L. 105–244, § 489(c)(1)(B), (C), added cl. (iii).

Subsec. (c)(4). Pub. L. 105–244, § 489(c)(2), struck out '', after consultation with each State review entity designated under subpart 1 of part G of this subchapter,'' after ''shall publish''.

Subsec. (c)(5). Pub. L. 105–244, § 489(c)(3), substituted ''State agencies notifying the Secretary'' for ''State review entities designated''.

Subsec. (d). Pub. L. 105–244, § 102(b)(4), substituted ''section 1002'' for ''section 1088''.

1993—Subsec. (a)(2). Pub. L. 103–208, § 2(h)(42), struck out '', or for completing or handling the Federal Student Assistance Report'' after ''amount of such assistance''.

Subsec. (c)(1)(F). Pub. L. 103–208, § 2(h)(43), substituted ''participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of an eligible institution,'' for ''eligibility for any program under this subchapter and part C of subchapter I of chapter 34 of title 42 of any otherwise eligible institution,''.

1992—Subsec. (a). Pub. L. 102–325, § 490(f)(1), substituted ''subpart 4'' for ''subpart 3''.

Subsec. (a)(2). Pub. L. 102–325, § 490(f)(2), struck out ''provided for in section 1090(e) of this title'' after ''Report''.

Subsec. (a)(3). Pub. L. 102–325, § 490(a)(1), inserted before period at end '', together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—'' and added subpars. (A) to (D).

Subsec. (a)(8). Pub. L. 102–325, § 490(a)(2), substituted ''application (A)'' for ''application,'' inserted '', and'' after ''advertisements'', and added subpar. (B).

Subsec. (a)(13) to (22). Pub. L. 102–325, § 490(a)(3), added pars. (13) to (22).

Subsec. (b)(2). Pub. L. 102–325, § 490(b)(1), struck out ''on the record'' after ''for a hearing''.

Subsec. (c)(1). Pub. L. 102–325, § 490(b)(2)(A), substituted ''shall'' for ''is authorized to'' in introductory provisions.

Subsec. (c)(1)(A)(i). Pub. L. 102–325, § 490(c), substituted ''a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution'' for ''a financial and compliance audit of an eligible institution,'' and ''on at least an annual basis'' for ''at least once every 2 years'' and inserted ''and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the State review entities referred to in subpart 1 of part G of this subchapter'' after ''submitted to the Secretary''.

Subsec. (c)(1)(B). Pub. L. 102–325, § 490(d)(1), inserted before semicolon at end '', including any matter the

Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution''.

Subsec. (c)(1)(C). Pub. L. 102–325, § 490(d)(3), added subpar. (C). Former subpar. (C) redesignated (E).

Subsec. (c)(1)(D). Pub. L. 102–325, § 490(d)(3), added subpar. (D). Former subpar. (D) redesignated (F).

Pub. L. 102–325, § 490(b)(2)(B), struck out ''on the record'' after ''opportunity for hearing''.

Subsec. (c)(1)(E). Pub. L. 102–325, § 490(d)(2), redesignated subpar. (C) as (E). Former subpar. (E) redesignated (G).

Subsec. (c)(1)(F). Pub. L. 102–325, § 490(d)(2), redesignated subpar. (D) as (F). Former subpar. (F) redesignated (H).

Pub. L. 102–325, § 490(b)(2)(C), struck out ''on the record'' after ''opportunity for a hearing''.

Subsec. (c)(1)(G). Pub. L. 102–325, § 490(d)(2), redesignated subpar. (E) as (G). Former subpar. (G) redesignated (I).

Subsec. (c)(1)(H). Pub. L. 102–325, § 490(d)(2), (4), redesignated subpar. (F) as (H) and substituted ''a third party servicer'' for ''an individual or an organization''.

Subsec. (c)(1)(I). Pub. L. 102–325, § 490(d)(2), (5), redesignated subpar. (G) as (I) and substituted ''a third party servicer'' for ''an individual or an organization''.

Subsec. (c)(2). Pub. L. 102–325, § 490(d)(8), added par. (2). Former par. (2) redesignated (3).

Pub. L. 102–325, § 490(b)(2)(D), struck out ''on the record'' after ''opportunity for a hearing'' in subpars. (A) and (B)(i).

Subsec. (c)(3). Pub. L. 102–325, § 490(d)(7), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Pub. L. 102–325, § 490(d)(6), inserted '', after consultation with each State review entity designated under subpart 1 of part G of this subchapter,'' after ''shall publish''.

Subsec. (c)(4). Pub. L. 102–325, § 490(d)(7), redesignated par. (3) as (4).

Subsec. (c)(5) to (7). Pub. L. 102–325, § 490(d)(9), added pars. (5) to (7).

Subsec. (d). Pub. L. 102–325, § 490(f)(3), substituted ''section 1088'' for ''section 1085(a)''.

Subsec. (e). Pub. L. 102–325, § 490(e), added subsec. (e).

1991—Subsec. (a)(11). Pub. L. 102–26 substituted ''whose students receive financial assistance pursuant to section 1091(d) of this title,'' for ''which admits students on the basis of their ability to benefit from the education or training provided by such institution (as determined under section 1091(d) of this title),''.

1990—Subsec. (a)(12). Pub. L. 101–542 added par. (12).

1989—Subsec. (a)(11). Pub. L. 101–239, § 2003(c)(2), added par. (11).

Subsec. (c)(1)(D). Pub. L. 101–239, § 2006(c)(2), substituted '', any regulation'' for ''or any regulation'' and inserted ''or any applicable special arrangement, agreement, or limitation,''.

Subsec. (c)(1)(E) to (G). Pub. L. 101–239, § 2006(c)(3), added subpars. (E) to (G).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–26 applicable to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1991, see section 2(d)(1) of Pub. L. 102–26, set out as a note under section 1085 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 2003(c)(3) of Pub. L. 101–239 provided that: ''The amendments made by this subsection [amending this section and section 1078–1 of this title] shall apply with respect to periods of enrollment beginning on or after January 1, 1990.''

EFFECTIVE DATE

Section effective Oct. 17, 1986, except as otherwise provided, see section 2 of Pub. L. 99–498, set out as a note under section 1001 of this title.

Subsec. (a)(10) of this section applicable only to periods of enrollment beginning on or after July 1, 1987, see section 407(b) of Pub. L. 99–498, set out as a note under section 1091 of this title.

REGULATION PROHIBITED

Pub. L. 105–244, title IV, § 489(b)(2), Oct. 7, 1998, 112 Stat. 1751, provided that: ''No officer of the executive branch is authorized to instruct the institution in the manner in which the amendment made by this subsection [amending this section] is carried out.''

§ 1094a. Regulatory relief and improvement

(a) Quality Assurance Program

(1) In general

The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive systems, related to processing and disbursement of student financial aid, verification of student financial aid application data, and entrance and exit interviews, thereby enhancing program integrity within the student aid delivery system.

(2) Criteria and consideration

The Quality Assurance Program authorized by this section shall be based on criteria that include demonstrated institutional performance, as determined by the Secretary, and shall take into consideration current quality assurance goals, as determined by the Secretary. The selection criteria shall ensure the participation of a diverse group of institutions of higher education with respect to size, mission, and geographical distribution.

(3) Waiver

The Secretary is authorized to waive for any institution participating in the Quality Assurance Program any regulations dealing with reporting or verification requirements in this subchapter and part C of subchapter I of chapter 34 of title 42 that are addressed by the institution's alternative management system, and may substitute such quality assurance reporting as the Secretary determines necessary to ensure accountability and compliance with the purposes of the programs under this subchapter and part C of subchapter I of chapter 34 of title 42. The Secretary shall not modify or waive any statutory requirements pursuant to this paragraph.

(4) Determination

The Secretary is authorized to determine—

(A) when an institution that is unable to administer the Quality Assurance Program shall be removed from such program; and

(B) when institutions desiring to cease participation in such program will be required to complete the current award year under the requirements of the Quality Assurance Program.

(5) Review and evaluation

The Secretary shall review and evaluate the Quality Assurance Program conducted by each participating institution and, on the basis of that evaluation, make recommendations regarding amendments to this chapter that will streamline the administration and enhance the integrity of Federal student assistance programs. Such recommendations shall be submitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.

(b) Regulatory improvement and streamlining experiments

(1) In general

The Secretary may continue any experimental sites in existence on October 7, 1998. Any activities approved by the Secretary prior to October 7, 1998, that are inconsistent with this section shall be discontinued not later than June 30, 1999.

(2) Report

The Secretary shall review and evaluate the experience of institutions participating as experimental sites during the period of 1993 through 1998 under this section (as such section was in effect on the day before October 7, 1998), and shall submit a report based on this review and evaluation to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 6 months after October 7, 1998. Such report shall include—

(A) a list of participating institutions and the specific statutory or regulatory waivers granted to each institution;

(B) the findings and conclusions reached regarding each of the experiments conducted; and

(C) recommendations for amendments to improve and streamline this chapter, based on the results of the experiment.

(3) Selection

(A) In general

Upon the submission of the report required by paragraph (2), the Secretary is authorized to select a limited number of additional institutions for voluntary participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives.

(B) Consultation

Prior to approving any additional experimental sites, the Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives and shall provide to such Committees—

(i) a list of institutions proposed for participation in the experiment and the specific statutory or regulatory waivers proposed to be granted to each institution;

(ii) a statement of the objectives to be achieved through the experiment; and

(iii) an identification of the period of time over which the experiment is to be conducted.

(C) Waivers

The Secretary is authorized to waive, for any institution participating as an experimental site under subparagraph (A), any requirements in this subchapter and part C of subchapter I of chapter 34 of title 42, or regulations prescribed under this subchapter and part C of subchapter I of chapter 34 of title 42, that will bias the results of the experiment, except that the Secretary shall not waive any provisions with respect to award rules, grant and loan maximum award amounts, and need analysis requirements.

(c) "Current award year" defined

For purposes of this section, the term ''current award year'' means the award year during which the participating institution indicates the institution's intention to cease participation.

(Pub. L. 89–329, title IV, § 487A, as added Pub. L. 102–325, title IV, § 491, July 23, 1992, 106 Stat. 629; amended Pub. L. 105–244, title IV, § 490, Oct. 7, 1998, 112 Stat. 1751.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(5) and (b)(2)(C), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–244 amended section catchline and text generally. Prior to amendment, section authorized a Quality Assurance Program for institutions to develop and implement systems for verifying student financial aid application data.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1094b. Assignment of identification numbers

The Secretary shall assign to each participant in title IV programs, including institutions, lenders, and guaranty agencies, a single Department of Education identification number to be used to identify its participation in each of the title IV programs.

(Pub. L. 89–329, title IV, § 487B, as added Pub. L. 102–325, title IV, § 491, July 23, 1992, 106 Stat. 630.)

REFERENCES IN TEXT

Title IV, referred to in text, means title IV of Pub. L. 89–329, as added by Pub. L. 99–498, which is classified

generally to this subchapter and part C of subchapter I of chapter 34 of Title 42, The Public Health and Welfare.

§ 1095. Transfer of allotments

In order to offer an arrangement of types of aid, including institutional and State aid which best fits the needs of each individual student, an institution may (1) transfer a total of 25 percent of the institutions allotment under section 1087bb of this title to the institution's allotment under section 1070b–3 of this title or section 2752 of title 42 (or both); and (2) transfer 25 percent of the institution's allotment under section 2752 of title 42 to the institution's allotment under section 1070b–3 of this title. Funds transferred to an institution's allotment under another section may be used as a part of and for the same purposes as funds allotted under that section. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

(Pub. L. 89–329, title IV, § 488, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1490; amended Pub. L. 100–50, § 15(14), June 3, 1987, 101 Stat. 357; Pub. L. 102–325, title IV, § 492, July 23, 1992, 106 Stat. 630.)

PRIOR PROVISIONS

A prior section 1095, Pub. L. 89–329, title IV, § 488, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1452, related to transfer of allotments, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 inserted first two sentences and struck out former first sentence which read as follows: ''Up to 10 percent of the allotment of an eligible institution for a fiscal year under section 1070b–3 of this title or 2752 of title 42, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student.''

1987—Pub. L. 100–50 substituted ''section 2752 of title 42'' for ''section 2756 of title 42''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 to this section, relating to transfers of allotments, applicable with respect to funds provided for award years beginning on or after July 1, 1993, see section 498 of Pub. L. 102–325, set out as a note under section 1088 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

§ 1095a. Wage garnishment requirement

(a) Garnishment requirements

Notwithstanding any provision of State law, a guaranty agency, or the Secretary in the case of loans made, insured or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42 that are held by the Secretary, may garnish the disposable pay of an individual to collect the amount owed by the individual, if he or she is not currently making required repayment under a repayment agreement with the Secretary, or, in the case of a loan guaranteed under part B of this subchapter on which the guaranty agency received reimbursement from the Secretary under section 1078(c) of this title, with the guaranty agency holding the loan, as appropriate, provided that—

(1) the amount deducted for any pay period may not exceed 10 percent of disposable pay, except that a greater percentage may be deducted with the written consent of the individual involved;

(2) the individual shall be provided written notice, sent by mail to the individual's last known address, a minimum of 30 days prior to the initiation of proceedings, from the guaranty agency or the Secretary, as appropriate, informing such individual of the nature and amount of the loan obligation to be collected, the intention of the guaranty agency or the Secretary, as appropriate, to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under this section;

(3) the individual shall be provided an opportunity to inspect and copy records relating to the debt;

(4) the individual shall be provided an opportunity to enter into a written agreement with the guaranty agency or the Secretary, under terms agreeable to the Secretary, or the head of the guaranty agency or his designee, as appropriate, to establish a schedule for the repayment of the debt;

(5) the individual shall be provided an opportunity for a hearing in accordance with subsection (b) of this section on the determination of the Secretary or the guaranty agency, as appropriate, concerning the existence or the amount of the debt, and, in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule;

(6) the employer shall pay to the Secretary or the guaranty agency as directed in the withholding order issued in this action, and shall be liable for, and the Secretary or the guaranty agency, as appropriate, may sue the employer in a State or Federal court of competent jurisdiction to recover, any amount that such employer fails to withhold from wages due an employee following receipt of such employer of notice of the withholding order, plus attorneys' fees, costs, and, in the court's discretion, punitive damages, but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph;

(7) if an individual has been reemployed within 12 months after having been involuntarily separated from employment, no amount may be deducted from the disposable pay of such individual until such individual has been reemployed continuously for at least 12 months; and

(8) an employer may not discharge from employment, refuse to employ, or take disciplinary action against an individual subject to wage withholding in accordance with this section by reason of the fact that the individual's wages have been subject to garnishment under this section, and such individual may sue in a

State or Federal court of competent jurisdiction any employer who takes such action. The court shall award attorneys' fees to a prevailing employee and, in its discretion, may order reinstatement of the individual, award punitive damages and back pay to the employee, or order such other remedy as may be reasonably necessary.

(b) Hearing requirements

A hearing described in subsection (a)(5) of this section shall be provided prior to issuance of a garnishment order if the individual, on or before the 15th day following the mailing of the notice described in subsection (a)(2) of this section, and in accordance with such procedures as the Secretary or the head of the guaranty agency, as appropriate, may prescribe, files a petition requesting such a hearing. If the individual does not file a petition requesting a hearing prior to such date, the Secretary or the guaranty agency, as appropriate, shall provide the individual a hearing under subsection (a)(5) of this section upon request, but such hearing need not be provided prior to issuance of a garnishment order. A hearing under subsection (a)(5) of this section may not be conducted by an individual under the supervision or control of the head of the guaranty agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(c) Notice requirements

The notice to the employer of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(d) No attachment of student assistance

Except as authorized in this section, notwithstanding any other provision of Federal or State law, no grant, loan, or work assistance awarded under this subchapter and part C of subchapter I of chapter 34 of title 42, or property traceable to such assistance, shall be subject to garnishment or attachment in order to satisfy any debt owed by the student awarded such assistance, other than a debt owed to the Secretary and arising under this subchapter and part C of subchapter I of chapter 34 of title 42.

(e) "Disposable pay" defined

For the purpose of this section, the term ''disposable pay'' means that part of the compensation of any individual from an employer remaining after the deduction of any amounts required by law to be withheld.

(Pub. L. 89–329, title IV, § 488A, as added Pub. L. 102–164, title VI, § 605(a), Nov. 15, 1991, 105 Stat. 1066; amended Pub. L. 105–244, title IV, § 490A, Oct. 7, 1998, 112 Stat. 1753.)

AMENDMENTS

1998—Subsecs. (d), (e). Pub. L. 105–244 added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1096. Administrative expenses

(a) Amount of payments

From the sums appropriated for any fiscal year for the purpose of the program authorized under subpart 1 of part A of this subchapter, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 1094 of this title, an amount equal to $5 for each student at that institution who receives assistance under subpart 1 of part A of this subchapter. In addition, an institution which has entered into an agreement with the Secretary under subpart 3 of part A of this subchapter or part C of subchapter I of chapter 34 of title 42, or under part D of this subchapter shall be entitled for each fiscal year which such institution disburses funds to eligible students under any such part to a payment for the purpose set forth in subsection (b) of this section. The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 percent of the institution's first $2,750,000 of expenditures plus 4 percent of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 percent of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 3 of part A of this subchapter, its expenditures during such fiscal year under part C of subchapter I of chapter 34 of title 42 for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part D of this subchapter, excluding the principal amount of any such loans which the institution has agreed to assign under section 1087cc(a)(6)(B)[1] of this title. In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 1091(h)[1] of this title.

(b) Purpose of payments

(1) The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a) of this section.

(2) If the institution enrolls a significant number of students who are (A) attending the institution less than full time, or (B) independent students, the institution shall use a reasonable proportion of the funds available under this section for financial aid services during times and in places that will most effectively accommodate the needs of such students.

(Pub. L. 89–329, title IV, § 489, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1491; amended Pub. L. 99–603, title I, § 121(b)(7), Nov. 6, 1986, 100 Stat. 3391; Pub. L. 100–50, § 15(15), June 3, 1987, 101 Stat. 357; Pub. L. 102–325, title IV, §§ 446(c), 493, July 23, 1992, 106 Stat. 567, 630; Pub. L. 103–208, § 2(h)(44), (k)(6), Dec. 20, 1993, 107 Stat. 2478, 2486.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 1087cc(a)(6)(B) of this title, referred to in subsec. (a), was redesignated section 1087cc(a)(5)(B) by Pub. L. 105–244, title IV, § 463(a)(3), Oct. 7, 1998, 112 Stat. 1724.

Section 1091(h) of this title, referred to in subsec. (a), was redesignated section 1091(g) by Pub. L. 103–208, § 2(h)(25), Dec. 20, 1993, 107 Stat. 2477.

PRIOR PROVISIONS

A prior section 1096, Pub. L. 89–329, title IV, § 489, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1453; amended Pub. L. 97–35, title V, § 537(a)(2), Aug. 13, 1981, 95 Stat. 456, related to administrative expenses, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–208, § 2(k)(6), repealed Pub. L. 102–325, § 446(c). See 1992 Amendment note below.

Pub. L. 103–208, § 2(h)(44), substituted ''1091(h) of this title'' for ''1091(c) of this title''.

1992—Subsec. (a). Pub. L. 102–325, § 493(a)(3), substituted ''subpart 3'' for ''subpart 2'' in two places.

Pub. L. 102–325, § 493(a)(1), (2), struck out ''(other than section 2756a of title 42)'' before '', or under part D'' in second sentence and struck out fourth sentence which read as follows: ''The payment for a fiscal year for the purpose of subsection (b) of this section with respect to section 2756a of title 42 shall be payable from each allotment under part C of subchapter I of chapter 34 of title 42 in accordance with regulations of the Secretary, and shall be 10 percent of the institution's expenditures during such fiscal year under such section.''

Pub. L. 102–325, § 446(c), which directed amendment identical to amendment by Pub. L. 102–325, § 493(a)(1), (2), above, was repealed by Pub. L. 103–208, § 2(k)(6).

Subsec. (b). Pub. L. 102–325, § 493(b), designated existing provisions as par. (1) and added par. (2).

1987—Subsec. (a). Pub. L. 100–50 made technical amendment to reference to section 2756a of title 42 to correct reference to corresponding section of original Act, requiring no change in text.

1986—Subsec. (a). Pub. L. 99–603 inserted provision directing the Secretary to pay the costs incurred by institutions of higher education in implementing and operating the immigration status verification system under section 1091(c) of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 446(c) of Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

Amendment by section 493 of Pub. L. 102–325, relating to payments for administrative expenses, applicable with respect to funds provided for award years beginning on or after July 1, 1993, see section 498(7) of Pub. L. 102–325, set out as a note under section 1088 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–603 effective Oct. 1, 1987, see section 121(c)(2) of Pub. L. 99–603, set out as a note under section 502 of Title 42, The Public Health and Welfare.

§ 1096a. Repealed. Pub. L. 102–325, title IV, § 494, July 23, 1992, 106 Stat. 631

Section, Pub. L. 89–329, title IV, § 489A, as added Pub. L. 102–164, title VI, § 606, Nov. 15, 1991, 105 Stat. 1068, related to data matching.

§ 1097. Criminal penalties

(a) In general

Any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or insured under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so embezzle, misapply, steal, obtain by fraud, false statement or forgery, or fail to refund any funds, assets, or property, shall be fined not more than $20,000 or imprisoned for not more than 5 years, or both, except if the amount so embezzled, misapplied, stolen, obtained by fraud, false statement, or forgery, or failed to be refunded does not exceed $200, then the fine shall not be more than $5,000 and imprisonment shall not exceed one year, or both.

(b) Assignment of loans

Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so make any false statement, furnish any false information, or conceal any material information in connection with such assignment shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

(c) Inducements to lend or assign

Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B of this subchapter or attempts to make such unlawful payment as an inducement to make, or to acquire by assignment, a loan insured under such part shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

(d) Obstruction of justice

Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this subchapter and part C of subchapter I of chapter 34 of title 42 or attempts to so destroy or conceal with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $20,000 or imprisoned not more than 5 years, or both.

(Pub. L. 89–329, title IV, § 490, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1491; amended Pub. L. 102–325, title IV, § 495, July 23, 1992, 106 Stat. 631.)

PRIOR PROVISIONS

A prior section 1097, Pub. L. 89–329, title IV, § 490, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1453, related to criminal penalties, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, inserting provisions relating to attempted offenses, wherever appearing, and in subsec. (a) inserting provisions relating to failure to refund and substituting provisions relating to $20,000 and $5,000 fines for provisions relating to $10,000 and $1,000 fines, respectively, in subsec. (b) substituting provisions relating to $10,000 fines for provisions relating to $1,000 fines, in subsec. (c) substituting provisions relating to $10,000 fines for provisions relating $1,000 fines, and in subsec. (d) substituting provisions relating to $20,000 fines for provisions relating to $10,000 fines.

§ 1097a. Administrative subpoenas

(a) Authority

To assist the Secretary in the conduct of investigations of possible violations of the provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary is authorized to require by subpoena the production of information, documents, reports, answers, records, accounts, papers, and other documentary evidence pertaining to participation in any program under this subchapter and part C of subchapter I of chapter 34 of title 42. The production of any such records may be required from any place in a State.

(b) Enforcement

In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States where such person resides or transacts business for a court order for the enforcement of this section.

(Pub. L. 89–329, title IV, § 490A, as added Pub. L. 105–244, title IV, § 490B, Oct. 7, 1998, 112 Stat. 1754.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1098. Advisory Committee on Student Financial Assistance

(a) Establishment and purpose

(1) There is established in the Department an independent Advisory Committee on Student Financial Assistance (hereafter in this section referred to as the ''Advisory Committee'') which shall provide advice and counsel to the Congress and to the Secretary on student financial aid matters.

(2) The purpose of the Advisory Committee is—

(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

(B) to provide technical expertise with regard to systems of needs analysis and application forms; and

(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students.

(b) Independence of Advisory Committee

In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations, expenditures and staffing levels, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures. Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission to the Congress in accordance with subsection (f) of this section. The Secretary's authority to terminate advisory committees of the Department pursuant to section 1233g(b)[1] of this title ceased to be effective on June 23, 1983.

(c) Membership

(1) The Advisory Committee shall have 11 members of which—

(A) 3 members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader,

(B) 3 members shall be appointed by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader, and

(C) 5 members shall be appointed by the Secretary including, but not limited to representatives of States, institutions of higher education, secondary schools, credit institutions, students, and parents.

(2) Not less than 7 members of the Advisory Committee shall be individuals who have been appointed on the basis of technical qualifications, professional standing and demonstrated knowledge in the fields of higher education and student aid administration, need analysis, financing postsecondary education, student aid delivery, and the operations and financing of student loan guarantee agencies.

(d) Functions of the Committee

The Advisory Committee shall—

(1) develop, review, and comment annually upon the system of needs analysis established under part E of this subchapter;

(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this subchapter and part C of subchapter I of chapter 34 of title 42 and assist the Department of Education in improving the delivery of student aid;

(4) assess the impact of legislative and administrative policy proposals;

(5) review and comment upon, prior to promulgation, all regulations affecting programs

[1] See References in Text note below.

under this subchapter and part C of subchapter I of chapter 34 of title 42, including proposed regulations;

(6) recommend to the Congress and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met, but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses;

(7) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs;

(8) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs; and

(9) make special efforts to advise Members of Congress and such Members' staff of the findings and recommendations made pursuant to this paragraph.

(e) Operations of the Committee

(1) Each member of the Advisory Committee shall be appointed for a term of 3 years, except that, of the members first appointed—

(A) 4 shall be appointed for a term of 1 year;

(B) 4 shall be appointed for a term of 2 years; and

(C) 3 shall be appointed for a term of 3 years,

as designated at the time of appointment by the Secretary.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee.

(3) No officers or full-time employees of the Federal Government shall serve as members of the Advisory Committee.

(4) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

(5) Six members of the Advisory Committee shall constitute a quorum.

(6) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

(f) Submission to Department for comment

The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

(g) Compensation and expenses

Members of the Advisory Committee may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

(h) Personnel and resources

(1) The Advisory Committee may appoint such personnel as may be determined necessary by the Chairman without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS–18 of the General Schedule. The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.

(2) In carrying out its duties under this chapter, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

(B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section.

(4) The Advisory Committee is authorized to obtain the services of experts and consultants without regard to section 3109 of title 5 and to set pay in accordance with such section.

(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(i) Availability of funds

In each fiscal year not less than $800,000, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.

(j) Special analyses and activities

The Advisory Committee shall—

(1) monitor and evaluate the modernization of student financial aid systems and delivery processes, including the implementation of a performance-based organization within the Department, and report to Congress regarding such modernization on not less than an annual basis, including recommendations for improvement;

(2) assess the adequacy of current methods for disseminating information about programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and recommend improvements, as appropriate, regarding early needs assessment and information for first-year secondary school students;

(3) assess and make recommendations concerning the feasibility and degree of use of appropriate technology in the application for, and delivery and management of, financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, as well as policies that promote use of such technology to reduce cost and enhance service and program integrity, including electronic application and reapplication, just-in-time delivery of funds, reporting of disbursements and reconciliation;

(4) assess the implications of distance education on student eligibility and other requirements for financial assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, and make recommendations that will enhance access to postsecondary education through distance education while maintaining access, through on-campus instruction at eligible institutions, and program integrity; and

(5) make recommendations to the Secretary regarding redundant or outdated provisions of and regulations under this chapter, consistent with the Secretary's requirements under section 1099c–2 of this title.

(k) Term of Committee

Notwithstanding the sunset and charter provisions of the Federal Advisory Committee Act or any other statute or regulation, the Advisory Committee shall be authorized until October 1, 2004.

(Pub. L. 89–329, title IV, § 491, as added Pub. L. 99–498, title IV, § 407(a), Oct. 17, 1986, 100 Stat. 1492; amended Pub. L. 100–50, § 15(16)–(18), June 3, 1987, 101 Stat. 357; Pub. L. 102–325, title IV, § 496, July 23, 1992, 106 Stat. 631; Pub. L. 103–208, § 2(h)(45), (46), Dec. 20, 1993, 107 Stat. 2478; Pub. L. 105–244, title IV, § 490C, Oct. 7, 1998, 112 Stat. 1754.)

REFERENCES IN TEXT

Section 1233g of this title, referred to in subsec. (b), was repealed by Pub. L. 103–382, title II, § 212(a)(2), Oct. 20, 1994, 108 Stat. 3913.

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (h)(1), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

This chapter, referred to in subsecs. (h)(2) and (j)(5), was in the original ''the Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (k), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 1098, Pub. L. 89–329, title IV, § 491, as added Pub. L. 96–374, title IV, § 451(a), Oct. 3, 1980, 94 Stat. 1454; amended Pub. L. 98–79, § 11, Aug. 15, 1983, 97 Stat. 484, related to a National Commission on Student Financial Assistance, prior to the general revision of this part by Pub. L. 99–498.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–244, § 490C(1), substituted '', expenditures and staffing levels'' for ''and expenditures'' in second sentence and inserted ''Reports, publications, and other documents of the Advisory Committee, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary.'' after third sentence.

Subsec. (e)(3) to (6). Pub. L. 105–244, § 490C(2), added par. (3) and redesignated former pars. (3) to (5) as (4) to (6), respectively.

Subsec. (g). Pub. L. 105–244, § 490C(3), substituted ''Members of the Advisory Committee may each'' for

''(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, for persons in the Government service employed intermittently.

''(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each''.

Subsec. (h)(1). Pub. L. 105–244, § 490C(4), inserted ''determined'' after ''as may be'' and inserted at end ''The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.''

Subsec. (i). Pub. L. 105–244, § 490C(5), substituted ''$800,000'' for ''$750,000''.

Subsec. (j). Pub. L. 105–244, § 490C(6), amended heading and text of subsec. (j) generally. Prior to amendment, text read as follows: ''The committee shall—

''(1) monitor and evaluate the program modifications resulting from the enactment of the Higher Education Amendments of 1992, especially as such amendments relate to the need analysis;

''(2) monitor and evaluate the implementation, pursuant to section 1090 of this title, of a Free Application for Federal Student Aid and the process for determining eligibility and awards for programs under this subchapter and part C of subchapter I of chapter 34 of title 42, including a simplified reapplication process;

''(3) assess the adequacy of current methods for disseminating information about programs under this subchapter and part C of subchapter I of chapter 34 of title 42 and recommend improvements, as appropriate, regarding early needs assessment and information for first-year high school students; and

''(4) assess the adequacy of methods of monitoring student debt burden.''

Subsec. (k). Pub. L. 105–244, § 490C(7), substituted ''2004'' for ''1998''.

Subsec. (*l*). Pub. L. 105–244, § 490C(8), struck out heading and text of subsec. (*l*) which directed Advisory Committee to conduct a study of means of simplifying all aspects of loan programs under part B of this subchapter.

1993—Subsec. (d)(1). Pub. L. 103–208, § 2(h)(45), struck out ''sections 1070a–1 through 1070a–5 of this title and'' after ''established under''.

Subsec. (h)(1). Pub. L. 103–208, § 2(h)(46), substituted ''subchapter III'' for ''subtitle III'' before ''of chapter 53 of such title''.

1992—Subsec. (b). Pub. L. 102–325, § 496(a), inserted after first sentence ''Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures.''

Subsec. (d)(3). Pub. L. 102–325, § 496(b)(1), struck out ''and in assessing the impact of legislative and administrative policy proposals'' after ''student aid''.

Subsec. (d)(4) to (9). Pub. L. 102–325, § 496(b)(2)–(6), added par. (4), redesignated former pars. (4) to (7) as (5) to (8), respectively, and added par. (9).

Subsec. (h)(4). Pub. L. 102–325, § 496(c), substituted ''without regard to'' for ''in accordance with'' and inserted before period at end ''and to set pay in accordance with such section''.

Subsec. (i). Pub. L. 102–325, § 496(d), substituted ''$750,000'' for ''$500,000''.

Subsecs. (j) to (*l*). Pub. L. 102–325, § 496(e), added subsecs. (j) to (*l*) and struck out former subsec. (j), which related to special institutional lender study.

1987—Subsec. (b). Pub. L. 100–50, § 15(16), inserted at end ''The Secretary's authority to terminate advisory committees of the Department pursuant to section 1233g(b) of this title ceased to be effective on June 23, 1983.''

Subsec. (i). Pub. L. 100–50, § 15(17), substituted ''In each fiscal year not less than $500,000'' for ''An amount, not to exceed $500,000 in any fiscal year''.

Subsec. (j). Pub. L. 100–50, § 15(18), added subsec. (j).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–50 effective as if enacted as part of the Higher Education Amendments of 1986, Pub. L. 99–498, see section 27 of Pub. L. 100–50, set out as a note under section 1001 of this title.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 1098a. Regional meetings and negotiated rulemaking

(a) Meetings

(1) In general

The Secretary shall obtain public involvement in the development of proposed regulations for this subchapter and part C of subchapter I of chapter 34 of title 42;[1] The Secretary shall obtain the advice of and recommendations from individuals and representatives of the groups involved in student financial assistance programs under this subchapter and part C of subchapter I of chapter 34 of title 42, such as students, legal assistance organizations that represent students, institutions of higher education, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies.

(2) Issues

The Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of this subchapter and part C of subchapter I of chapter 34 of title 42, as amended by the Higher Education Amendments of 1998 through such mechanisms as regional meetings and electronic exchanges of information. The Secretary shall take into account the information received through such mechanisms in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

(b) Draft regulations

(1) In general

After obtaining the advice and recommendations described in subsection (a)(1) of this section and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing this subchapter and part C of subchapter I of chapter 34 of title 42 as amended by the Higher Education Amendments of 1998 and shall submit such regulations to a negotiated rulemaking process. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups described in subsection (a)(1) of this section, and shall include both representatives of such groups from Washington, D.C., and industry participants. To the extent possible, the Secretary shall select individuals reflecting the diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets. The negotiation process shall be conducted in a timely manner in order that the final regulations may be issued by the Secretary within the 360-day period described in section 1232(e) of this title.

(2) Expansion of negotiated rulemaking

All regulations pertaining to this subchapter and part C of subchapter I of chapter 34 of title 42 that are promulgated after October 7, 1998, shall be subject to a negotiated rulemaking (including the selection of the issues to be negotiated), unless the Secretary determines that applying such a requirement with respect to given regulations is impracticable, unnecessary, or contrary to the public interest (within the meaning of section 553(b)(3)(B) of title 5), and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in question are first published. All published proposed regulations shall conform to agreements resulting from such negotiated rulemaking unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants in that process why the Secretary has decided to depart from such agreements. Such negotiated rulemaking shall be conducted in accordance with the provisions of paragraph (1), and the Secretary shall ensure that a clear and reliable record of agreements

[1] So in original. The semicolon probably should be a period.

reached during the negotiations process is maintained.

(c) Applicability of Federal Advisory Committee Act

The Federal Advisory Committee Act shall not apply to activities carried out under this section.

(d) Authorization of appropriations

There are authorized to be appropriated in any fiscal year or made available from funds appropriated to carry out this part in any fiscal year such sums as may be necessary to carry out the provisions of this section, except that if no funds are appropriated pursuant to this subsection, the Secretary shall make funds available to carry out this section from amounts appropriated for the operations and expenses of the Department of Education.

(Pub. L. 89–329, title IV, § 492, as added Pub. L. 102–325, title IV, § 497, July 23, 1992, 106 Stat. 633; amended Pub. L. 105–244, title IV, § 490D, Oct. 7, 1998, 112 Stat. 1755.)

REFERENCES IN TEXT

The Higher Education Amendments of 1998, referred to in subsecs. (a)(2) and (b), is Pub. L. 105–244, Oct. 7, 1998, 112 Stat. 1581. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 1001 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (c), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105–244, § 490D(a)(1)(C), substituted ''The Secretary shall obtain the advice of and recommendations from'' for ''Such meetings shall include''.

Pub. L. 105–244, § 490D(a)(1)(B), which directed the substitution of ''this subchapter and part C of subchapter I of chapter 34 of title 42;'' for ''parts B, F, and G of this subchapter,'' was executed by making the substitution for ''parts B, F, and G of this subchapter.''

Pub. L. 105–244, § 490D(a)(1)(A), struck out ''convene regional meetings to'' before ''obtain public involvement''.

Subsec. (a)(2). Pub. L. 105–244, § 490D(a)(2)(B)–(D), substituted ''this subchapter and part C of subchapter I of chapter 34 of title 42'' for ''parts B, F, and G of this subchapter'', ''1998 through such mechanisms as regional meetings and electronic exchanges of information'' for ''1992'', and ''through such mechanisms in'' for ''at such meetings in''.

Pub. L. 105–244, § 490D(a)(2)(A), which directed substitution of ''The'' for ''During such meetings the'', was executed by making the substitution for ''During such meetings, the'' before ''Secretary shall provide'', to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 105–244, § 490D(b), designated existing provisions as par. (1), inserted par. (1) heading, substituted ''obtaining the advice and recommendations described in subsection (a)(1) of this section'' for ''holding regional meetings'', ''this subchapter and part C of subchapter I of chapter 34 of title 42'' for ''parts B, F, and G of this subchapter'', ''1998'' for ''1992'', ''360-day'' for ''240-day'', and ''section 1232(e)'' for ''section 1232(g)'', struck out ''The Secretary shall follow the guidance provided in sections 305.82–4 and 305.85–5 of chapter 1, Code of Federal Regulations, and any successor recommendation, regulation, or law.'' after ''rulemaking process.'' and ''participating in the regional meetings'' after ''nominated by groups'', and added par. (2).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1098b. Authorization of appropriations for administrative expenses

There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year thereafter for administrative expenses necessary for carrying out this subchapter and part C of subchapter I of chapter 34 of title 42, including expenses for staff personnel, program reviews, and compliance activities.

(Pub. L. 89–329, title IV, § 493, as added Pub. L. 102–325, title IV, § 497, July 23, 1992, 106 Stat. 634.)

§ 1098c. Year 2000 requirements at the Department

(a) Preparations for Year 2000

In order to ensure that the processing, delivery, and administration of grant, loan, and work assistance provided under this subchapter and part C of subchapter I of chapter 34 of title 42 is not interrupted due to operational problems related to the inability of computer systems to indicate accurately dates after December 31, 1999, the Secretary of Education shall—

(1) take such actions as are necessary to ensure that all internal and external systems, hardware, and data exchange infrastructure administered by the Department that are necessary for the processing, delivery, and administration of the grant, loan, and work assistance are Year 2000 compliant by March 31, 1999, such that there will be no business interruption after December 31, 1999;

(2) ensure that the Robert T. Stafford Federal Student Loan Program and the William D. Ford Federal Direct Loan Program are equal in level of priority with respect to addressing, and that resources are managed to equally provide for successful resolution of, the Year 2000 computer problem in both programs by December 31, 1999;

(3) work with the Department's various data exchange partners under this subchapter and part C of subchapter I of chapter 34 of title 42 to fully test all data exchange routes for Year 2000 compliance via end-to-end testing, and submit a report describing the parameters and results of such tests to the Comptroller General not later than March 31, 1999;

(4) ensure that the Inspector General of the Department (or an external, independent entity selected by the Inspector General) performs and publishes a risk assessment of the systems and hardware under the Department's management, that has been reviewed by an independent entity, and make such assessment publicly available not later than 60 days after October 7, 1998;

(5) not later than June 30, 1999, ensure that the Inspector General (or an external, independent entity selected by the Inspector General) conducts a review of the Department's Year 2000 compliance for the processing, delivery, and administration of grant, loan, and

work assistance, and submits a report reflecting the results of that review to the Chairperson of the Committee on Labor and Human Resources of the Senate and the Chairperson of the Committee on Education and the Workforce of the House of Representatives;

(6) develop a contingency plan to ensure the programs under this subchapter and part C of subchapter I of chapter 34 of title 42 will continue to run uninterrupted in the event of widespread disruptions in the flow of accurate computerized data, which contingency plan shall include a prioritization of mission critical systems and strategies to allow data partners to transfer data through alternate means; and

(7) alert Congress at the earliest possible time if mission critical deadlines will not be met.

(b) Postponement authority for Year 2000

(1) Purpose

It is the purpose of this subsection to provide the Secretary with the flexibility necessary to—

(A) ensure that the resources and capabilities of institutions, lenders, and guaranty agencies are not overburdened by the combination of student aid processing and delivery requirements added or modified by the amendments made by the Higher Education Amendments of 1998 and by the changes required to ensure that the systems of the institutions, lenders and guaranty agencies are Year 2000 compliant; and

(B) avoid the disruption of grant, loan, or work assistance funds awarded to students because of Year 2000 compliance problems at a substantial number of institutions, lenders, and guaranty agencies.

(2) Authority to postpone

The Secretary may postpone, for a period of time described in paragraph (3), the implementation of any requirements under part B, C, D, or F of this subchapter that are added or modified by the amendments made by the Higher Education Amendments of 1998 related to the processing or delivery of grant, loan, and work assistance (which shall not include the determination of need for such assistance) provided under this subchapter and part C of subchapter I of chapter 34 of title 42, if the Secretary—

(A) determines that—

(i) implementation of such requirements would require extensive changes to the existing systems of institutions, lenders, or guaranty agencies; and

(ii) postponement is necessary to avoid jeopardizing the ability of a substantial number of institutions, lenders, or guaranty agencies to ensure that all of the systems of the institutions, lenders, or guaranty agencies related to the processing or delivery of such assistance function successfully after December 31, 1999; and

(B) promptly publishes in the Federal Register a list of, and notifies Congress of, any provisions, the implementation of which the Secretary intends to postpone, with the reasons for such postponement.

(3) Exceptions to authority

The Secretary may not postpone the implementation of one or more provisions described in this subsection longer than the earlier of—

(A) the period of time that the Secretary determines necessary to ensure that the processing and delivery systems of the institutions, lenders, and guaranty agencies referred to in paragraph (1)(A)(ii)[1] are capable of functioning successfully after December 31, 1999; or

(B) one award year after the effective date applicable to such provision under the Higher Education Amendments of 1998.

(Pub. L. 89–329, title IV, § 493A, as added Pub. L. 105–244, title IV, § 490E, Oct. 7, 1998, 112 Stat. 1756.)

REFERENCES IN TEXT

The Higher Education Amendments of 1998, referred to in subsec. (b)(1)(A), (2), (3)(B), is Pub. L. 105–244, Oct. 7, 1998, 112 Stat. 1581. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 1001 of this title and Tables.

For general effective date of the Higher Education Amendments of 1998, referred to in subsec. (b)(3)(B), see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE

Section effective Oct. 1, 1998, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1098d. Procedures for cancellations and deferments for eligible disabled veterans

The Secretary, in consultation with the Secretary of Veterans Affairs, shall develop and implement a procedure to permit Department of Veterans Affairs physicians to provide the certifications and affidavits needed to enable disabled veterans enrolled in the Department of Veterans Affairs health care system to document such veterans' eligibility for deferments or cancellations of student loans made, insured, or guaranteed under this subchapter and part C of subchapter I of chapter 34 of title 42. Not later than 6 months after October 7, 1998, the Secretary and the Secretary of Veterans Affairs jointly shall report to Congress on the progress made in developing and implementing the procedure.

(Pub. L. 89–329, title IV, § 493B, as added Pub. L. 105–244, title IV, § 490F, Oct. 7, 1998, 112 Stat. 1758.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1099. Exemption from State disclosure requirements

Loans made, insured, or guaranteed pursuant to a program authorized by this subchapter shall

[1] So in original. Probably should be paragraph ''(2)(A)(ii)''.

not be subject to any disclosure requirements of any State law.

(Pub. L. 97–320, title VII, § 701(b), Oct. 15, 1982, 96 Stat. 1538.)

CODIFICATION

Section was enacted as part of the Garn-St Germain Depository Institutions Act of 1982, and not as part of title IV of the Higher Education Act of 1965 which comprises this subchapter.

EFFECTIVE DATE

Section effective both with respect to loans made prior to and after Oct. 15, 1982, see section 701(c) of Pub. L. 97–320, set out as an Effective Date of 1982 Amendment note under section 1603 of Title 15, Commerce and Trade.

PART G—PROGRAM INTEGRITY

CODIFICATION

Pub. L. 105–244, title IV, § 491(1), Oct. 7, 1998, 112 Stat. 1758, added heading and struck out former heading.

This part was added as part H of title IV of Pub. L. 89–329 by Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 634. The letter designation of this part was changed from ''H'' to ''G'' for codification purposes. See Codification note preceding section 1087a of this title.

SUBPART 1—STATE ROLE

CODIFICATION

Subpart 1 of part H of title IV of the Higher Education Act of 1965, comprising this subpart, was originally added to Pub. L. 89–329, title IV, by Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 635, and amended by Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457. Subpart 1 is shown herein, however, as having been added by Pub. L. 105–244, title IV, § 491(2), Oct. 7, 1998, 112 Stat. 1759, without reference to those intervening amendments because of the extensive revision of subpart 1 by Pub. L. 105–244.

§ 1099a. State responsibilities

(a) State responsibilities

As part of the integrity program authorized by this part, each State, through one State agency or several State agencies selected by the State, shall—

(1) furnish the Secretary, upon request, information with respect to the process for licensing or other authorization for institutions of higher education to operate within the State;

(2) notify the Secretary promptly whenever the State revokes a license or other authority to operate an institution of higher education; and

(3) notify the Secretary promptly whenever the State has credible evidence that an institution of higher education within the State—

(A) has committed fraud in the administration of the student assistance programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42; or

(B) has substantially violated a provision of this subchapter and part C of subchapter I of chapter 34 of title 42.

(b) Institutional responsibility

Each institution of higher education shall provide evidence to the Secretary that the institution has authority to operate within a State at the time the institution is certified under subpart 3 of this part.

(Pub. L. 89–329, title IV, § 495, as added Pub. L. 105–244, title IV, § 491(2), Oct. 7, 1998, 112 Stat. 1758.)

PRIOR PROVISIONS

Prior sections 1099a to 1099a–3 were omitted in the general amendment of this subpart by Pub. L. 105–244.

Section 1099a, Pub. L. 89–329, title IV, § 494, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 635, authorized State postsecondary review program.

Section 1099a–1, Pub. L. 89–329, title IV, § 494A, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 635, related to State postsecondary review entity agreements.

Section 1099a–2, Pub. L. 89–329, title IV, § 494B, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 637, related to Federal reimbursement of State postsecondary review costs.

Section 1099a–3, Pub. L. 89–329, title IV, § 494C, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 637; amended Pub. L. 103–208, § 2(i)(1), (2), Dec. 20, 1993, 107 Stat. 2478, related to functions of State review entities.

SUBPART 2—ACCREDITING AGENCY RECOGNITION

CODIFICATION

Pub. L. 105–244, title IV, § 492(a)(1), Oct. 7, 1998, 112 Stat. 1759, substituted ''RECOGNITION'' for ''APPROVAL'' in heading.

§ 1099b. Recognition of accrediting agency or association

(a) Criteria required

No accrediting agency or association may be determined by the Secretary to be a reliable authority as to the quality of education or training offered for the purposes of this chapter or for other Federal purposes, unless the agency or association meets criteria established by the Secretary pursuant to this section. The Secretary shall, after notice and opportunity for a hearing, establish criteria for such determinations. Such criteria shall include an appropriate measure or measures of student achievement. Such criteria shall require that—

(1) the accrediting agency or association shall be a State, regional, or national agency or association and shall demonstrate the ability and the experience to operate as an accrediting agency or association within the State, region, or nationally, as appropriate;

(2) such agency or association—

(A)(i) for the purpose of participation in programs under this chapter, has a voluntary membership of institutions of higher education and has as a principal purpose the accrediting of institutions of higher education; or

(ii) for the purpose of participation in other programs administered by the Department of Education or other Federal agencies, has a voluntary membership and has as its principal purpose the accrediting of institutions of higher education or programs;

(B) is a State agency approved by the Secretary for the purpose described in subparagraph (A); or

(C) is an agency or association that, for the purpose of determining eligibility for student assistance under this subchapter and part C of subchapter I of chapter 34 of title 42, conducts accreditation through (i) a vol-

untary membership organization of individuals participating in a profession, or (ii) an agency or association which has as its principal purpose the accreditation of programs within institutions, which institutions are accredited by another agency or association recognized by the Secretary;

(3) if such agency or association is an agency or association described in—

(A) subparagraph (A)(i) of paragraph (2), then such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization;

(B) subparagraph (B) of paragraph (2), then such agency or association has been recognized by the Secretary on or before October 1, 1991; or

(C) subparagraph (C) of paragraph (2) and such agency or association has been recognized by the Secretary on or before October 1, 1991, then the Secretary may waive the requirement that such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization upon a demonstration that the existing relationship has not served to compromise the independence of its accreditation process;

(4) such agency or association consistently applies and enforces standards that ensure that the courses or programs of instruction, training, or study offered by the institution of higher education, including distance education courses or programs, are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered;

(5) the standards for accreditation of the agency or association assess the institution's—

(A) success with respect to student achievement in relation to the institution's mission, including, as appropriate, consideration of course completion, State licensing examinations, and job placement rates;

(B) curricula;

(C) faculty;

(D) facilities, equipment, and supplies;

(E) fiscal and administrative capacity as appropriate to the specified scale of operations;

(F) student support services;

(G) recruiting and admissions practices, academic calendars, catalogs, publications, grading and advertising;

(H) measures of program length and the objectives of the degrees or credentials offered;

(I) record of student complaints received by, or available to, the agency or association; and

(J) record of compliance with its program responsibilities under this subchapter and part C of subchapter I of chapter 34 of title 42 based on the most recent student loan default rate data provided by the Secretary, the results of financial or compliance audits, program reviews, and such other information as the Secretary may provide to the agency or association;

except that subparagraphs (A), (H), and (J) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;

(6) such agency or association shall apply procedures throughout the accrediting process, including evaluation and withdrawal proceedings, that comply with due process, including—

(A) adequate specification of requirements and deficiencies at the institution of higher education or program being examined;

(B) notice of an opportunity for a hearing by any such institution;

(C) the right to appeal any adverse action against any such institution; and

(D) the right to representation by counsel for any such institution;

(7) such agency or association shall notify the Secretary and the appropriate State licensing or authorizing agency within 30 days of the accreditation of an institution or any final denial, withdrawal, suspension, or termination of accreditation or placement on probation of an institution, together with any other adverse action taken with respect to an institution; and

(8) such agency or association shall make available to the public, upon request, and to the Secretary, and the State licensing or authorizing agency a summary of any review resulting in a final accrediting decision involving denial, termination, or suspension of accreditation, together with the comments of the affected institution.

(b) "Separate and independent" defined

For the purpose of subsection (a)(3) of this section, the term ''separate and independent'' means that—

(1) the members of the postsecondary education governing body of the accrediting agency or association are not elected or selected by the board or chief executive officer of any related, associated, or affiliated trade association or membership organization;

(2) among the membership of the board of the accrediting agency or association there shall be one public member (who is not a member of any related trade or membership organization) for each six members of the board, with a minimum of one such public member, and guidelines are established for such members to avoid conflicts of interest;

(3) dues to the accrediting agency or association are paid separately from any dues paid to any related, associated, or affiliated trade association or membership organization; and

(4) the budget of the accrediting agency or association is developed and determined by the accrediting agency or association without review or resort to consultation with any other entity or organization.

(c) Operating procedures required

No accrediting agency or association may be recognized by the Secretary as a reliable authority as to the quality of education or training of-

fered by an institution seeking to participate in the programs authorized under this subchapter and part C of subchapter I of chapter 34 of title 42, unless the agency or association—

(1) performs, at regularly established intervals, on-site inspections and reviews of institutions of higher education (which may include unannounced site visits) with particular focus on educational quality and program effectiveness, and ensures that accreditation team members are well-trained and knowledgeable with respect to their responsibilities;

(2) requires that any institution of higher education subject to its jurisdiction which plans to establish a branch campus submit a business plan, including projected revenues and expenditures, prior to opening the branch campus;

(3) agrees to conduct, as soon as practicable, but within a period of not more than 6 months of the establishment of a new branch campus or a change of ownership of an institution of higher education, an on-site visit of that branch campus or of the institution after a change of ownership;

(4) requires that teach-out agreements among institutions are subject to approval by the accrediting agency or association consistent with standards promulgated by such agency or association;

(5) maintains and makes publicly available written materials regarding standards and procedures for accreditation, appeal procedures, and the accreditation status of each institution subject to its jurisdiction; and

(6) discloses publicly whenever an institution of higher education subject to its jurisdiction is being considered for accreditation or reaccreditation.

(d) Length of recognition

No accrediting agency or association may be recognized by the Secretary for the purpose of this chapter for a period of more than 5 years.

(e) Initial arbitration rule

The Secretary may not recognize the accreditation of any institution of higher education unless the institution of higher education agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action.

(f) Jurisdiction

Notwithstanding any other provision of law, any civil action brought by an institution of higher education seeking accreditation from, or accredited by, an accrediting agency or association recognized by the Secretary for the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42 and involving the denial, withdrawal, or termination of accreditation of the institution of higher education, shall be brought in the appropriate United States district court.

(g) Limitation on scope of criteria

Nothing in this chapter shall be construed to permit the Secretary to establish criteria for accrediting agencies or associations that are not required by this section. Nothing in this chapter shall be construed to prohibit or limit any accrediting agency or association from adopting additional standards not provided for in this section.

(h) Change of accrediting agency

The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is in the process of changing its accrediting agency or association, unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing the accrediting agency or association.

(i) Dual accreditation rule

The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is accredited, as an institution, by more than one accrediting agency or association, unless the institution submits to each such agency and association and to the Secretary the reasons for accreditation by more than one such agency or association and demonstrates to the Secretary reasonable cause for its accreditation by more than one agency or association. If the institution is accredited, as an institution, by more than one accrediting agency or association, the institution shall designate which agency's accreditation shall be utilized in determining the institution's eligibility for programs under this chapter.

(j) Impact of loss of accreditation

An institution may not be certified or recertified as an institution of higher education under section 1002 of this title and subpart 3 of this part or participate in any of the other programs authorized by this chapter if such institution—

(1) is not currently accredited by any agency or association recognized by the Secretary;

(2) has had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months, unless such withdrawal, revocation, or termination has been rescinded by the same accrediting agency; or

(3) has withdrawn from accreditation voluntarily under a show cause or suspension order during the preceding 24 months, unless such order has been rescinded by the same accrediting agency.

(k) Religious institution rule

Notwithstanding subsection (j) of this section, the Secretary shall allow an institution that has had its accreditation withdrawn, revoked, or otherwise terminated, or has voluntarily withdrawn from an accreditation agency, to remain certified as an institution of higher education under section 1002 of this title and subpart 3 of this part for a period sufficient to allow such institution to obtain alternative accreditation, if the Secretary determines that the reason for the withdrawal, revocation, or termination—

(1) is related to the religious mission or affiliation of the institution; and

(2) is not related to the accreditation criteria provided for in this section.

(*l*) Limitation, suspension, or termination of recognition

(1) If the Secretary determines that an accrediting agency or association has failed to apply effectively the criteria in this section, or is otherwise not in compliance with the requirements of this section, the Secretary shall—

(A) after notice and opportunity for a hearing, limit, suspend, or terminate the recognition of the agency or association; or

(B) require the agency or association to take appropriate action to bring the agency or association into compliance with such requirements within a timeframe specified by the Secretary, except that—

(i) such timeframe shall not exceed 12 months unless the Secretary extends such period for good cause; and

(ii) if the agency or association fails to bring the agency or association into compliance within such timeframe, the Secretary shall, after notice and opportunity for a hearing, limit, suspend, or terminate the recognition of the agency or association.

(2) The Secretary may determine that an accrediting agency or association has failed to apply effectively the standards provided in this section if an institution of higher education seeks and receives accreditation from the accrediting agency or association during any period in which the institution is the subject of any interim action by another accrediting agency or association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension, revocation, or termination of accreditation or the institution has been notified of the threatened loss of accreditation, and the due process procedures required by such suspension, revocation, termination, or threatened loss have not been completed.

(m) Limitation on Secretary's authority

The Secretary may only recognize accrediting agencies or associations which accredit institutions of higher education for the purpose of enabling such institutions to establish eligibility to participate in the programs under this chapter or which accredit institutions of higher education or higher education programs for the purpose of enabling them to establish eligibility to participate in other programs administered by the Department of Education or other Federal agencies.

(n) Independent evaluation

(1) The Secretary shall conduct a comprehensive review and evaluation of the performance of all accrediting agencies or associations which seek recognition by the Secretary in order to determine whether such accrediting agencies or associations meet the criteria established by this section. The Secretary shall conduct an independent evaluation of the information provided by such agency or association. Such evaluation shall include—

(A) the solicitation of third-party information concerning the performance of the accrediting agency or association; and

(B) site visits, including unannounced site visits as appropriate, at accrediting agencies and associations, and, at the Secretary's discretion, at representative member institutions.

(2) The Secretary shall place a priority for review of accrediting agencies or associations on those agencies or associations that accredit institutions of higher education that participate most extensively in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42 and on those agencies or associations which have been the subject of the most complaints or legal actions.

(3) The Secretary shall consider all available relevant information concerning the compliance of the accrediting agency or association with the criteria provided for in this section, including any complaints or legal actions against such agency or association. In cases where deficiencies in the performance of an accreditation agency or association with respect to the requirements of this section are noted, the Secretary shall take these deficiencies into account in the recognition process. The Secretary shall not, under any circumstances, base decisions on the recognition or denial of recognition of accreditation agencies or associations on criteria other than those contained in this section. When the Secretary decides to recognize an accrediting agency or association, the Secretary shall determine the agency or association's scope of recognition. If the agency or association reviews institutions offering distance education courses or programs and the Secretary determines that the agency or association meets the requirements of this section, then the agency shall be recognized and the scope of recognition shall include accreditation of institutions offering distance education courses or programs.

(4) The Secretary shall maintain sufficient documentation to support the conclusions reached in the recognition process, and, if the Secretary does not recognize any accreditation agency or association, shall make publicly available the reason for denying recognition, including reference to the specific criteria under this section which have not been fulfilled.

(*o*) Regulations

The Secretary shall by regulation provide procedures for the recognition of accrediting agencies or associations and for the appeal of the Secretary's decisions.

(Pub. L. 89–329, title IV, § 496, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 641; amended Pub. L. 103–208, § 2(i)(3)–(8), Dec. 20, 1993, 107 Stat. 2478, 2479; Pub. L. 105–244, title I, § 102(b)(5), title IV, § 492(a)(2)–(d), Oct. 7, 1998, 112 Stat. 1622, 1759, 1760.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (d), (g), (i), (j), and (m), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–244, § 492(a)(2), substituted ''Recognition'' for ''Approval'' in section catchline.

Subsec. (a). Pub. L. 105–244, § 492(b)(1), (2), substituted ''Criteria'' for ''Standards'' in heading and ''criteria''

for ''standards'' wherever appearing in introductory provisions.

Subsec. (a)(4). Pub. L. 105–244, § 492(b)(3), substituted ''offered by the institution'' for ''at the institution'' and inserted '', including distance education courses or programs,'' after ''higher education''.

Subsec. (a)(5). Pub. L. 105–244, § 492(b)(4)(A), (H), substituted ''for accreditation'' for ''of accreditation'' in introductory provisions and ''(A), (H), and (J)'' for ''(G), (H), (I), (J), and (L)'' in concluding provisions.

Subsec. (a)(5)(A) to (G). Pub. L. 105–244, § 492(b)(4)(C), (E), added subpar. (A) and redesignated former subpars. (A) to (F) as (B) to (G), respectively. Former subpar. (G) redesignated (H).

Subsec. (a)(5)(H). Pub. L. 105–244, § 492(b)(4)(F), substituted ''measures of program length'' for ''program length and tuition and fees in relation to the subject matters taught''.

Pub. L. 105–244, § 492(b)(4)(C), redesignated subpar. (G) as (H).

Pub. L. 105–244, § 492(b)(4)(B), struck out subpar. (H) which read as follows: ''measures of program length in clock hours or credit hours;''.

Subsec. (a)(5)(I). Pub. L. 105–244, § 492(b)(4)(B), (D), redesignated subpar. (K) as (I) and struck out former subpar. (I) which read as follows: ''success with respect to student achievement in relation to its mission, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates;''.

Subsec. (a)(5)(J). Pub. L. 105–244, § 492(b)(4)(G), inserted ''record of'' before ''compliance'', substituted ''based on the most recent student loan default rate data provided by the Secretary, the'' for '', including any'', and inserted ''any'' after ''reviews, and''.

Pub. L. 105–244, § 492(b)(4)(B), (D), redesignated subpar. (L) as (J) and struck out former subpar. (J) which read as follows: ''default rates in the student loan programs under this subchapter and part C of subchapter I of chapter 34 of title 42, based on the most recent data provided by the Secretary;''.

Subsec. (a)(5)(K), (L). Pub. L. 105–244, § 492(b)(4)(D), redesignated subpars. (K) and (L) as (I) and (J), respectively.

Subsec. (a)(7). Pub. L. 105–244, § 492(b)(5), substituted ''State licensing or authorizing agency'' for ''State postsecondary review entity''.

Subsec. (a)(8). Pub. L. 105–244, § 492(b)(6), substituted ''State licensing or authorizing agency'' for ''State postsecondary review entity of the State in which the institution of higher education is located''.

Subsec. (c). Pub. L. 105–244, § 492(c)(1), substituted ''recognized by the Secretary'' for ''approved by the Secretary'' in introductory provisions.

Subsec. (c)(1). Pub. L. 105–244, § 492(c)(2), substituted ''(which may include unannounced site visits)'' for ''(at least one of which inspections at each institution that provides vocational education and training shall be unannounced),''.

Subsec. (d). Pub. L. 105–244, § 492(d)(1), substituted ''recognition'' for ''approval'' in heading and ''recognized'' for ''approved'' in text.

Subsec. (f). Pub. L. 105–244, § 492(d)(2), substituted ''recognized'' for ''approved''.

Subsec. (g). Pub. L. 105–244, § 492(d)(3), substituted ''criteria'' for ''standards'' in heading and ''establish criteria'' for ''establish standards'' in text.

Subsec. (j). Pub. L. 105–244, § 102(b)(5), substituted ''section 1002'' for ''section 1088'' in introductory provisions.

Subsec. (k). Pub. L. 105–244, §§ 102(b)(5), 492(d)(4)(A), amended subsec. (k) identically, substituting ''section 1002'' for ''section 1088'' in introductory provisions.

Subsec. (k)(2). Pub. L. 105–244, § 492(d)(4)(B), substituted ''criteria'' for ''standards''.

Subsec. (*l*). Pub. L. 105–244, § 492(d)(5), substituted ''recognition'' for ''approval'' in heading, added par. (1), and struck out former par. (1) which read as follows: ''The Secretary shall limit, suspend, or terminate the approval of an accrediting agency or association if the Secretary determines, after notice and opportunity for a hearing, that the accrediting agency or association has failed to apply effectively the standards or operate according to the procedures provided in this section.''

Subsec. (n)(1). Pub. L. 105–244, § 492(d)(6)(A), substituted ''criteria'' for ''standards'' in introductory provisions.

Subsec. (n)(3). Pub. L. 105–244, § 492(d)(6)(A), (B), substituted ''criteria'' for ''standards'' in two places, ''recognition process'' for ''approval process'', and ''recognition or denial of recognition'' for ''approval or disapproval'', and inserted at end ''When the Secretary decides to recognize an accrediting agency or association, the Secretary shall determine the agency or association's scope of recognition. If the agency or association reviews institutions offering distance education courses or programs and the Secretary determines that the agency or association meets the requirements of this section, then the agency shall be recognized and the scope of recognition shall include accreditation of institutions offering distance education courses or programs.''

Subsec. (n)(4). Pub. L. 105–244, § 492(d)(6)(C), added par. (4) and struck out former par. (4) which read as follows: ''The Secretary shall maintain sufficient documentation to support the conclusions reached in the approval process, and, upon disapproval of any accreditation agency or association, shall make publicly available the reason for such disapproval, including reference to the specific standards under this section which have not been fulfilled.''

1993—Subsec. (a)(2)(A)(i). Pub. L. 103–208, § 2(i)(3), inserted ''of institutions of higher education'' after ''membership''.

Subsec. (a)(3)(A). Pub. L. 103–208, § 2(i)(4), substituted ''subparagraph (A)(i)'' for ''subparagraph (A)''.

Subsec. (a)(5). Pub. L. 103–208, § 2(i)(5), substituted a semicolon for the period at end of subpar. (L) and inserted after subpar. (L) the following: ''except that subparagraphs (G), (H), (I), (J), and (L) shall not apply to agencies or associations described in paragraph (2)(A)(ii) of this subsection;''.

Subsec. (c). Pub. L. 103–208, § 2(i)(6), substituted ''as a reliable authority as to the quality of education or training offered by an institution seeking to participate in the programs authorized under this subchapter and part C of subchapter I of chapter 34 of title 42'' for ''for the purpose of this subchapter and part C of subchapter I of chapter 34 of title 42''.

Subsec. (*l*)(2). Pub. L. 103–208, § 2(i)(7), substituted ''institution'' for ''institutution'' and ''association, described in paragraph (2)(A)(i), (2)(B), or (2)(C) of subsection (a) of this section, leading to the suspension'' for ''association leading to the suspension''.

Subsec. (n)(1)(B). Pub. L. 103–208, § 2(i)(8), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''site visits at both the accrediting agency or association and member institutions, including unannounced visits where appropriate.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

STUDY OF TRANSFER OF CREDITS

Pub. L. 105–244, title VIII, § 804, Oct. 7, 1998, 112 Stat. 1806, directed the Secretary of Education to conduct a

study to evaluate policies or practices instituted by recognized accrediting agencies or associations regarding the treatment of the transfer of credits from one institution of higher education to another and to submit, not later than one year after Oct. 7, 1998, a report to Congress detailing the Secretary's findings regarding the study, including such recommendation with respect to the recognition of accrediting agencies or associations as the Secretary deemed advisable.

SUBPART 3—ELIGIBILITY AND CERTIFICATION PROCEDURES

§ 1099c. Eligibility and certification procedures

(a) General requirement

For purposes of qualifying institutions of higher education for participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall determine the legal authority to operate within a State, the accreditation status, and the administrative capability and financial responsibility of an institution of higher education in accordance with the requirements of this section.

(b) Single application form

The Secretary shall prepare and prescribe a single application form which—

(1) requires sufficient information and documentation to determine that the requirements of eligibility, accreditation, financial responsibility, and administrative capability of the institution of higher education are met;

(2) requires a specific description of the relationship between a main campus of an institution of higher education and all of its branches, including a description of the student aid processing that is performed by the main campus and that which is performed at its branches;

(3) requires—

(A) a description of the third party servicers of an institution of higher education; and

(B) the institution to maintain a copy of any contract with a financial aid service provider or loan servicer, and provide a copy of any such contract to the Secretary upon request;

(4) requires such other information as the Secretary determines will ensure compliance with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42 with respect to eligibility, accreditation, administrative capability and financial responsibility; and

(5) provides, at the option of the institution, for participation in one or more of the programs under part B or C of this subchapter.

(c) Financial responsibility standards

(1) The Secretary shall determine whether an institution has the financial responsibility required by this subchapter and part C of subchapter I of chapter 34 of title 42 on the basis of whether the institution is able—

(A) to provide the services described in its official publications and statements;

(B) to provide the administrative resources necessary to comply with the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42; and

(C) to meet all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary.

(2) Notwithstanding paragraph (1), if an institution fails to meet criteria prescribed by the Secretary regarding ratios that demonstrate financial responsibility, then the institution shall provide the Secretary with satisfactory evidence of its financial responsibility in accordance with paragraph (3). Such criteria shall take into account any differences in generally accepted accounting principles, and the financial statements required thereunder, that are applicable to for profit, public, and nonprofit institutions. The Secretary shall take into account an institution's total financial circumstances in making a determination of its ability to meet the standards herein required.

(3) The Secretary shall determine an institution to be financially responsible, notwithstanding the institution's failure to meet the criteria under paragraphs (1) and (2), if—

(A) such institution submits to the Secretary third-party financial guarantees that the Secretary determines are reasonable, such as performance bonds or letters of credit payable to the Secretary, which third-party financial guarantees shall equal not less than one-half of the annual potential liabilities of such institution to the Secretary for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, including loan obligations discharged pursuant to section 1087 of this title, and to students for refunds of institutional charges, including funds under this subchapter and part C of subchapter I of chapter 34 of title 42;

(B) such institution has its liabilities backed by the full faith and credit of a State, or its equivalent;

(C) such institution establishes to the satisfaction of the Secretary, with the support of a financial statement audited by an independent certified public accountant in accordance with generally accepted auditing standards, that the institution has sufficient resources to ensure against the precipitous closure of the institution, including the ability to meet all of its financial obligations (including refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary); or

(D) such institution has met standards of financial responsibility, prescribed by the Secretary by regulation, that indicate a level of financial strength not less than those required in paragraph (2).

(4) If an institution of higher education that provides a 2-year or 4-year program of instruction for which the institution awards an associate or baccalaureate degree fails to meet the criteria imposed by the Secretary pursuant to paragraph (2), the Secretary shall waive that particular requirement for that institution if the institution demonstrates to the satisfaction of the Secretary that—

(A) there is no reasonable doubt as to its continued solvency and ability to deliver quality educational services;

(B) it is current in its payment of all current liabilities, including student refunds, repayments to the Secretary, payroll, and payment of trade creditors and withholding taxes; and

(C) it has substantial equity in school-occupied facilities, the acquisition of which was the direct cause of its failure to meet the criteria.

(5) The determination as to whether an institution has met the standards of financial responsibility provided for in paragraphs (2) and (3)(C) shall be based on an audited and certified financial statement of the institution. Such audit shall be conducted by a qualified independent organization or person in accordance with standards established by the American Institute of Certified Public Accountants. Such statement shall be submitted to the Secretary at the time such institution is considered for certification or recertification under this section. If the institution is permitted to be certified (provisionally or otherwise) and such audit does not establish compliance with paragraph (2), the Secretary may require that additional audits be submitted.

(6)(A) The Secretary shall establish requirements for the maintenance by an institution of higher education of sufficient cash reserves to ensure repayment of any required refunds.

(B) The Secretary shall provide for a process under which the Secretary shall exempt an institution of higher education from the requirements described in subparagraph (A) if the Secretary determines that the institution—

(i) is located in a State that has a tuition recovery fund that ensures that the institution meets the requirements of subparagraph (A);

(ii) contributes to the fund; and

(iii) otherwise has legal authority to operate within the State.

(d) Administrative capacity standard

The Secretary is authorized—

(1) to establish procedures and requirements relating to the administrative capacities of institutions of higher education, including—

(A) consideration of past performance of institutions or persons in control of such institutions with respect to student aid programs; and

(B) maintenance of records;

(2) to establish such other reasonable procedures as the Secretary determines will contribute to ensuring that the institution of higher education will comply with administrative capability required by this subchapter and part C of subchapter I of chapter 34 of title 42.

(e) Financial guarantees from owners

(1) Notwithstanding any other provision of law, the Secretary may, to the extent necessary to protect the financial interest of the United States, require—

(A) financial guarantees from an institution participating, or seeking to participate, in a program under this subchapter and part C of subchapter I of chapter 34 of title 42, or from one or more individuals who the Secretary determines, in accordance with paragraph (2), exercise substantial control over such institution, or both, in an amount determined by the Secretary to be sufficient to satisfy the institution's potential liability to the Federal Government, student assistance recipients, and other program participants for funds under this subchapter and part C of subchapter I of chapter 34 of title 42; and

(B) the assumption of personal liability, by one or more individuals who exercise substantial control over such institution, as determined by the Secretary in accordance with paragraph (2), for financial losses to the Federal Government, student assistance recipients, and other program participants for funds under this subchapter and part C of subchapter I of chapter 34 of title 42, and civil and criminal monetary penalties authorized under this subchapter and part C of subchapter I of chapter 34 of title 42.

(2)(A) The Secretary may determine that an individual exercises substantial control over one or more institutions participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42 if the Secretary determines that—

(i) the individual directly or indirectly controls a substantial ownership interest in the institution;

(ii) the individual, either alone or together with other individuals, represents, under a voting trust, power of attorney, proxy, or similar agreement, one or more persons who have, individually or in combination with the other persons represented or the individual representing them, a substantial ownership interest in the institution; or

(iii) the individual is a member of the board of directors, the chief executive officer, or other executive officer of the institution or of an entity that holds a substantial ownership interest in the institution.

(B) The Secretary may determine that an entity exercises substantial control over one or more institutions participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42 if the Secretary determines that the entity directly or indirectly holds a substantial ownership interest in the institution.

(3) For purposes of this subsection, an ownership interest is defined as a share of the legal or beneficial ownership or control of, or a right to share in the proceeds of the operation of, an institution or institution's parent corporation. An ownership interest may include, but is not limited to—

(A) a sole proprietorship;

(B) an interest as a tenant-in-common, joint tenant, or tenant by the entireties;

(C) a partnership; or

(D) an interest in a trust.

(4) The Secretary shall not impose the requirements described in subparagraphs (A) and (B) of paragraph (1) on an institution that—

(A) has not been subjected to a limitation, suspension, or termination action by the Secretary or a guaranty agency within the preceding 5 years;

(B) has not had, during its 2 most recent audits of the institutions conduct of programs

under this subchapter and part C of subchapter I of chapter 34 of title 42, an audit finding that resulted in the institution being required to repay an amount greater than 5 percent of the funds the institution received from programs under this subchapter and part C of subchapter I of chapter 34 of title 42 for any year;

(C) meets and has met, for the preceding 5 years, the financial responsibility standards under subsection (c) of this section; and

(D) has not been cited during the preceding 5 years for failure to submit audits required under this subchapter and part C of subchapter I of chapter 34 of title 42 in a timely fashion.

(5) For purposes of section 1094(c)(1)(G) of this title, this section shall also apply to individuals or organizations that contract with an institution to administer any aspect of an institution's student assistance program under this subchapter and part C of subchapter I of chapter 34 of title 42.

(6) Notwithstanding any other provision of law, any individual who—

(A) the Secretary determines, in accordance with paragraph (2), exercises substantial control over an institution participating in, or seeking to participate in, a program under this subchapter and part C of subchapter I of chapter 34 of title 42;

(B) is required to pay, on behalf of a student or borrower, a refund of unearned institutional charges to a lender, or to the Secretary; and

(C) willfully fails to pay such refund or willfully attempts in any manner to evade payment of such refund,

shall, in addition to other penalties provided by law, be liable to the Secretary for the amount of the refund not paid, to the same extent with respect to such refund that such an individual would be liable as a responsible person for a penalty under section 6672(a) of title 26 with respect to the nonpayment of taxes.

(f) Actions on applications and site visits

The Secretary shall ensure that prompt action is taken by the Department on any application required under subsection (b) of this section. The personnel of the Department of Education may conduct a site visit at each institution before certifying or recertifying its eligibility for purposes of any program under this subchapter and part C of subchapter I of chapter 34 of title 42. The Secretary shall establish priorities by which institutions are to receive site visits, and shall, to the extent practicable, coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden.

(g) Time limitations on, and renewal of, eligibility

(1) General rule

After the expiration of the certification of any institution under the schedule prescribed under this section (as this section was in effect prior to October 7, 1998), or upon request for initial certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42 of each such institution for a period not to exceed 6 years.

(2) Notification

The Secretary shall notify each institution of higher education not later than 6 months prior to the date of the expiration of the institution's certification.

(3) Institutions outside the United States

The Secretary shall promulgate regulations regarding the recertification requirements applicable to an institution of higher education outside of the United States that meets the requirements of section 1002(a)(1)(C) of this title and received less than $500,000 in funds under part B of this subchapter for the most recent year for which data are available.

(h) Provisional certification of institutional eligibility

(1) Notwithstanding subsections (d) and (g) of this section, the Secretary may provisionally certify an institution's eligibility to participate in programs under this subchapter and part C of subchapter I of chapter 34 of title 42—

(A) for not more than one complete award year in the case of an institution of higher education seeking an initial certification; and

(B) for not more than 3 complete award years if—

(i) the institution's administrative capability and financial responsibility is being determined for the first time;

(ii) there is a complete or partial change of ownership, as defined under subsection (i) of this section, of an eligible institution; or

(iii) the Secretary determines that an institution that seeks to renew its certification is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its financial responsibilities under a program participation agreement.

(2) Whenever the Secretary withdraws the recognition of any accrediting agency, an institution of higher education which meets the requirements of accreditation, eligibility, and certification on the day prior to such withdrawal, the Secretary may, notwithstanding the withdrawal, continue the eligibility of the institution of higher education to participate in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42 for a period not to exceed 18 months from the date of the withdrawal of recognition.

(3) If, prior to the end of a period of provisional certification under this subsection, the Secretary determines that the institution is unable to meet its responsibilities under its program participation agreement, the Secretary may terminate the institution's participation in programs under this subchapter and part C of subchapter I of chapter 34 of title 42.

(i) Treatment of changes of ownership

(1) An eligible institution of higher education that has had a change in ownership resulting in a change of control shall not qualify to participate in programs under this subchapter and part

C of subchapter I of chapter 34 of title 42 after the change in control (except as provided in paragraph (3)) unless it establishes that it meets the requirements of section 1002 of this title (other than the requirements in subsections (b)(5) and (c)(3)[1]) and this section after such change in control.

(2) An action resulting in a change in control may include (but is not limited to)—

(A) the sale of the institution or the majority of its assets;

(B) the transfer of the controlling interest of stock of the institution or its parent corporation;

(C) the merger of two or more eligible institutions;

(D) the division of one or more institutions into two or more institutions;

(E) the transfer of the controlling interest of stock of the institutions to its parent corporation; or

(F) the transfer of the liabilities of the institution to its parent corporation.

(3) An action that may be treated as not resulting in a change in control includes (but is not limited to)—

(A) the sale or transfer, upon the death of an owner of an institution, of the ownership interest of the deceased in that institution to a family member or to a person holding an ownership interest in that institution; or

(B) another action determined by the Secretary to be a routine business practice.

(4)(A) The Secretary may provisionally certify an institution seeking approval of a change in ownership based on the preliminary review by the Secretary of a materially complete application that is received by the Secretary within 10 business days of the transaction for which the approval is sought.

(B) A provisional certification under this paragraph shall expire not later than the end of the month following the month in which the transaction occurred, except that if the Secretary has not issued a decision on the application for the change of ownership within that period, the Secretary may continue such provisional certification on a month-to-month basis until such decision has been issued.

(j) Treatment of branches

(1) A branch of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, shall be certified under this subpart before it may participate as part of such institution in a program under this subchapter and part C of subchapter I of chapter 34 of title 42, except that such branch shall not be required to meet the requirements of sections 1002(b)(1)(E) and 1002(c)(1)(C) of this title prior to seeking such certification. Such branch is required to be in existence at least 2 years after the branch is certified by the Secretary as a branch campus participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42, prior to seeking certification as a main campus or free-standing institution.

(2) The Secretary may waive the requirement of section 1001(a)(2) of this title for a branch that (A) is not located in a State, (B) is affiliated with an eligible institution, and (C) was participating in one or more programs under this subchapter and part C of subchapter I of chapter 34 of title 42 on or before January 1, 1992.

(Pub. L. 89–329, title IV, § 498, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 647; amended Pub. L. 103–208, § 2(i)(9)–(14), Dec. 20, 1993, 107 Stat. 2479, 2480; Pub. L. 105–244, title I, § 102(a)(6)(B), (b)(6), (7), title IV, § 493(a)–(c)(1), (d)–(h), Oct. 7, 1998, 112 Stat. 1618, 1622, 1761–1763.)

REFERENCES IN TEXT

Subsections (b)(5) and (c)(3), referred to in subsec. (i)(1), originally meant subsections (b)(5) and (c)(3) of section 1088 of this title, see 1998 Amendment note below for subsec. (i)(1). Pub. L. 105–244, title I, § 101(c), Oct. 7, 1998, 112 Stat. 1617, amended section 1088 by striking out subsecs. (b) and (c) and redesignating subsecs. (e) and (f) as (b) and (c), respectively. Section 1002 of this title does not contain a subsec. (b)(5) or (c)(3), but provisions similar to those appearing in former subsecs. (b)(5) and (c)(3) of section 1088 are contained in subsecs. (b)(1)(E) and (c)(1)(C) of section 1002.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–244, § 493(a)(1), substituted ''financial responsibility, and administrative capability'' for ''and capability''.

Subsec. (b)(3). Pub. L. 105–244, § 493(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''requires a description of third party servicers of an institution of higher education, together with a copy of any contract with the institution of higher education and a financial aid service provider or loan servicer; and''.

Subsec. (b)(5). Pub. L. 105–244, § 493(a)(3), (4), added par. (5).

Subsec. (c)(2). Pub. L. 105–244, § 493(b)(1)(B), inserted '', public,'' after ''for profit'' in second sentence.

Pub. L. 105–244, § 493(b)(1)(A), which directed amendment of first sentence by substituting ''regarding ratios that demonstrate financial responsibility,'' for ''with respect to operating losses, net worth, asset-to-liabilities ratios, or operating fund deficits'', was executed by making the substitution for text which read ''asset-to-liabilities ratios'' rather than ''asset to liabilities ratios'', to reflect the probable intent of Congress.

Subsec. (c)(3)(A). Pub. L. 105–244, § 493(b)(2), inserted ''that the Secretary determines are reasonable'' after ''Secretary third-party financial guarantees''.

Subsec. (c)(4). Pub. L. 105–244, § 493(b)(3)(A), substituted ''criteria'' for ''ratio of current assets to current liabilities'' in introductory provisions.

Subsec. (c)(4)(C). Pub. L. 105–244, § 493(b)(3)(B), substituted ''criteria'' for ''current operating ratio requirement''.

Subsec. (e)(6). Pub. L. 105–244, § 493(c)(1), added par. (6).

Subsec. (f). Pub. L. 105–244, § 493(d), substituted ''and site visits'' for ''; site visits and fees'' in heading, ''may'' for ''shall'' in second sentence, and ''shall establish'' for ''may establish'' and ''shall, to the extent practicable, coordinate'' for ''may coordinate'' in third sentence, and struck out at end ''The Secretary may charge reasonable fees to cover the expenses of certification and site visits and, to the extent permitted by appropriations Acts, may retain such fees to cover such expenses.''

Subsec. (g). Pub. L. 105–244, § 493(e), amended heading and text of subsec. (g) generally. Prior to amendment, text read as follows:

''(1) The eligibility for the purposes of any program authorized under this subchapter and part C of sub-

[1] See References in Text note below.

chapter I of chapter 34 of title 42 of any institution that is participating in any such program on July 23, 1992, shall expire in accordance with the schedule prescribed by the Secretary in accordance with paragraph (2), but not later than 5 years after July 23, 1992.

''(2) The Secretary shall establish a schedule for the expiration of the eligibility for purposes of any such program of all institutions of higher education within the 5-year period specified in paragraph (1). Such schedule shall place a priority for the expiration of the certification of institutions on those that meet the following criteria:

''(A) institutions subject to review by a State postsecondary review entity pursuant to subpart 1 of this part; or

''(B) other categories of institutions which the Secretary deems necessary.

''(3) After the expiration of the certification of any institution under the schedule prescribed under this subsection, or upon request for initial certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this subchapter and part C of subchapter I of chapter 34 of title 42 of each such institution for a period not to exceed 4 years.''

Subsec. (h)(2). Pub. L. 105–244, §493(f), substituted ''the recognition'' for ''the approval'' and ''of recognition'' for ''of approval''.

Subsec. (i)(1). Pub. L. 105–244, §102(b)(6), substituted ''section 1002'' for ''section 1088''.

Subsec. (i)(4). Pub. L. 105–244, §493(g), added par. (4).

Subsec. (j)(1). Pub. L. 105–244, §493(h), inserted ''after the branch is certified by the Secretary as a branch campus participating in a program under this subchapter and part C of subchapter I of chapter 34 of title 42,'' after ''2 years''.

Pub. L. 105–244, §102(b)(7)(A), substituted ''sections 1002(b)(1)(E) and 1002(c)(1)(C)'' for ''sections 1088(b)(5) and 1088(c)(3)''.

Subsec. (j)(2). Pub. L. 105–244, §102(a)(6)(B), (b)(7)(B), amended par. (2) identically, substituting ''section 1001(a)(2)'' for ''section 1141(a)(2)''.

1993—Subsec. (c)(2). Pub. L. 103–208, §2(i)(9)(A), inserted at end ''Such criteria shall take into account any differences in generally accepted accounting principles, and the financial statements required thereunder, that are applicable to for profit and nonprofit institutions. The Secretary shall take into account an institution's total financial circumstances in making a determination of its ability to meet the standards herein required.''

Subsec. (c)(3). Pub. L. 103–208, §2(i)(9)(B), substituted ''The Secretary shall determine'' for ''The Secretary may determine'' in introductory provisions.

Subsec. (c)(3)(C). Pub. L. 103–208, §2(i)(9)(C), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''such institution establishes to the satisfaction of the Secretary, with the support of a report of an independent certified public accountant prepared under generally accepted accounting principles, that the institution is a going concern capable of meeting all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary; or''.

Subsec. (c)(4) to (6). Pub. L. 103–208, §2(i)(9)(D), (E), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (f). Pub. L. 103–208, §2(i)(10), inserted after second sentence ''The Secretary may establish priorities by which institutions are to receive site visits, and may coordinate such visits with site visits by States, guaranty agencies, and accrediting bodies in order to eliminate duplication, and reduce administrative burden.''

Subsec. (h)(1)(B)(iii). Pub. L. 103–208, §2(i)(11), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: ''the Secretary determines that the institution is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its responsibilities under its program participation agreement.''

Subsec. (i)(1). Pub. L. 103–208, §2(i)(12), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For the purpose of certifying the eligibility of an institution, an eligible institution of higher education that has a change in ownership resulting in a change in control shall not be considered to be the same institution (except as provided in paragraph (3)) and shall be considered a new institution for the purpose of establishing eligibility, except that such institution shall not be required (under section 1088(b)(5) or 1088(c)(3) of this title) to be in existence for 2 years prior to seeking such certification unless such institution was in existence as a branch for less than 2 years.''

Subsec. (i)(3)(A). Pub. L. 103–208, §2(i)(13), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the death of an owner of an institution, when the owner's interest is sold or transferred to either a family member or a current stockholder of the corporation; or''.

Subsec. (j)(1). Pub. L. 103–208, §2(i)(14), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''For the purposes of this subchapter and part C of subchapter I of chapter 34 of title 42, a branch of an eligible institution, as defined pursuant to regulations of the Secretary, is a separate institution of higher education and shall separately meet all the requirements of this subchapter and part C of subchapter I of chapter 34 of title 42, except that such institution shall not be required (under section 1088(b)(5) or 1088(c)(3) of this title) to be in existence for 2 years prior to seeking such certification unless such institution was in existence as a branch for less than 2 years.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by sections 102(a)(6)(B), (b)(6), (7) and 493(a), (b), (d)–(h) of Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

Pub. L. 105–244, title IV, §493(c)(2), Oct. 7, 1998, 112 Stat. 1762, provided that: ''The amendment made by paragraph (1) [amending this section] shall be effective with respect to any unpaid refunds that were first required to be paid to a lender or to the Secretary on or after 90 days after the date of enactment of this Act [Oct. 7, 1998].''

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE

Subpart effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1099c–1. Program review and data

(a) General authority

In order to strengthen the administrative capability and financial responsibility provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary—

(1) shall provide for the conduct of program reviews on a systematic basis designed to include all institutions of higher education participating in programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42;

(2) shall give priority for program review to institutions of higher education that are—

(A) institutions with a cohort default rate for loans under part B of this subchapter in

excess of 25 percent or which places such institutions in the highest 25 percent of such institutions;

(B) institutions with a default rate in dollar volume for loans under part B of this subchapter which places the institutions in the highest 25 percent of such institutions;

(C) institutions with a significant fluctuation in Federal Stafford Loan volume, Federal Direct Stafford/Ford Loan volume, or Federal Pell Grant award volume, or any combination thereof, in the year for which the determination is made, compared to the year prior to such year, that are not accounted for by changes in the Federal Stafford Loan program, the Federal Direct Stafford/Ford Loan program, or the Pell Grant program, or any combination thereof;

(D) institutions reported to have deficiencies or financial aid problems by the State licensing or authorizing agency, or by the appropriate accrediting agency or association;

(E) institutions with high annual dropout rates; and

(F) such other institutions that the Secretary determines may pose a significant risk of failure to comply with the administrative capability or financial responsibility provisions of this subchapter and part C of subchapter I of chapter 34 of title 42; and

(3) shall establish and operate a central data base of information on institutional accreditation, eligibility, and certification that includes—

(A) all relevant information available to the Department;

(B) all relevant information made available by the Secretary of Veterans Affairs;

(C) all relevant information from accrediting agencies or associations;

(D) all relevant information available from a guaranty agency; and

(E) all relevant information available from States under subpart 1 of this part.

(b) Special administrative rules

In carrying out paragraphs (1) and (2) of subsection (a) of this section and any other relevant provisions of this subchapter and part C of subchapter I of chapter 34 of title 42, the Secretary shall—

(1) establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education;

(2) make available to each institution participating in programs authorized under this subchapter and part C of subchapter I of chapter 34 of title 42 complete copies of all review guidelines and procedures used in program reviews;

(3) permit the institution to correct or cure an administrative, accounting, or recordkeeping error if the error is not part of a pattern of error and there is no evidence of fraud or misconduct related to the error;

(4) base any civil penalty assessed against an institution of higher education resulting from a program review or audit on the gravity of the violation, failure, or misrepresentation; and

(5) inform the appropriate State and accrediting agency or association whenever the Secretary takes action against an institution of higher education under this section, section 1099c of this title, or section 1082 of this title.

(c) Data collection rules

The Secretary shall develop and carry out a plan for the data collection responsibilities described in paragraph (3) of subsection (a) of this section. The Secretary shall make the information obtained under such paragraph (3) readily available to all institutions of higher education, guaranty agencies, States, and other organizations participating in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42.

(d) Training

The Secretary shall provide training to personnel of the Department, including criminal investigative training, designed to improve the quality of financial and compliance audits and program reviews conducted under this subchapter and part C of subchapter I of chapter 34 of title 42.

(e) Special rule

The provisions of section 3403(b) of this title shall not apply to Secretarial determinations made regarding the appropriate length of instruction for programs measured in clock hours.

(Pub. L. 89–329, title IV, § 498A, as added Pub. L. 102–325, title IV, § 499, July 23, 1992, 106 Stat. 652; amended Pub. L. 103–208, § 2(i)(15), Dec. 20, 1993, 107 Stat. 2480; Pub. L. 105–244, title IV, § 494, Oct. 7, 1998, 112 Stat. 1763.)

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–244, § 494(1)(A)(i), substituted ''shall'' for ''may'' in introductory provisions.

Subsec. (a)(2)(C). Pub. L. 105–244, § 494(1)(A)(ii), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''institutions with a significant fluctuation in Federal Stafford Loan volume or Federal Pell Grant awards, or both, in the year for which the determination is made compared to the year prior to such year;''.

Subsec. (a)(2)(D). Pub. L. 105–244, § 494(1)(A)(iii), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''institutions reported to have deficiencies or financial aid problems by the appropriate State postsecondary review entity designated under subpart 1 of this part or by the appropriate accrediting agency or association;''.

Subsec. (a)(2)(E). Pub. L. 105–244, § 494(1)(A)(iv), inserted ''and'' after the semicolon.

Subsec. (a)(2)(F), (G). Pub. L. 105–244, § 494(1)(A)(v), added subpar. (F) and struck out former subpars. (F) and (G) which read as follows:

''(F) any institution which is required to be reviewed by a State postsecondary review entity pursuant to subpart 1 of this part under section 1099a–3(b) of this title; and

''(G) such other institutions as the Secretary deems necessary; and''.

Subsec. (a)(3)(A). Pub. L. 105–244, § 494(1)(B), inserted ''relevant'' after ''all''.

Subsec. (b). Pub. L. 105–244, § 494(2), amended heading and text of subsec. (b). Prior to amendment, text read as follows:

''(1) In carrying out paragraphs (1) and (2) of subsection (a) of this section, the Secretary shall establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education.

''(2) The Secretary shall review the regulations of the Department and the application of such regulations to ensure the uniformity of interpretation and application of the regulations.''

1993—Subsec. (e). Pub. L. 103–208 struck out comma after ''title''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

§ 1099c–2. Review of regulations

(a) Review required

The Secretary shall review each regulation issued under this subchapter and part C of subchapter I of chapter 34 of title 42 that is in effect at the time of the review and applies to the operations or activities of any participant in the programs assisted under this subchapter and part C of subchapter I of chapter 34 of title 42. The review shall include a determination of whether the regulation is duplicative, or is no longer necessary. The review may involve one or more of the following:

(1) An assurance of the uniformity of interpretation and application of such regulations.

(2) The establishment of a process for ensuring that eligibility and compliance issues, such as institutional audit, program review, and recertification, are considered simultaneously.

(3) A determination of the extent to which unnecessary costs are imposed on institutions of higher education as a consequence of the applicability to the facilities and equipment of such institutions of regulations prescribed for purposes of regulating industrial and commercial enterprises.

(b) Regulatory and statutory relief for small volume institutions

The Secretary shall review and evaluate ways in which regulations under and provisions of this chapter affecting institution of higher education (other than institutions described in section 1002(a)(1)(C) of this title), that have received in each of the two most recent award years prior to October 7, 1998, less than $200,000 in funds through this subchapter and part C of subchapter I of chapter 34 of title 42, may be improved, streamlined, or eliminated.

(c) Consultation

In carrying out subsections (a) and (b) of this section, the Secretary shall consult with relevant representatives of institutions participating in the programs authorized by this subchapter and part C of subchapter I of chapter 34 of title 42.

(d) Reports to Congress

(1) In general

The Secretary shall submit, not later than 1 year after October 7, 1998, a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives detailing the Secretary's findings and recommendations based on the reviews conducted under subsections (a) and (b) of this section, including a timetable for implementation of any recommended changes in regulations and a description of any recommendations for legislative changes.

(2) Additional reports

Not later than January 1, 2003, the Secretary shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives detailing the Secretary's findings and recommendations based on the review conducted under subsection (a) of this section, including a timetable for implementation of any recommended changes in regulations and a description of any recommendations for legislative changes.

(Pub. L. 89–329, title IV, § 498B, as added Pub. L. 105–244, title IV, § 495, Oct. 7, 1998, 112 Stat. 1764.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 89–329, as amended, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

SUBCHAPTER V—DEVELOPING INSTITUTIONS

CODIFICATION

Title V of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1254; amended Pub. L. 90–35, June 29, 1967, 81 Stat. 81; Pub. L. 90–83, Sept. 11, 1967, 81 Stat. 195; Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 783; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322; Pub. L. 98–558, Oct. 30, 1984, 98 Stat. 2878; Pub. L. 99–386, Aug. 22, 1986, 100 Stat. 821; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 101–226, Dec. 12, 1989, 103 Stat. 1928; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518. Title V is shown herein, however, as having been added by Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1765, without reference to those intervening amendments because of the extensive revision of title V by Pub. L. 105–244.

PART A—HISPANIC-SERVING INSTITUTIONS

PRIOR PROVISIONS

A prior part A consisted of sections 1102 to 1102j and related to State and local programs for teacher excellence prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1101. Findings; purpose; and program authority

(a) Findings

Congress makes the following findings:

(1) Hispanic Americans are at high risk of not enrolling or graduating from institutions of higher education.

(2) Disparities between the enrollment of non-Hispanic white students and Hispanic students in postsecondary education are increasing. Between 1973 and 1994, enrollment of white secondary school graduates in 4-year institutions of higher education increased at a rate two times higher than that of Hispanic secondary school graduates.

(3) Despite significant limitations in resources, Hispanic-serving institutions provide a significant proportion of postsecondary opportunities for Hispanic students.

(4) Relative to other institutions of higher education, Hispanic-serving institutions are underfunded. Such institutions receive significantly less in State and local funding, per full-time equivalent student, than other institutions of higher education.

(5) Hispanic-serving institutions are succeeding in educating Hispanic students despite significant resource problems that—

(A) limit the ability of such institutions to expand and improve the academic programs of such institutions; and

(B) could imperil the financial and administrative stability of such institutions.

(6) There is a national interest in remedying the disparities described in paragraphs (2) and (4) and ensuring that Hispanic students have an equal opportunity to pursue postsecondary opportunities.

(b) Purpose

The purpose of this subchapter is to—

(1) expand educational opportunities for, and improve the academic attainment of, Hispanic students; and

(2) expand and enhance the academic offerings, program quality, and institutional stability of colleges and universities that are educating the majority of Hispanic college students and helping large numbers of Hispanic students and other low-income individuals complete postsecondary degrees.

(c) Program authority

The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic students and other low-income individuals.

(Pub. L. 89–329, title V, § 501, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1765.)

PRIOR PROVISIONS

A prior section 1101, Pub. L. 89–329, title V, § 500, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 653, set forth findings of Congress and purpose of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1101, Pub. L. 89–329, title V, § 501, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1495, related to statement of purpose and applicability of this subchapter, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1101, Pub. L. 89–329, title V, § 511, Nov. 8, 1965, 79 Stat. 1255; Pub. L. 90–35, § 3(a)(3), (b), June 29, 1967, 81 Stat. 85; Pub. L. 90–575, title II, § 231 (a), (b)(1), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 91–230, title VIII, §§ 804(b), 805(a), Apr. 13, 1970, 84 Stat. 190, 191; Pub. L. 92–318, title I, § 141(a)(1)(A), (c)(1)(C), June 23, 1972, 86 Stat. 284, 285; Pub. L. 93–380, title VIII, § 835(a)(1), Aug. 21, 1974, 88 Stat. 605; Pub. L. 94–482, title I, §§ 151(a)(5)(A), 152(a), Oct. 12, 1976, 90 Stat. 2152; Pub. L. 96–49, § 6(a), Aug. 13, 1979, 93 Stat. 353; Pub. L. 96–374, title V, § 501(a), Oct. 3, 1980, 94 Stat. 1459, set forth statement of purpose and authorization of appropriations for Teacher Corps program, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

A prior section 501 of Pub. L. 89–329 was classified to section 1102 of this title prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 501 of Pub. L. 89–329 was classified to section 1091 of this title prior to repeal by Pub. L. 94–482.

EFFECTIVE DATE

Subchapter effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

NATIONAL JOB BANK FOR TEACHER RECRUITMENT

Pub. L. 102–325, title XIV, § 1412, July 23, 1992, 106 Stat. 822, authorized Secretary of Education to conduct study on feasibility of establishing national and regional clearinghouses to operate national and regional teacher job banks and to contract one or more entities to establish a national or regional teacher job bank clearinghouse, prior to repeal by Pub. L. 105–332, § 6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

TRAINING AND TECHNICAL ASSISTANCE FOR SCHOOL-BASED DECISIONMAKERS DEMONSTRATION PROGRAM

Pub. L. 102–325, title XV, § 1531, July 23, 1992, 106 Stat. 834, authorized Secretary of Education to make grants to local education agencies, in consortia with one or more institutions of higher education, to establish programs to provide training and technical assistance to school-based decisionmakers in local education agencies implementing system-wide reform, prior to repeal by Pub. L. 105–332, § 6(b)(3), Oct. 31, 1998, 112 Stat. 3128.

§ 1101a. Definitions; eligibility

(a) Definitions

For the purpose of this subchapter:

(1) Educational and general expenditures

The term ''educational and general expenditures'' means the total amount expended by an institution for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers that the institution is required to pay by law.

(2) Eligible institution

The term ''eligible institution'' means—

(A) an institution of higher education—

(i) that has an enrollment of needy students as required by subsection (b) of this section;

(ii) except as provided in section 1103a(b) of this title, the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(iii) that is—

(I) legally authorized to provide, and provides within the State, an educational program for which the institution awards a bachelor's degree; or

(II) a junior or community college;

(iv) that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or that is, according to such an agency or association, making reasonable progress toward accreditation;

(v) that meets such other requirements as the Secretary may prescribe; and

(vi) that is located in a State; and

(B) any branch of any institution of higher education described under subparagraph (A) that by itself satisfies the requirements contained in clauses (i) and (ii) of such subparagraph.

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under subparagraph (A)(i) shall be given twice the weight of the factor described under subparagraph (A)(ii).

(3) Endowment fund

The term ''endowment fund'' means a fund that—

(A) is established by State law, by a Hispanic-serving institution, or by a foundation that is exempt from Federal income taxation;

(B) is maintained for the purpose of generating income for the support of the institution; and

(C) does not include real estate.

(4) Full-time equivalent students

The term ''full-time equivalent students'' means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

(5) Hispanic-serving institution

The term ''Hispanic-serving institution'' means an institution of higher education that—

(A) is an eligible institution;

(B) at the time of application, has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students; and

(C) provides assurances that not less than 50 percent of the institution's Hispanic students are low-income individuals, which assurances—

(i) may employ statistical extrapolation using appropriate data from the Bureau of the Census or other appropriate Federal or State sources; and

(ii) the Secretary shall consider as meeting the requirements of this subparagraph, unless the Secretary determines, based on a preponderance of the evidence, that the assurances do not meet the requirements.

(6) Junior or community college

The term ''junior or community college'' means an institution of higher education—

(A) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(B) that does not provide an educational program for which the institution awards a bachelor's degree (or an equivalent degree); and

(C) that—

(i) provides an educational program of not less than 2 years in duration that is acceptable for full credit toward such a degree; or

(ii) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(7) Low-income individual

The term ''low-income individual'' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

(b) Enrollment of needy students

For the purpose of this subchapter, the term ''enrollment of needy students'' means an enrollment at an institution with respect to which—

(1) at least 50 percent of the degree students so enrolled are receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in the second fiscal year preceding the fiscal year for which the determination is made (other than loans for which an interest subsidy is paid pursuant to section 1078 of this title); or

(2) a substantial percentage of the students so enrolled are receiving Federal Pell Grants in the second fiscal year preceding the fiscal year for which determination is made, compared to the percentage of students receiving Federal Pell Grants at all such institutions in the second fiscal year preceding the fiscal year for which the determination is made, unless the requirement of this paragraph is waived under section 1103a(a) of this title.

(Pub. L. 89–329, title V, § 502, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1766; amended Pub. L. 108–375, div. A, title X, § 1087, Oct. 28, 2004, 118 Stat. 2066.)

PRIOR PROVISIONS

A prior section 1101a, Pub. L. 89–329, title V, § 502, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1496, authorized appropriations for this subchapter, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 502 of Pub. L. 89–329 was classified to section 1102a of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 502 of Pub. L. 89–329 was classified to section 1091a of this title, prior to repeal by Pub. L. 94–482.

AMENDMENTS

2004—Subsec. (a)(5)(C). Pub. L. 108–375 inserted '', which assurances—'' and cls. (i) and (ii) before period at end.

§ 1101b. Authorized activities

(a) Types of activities authorized

Grants awarded under this subchapter shall be used by Hispanic-serving institutions of higher education to assist the institutions to plan, develop, undertake, and carry out programs to improve and expand the institutions' capacity to serve Hispanic students and other low-income students.

(b) Authorized activities

Grants awarded under this section shall be used for one or more of the following activities:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities.

(3) Support of faculty exchanges, faculty development, curriculum development, academic instruction, and faculty fellowships to assist in attaining advanced degrees in the fellow's field of instruction.

(4) Purchase of library books, periodicals, and other educational materials, including telecommunications program material.

(5) Tutoring, counseling, and student service programs designed to improve academic success.

(6) Funds management, administrative management, and acquisition of equipment for use in strengthening funds management.

(7) Joint use of facilities, such as laboratories and libraries.

(8) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

(9) Establishing or improving an endowment fund.

(10) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

(11) Establishing or enhancing a program of teacher education designed to qualify students to teach in public elementary schools and secondary schools.

(12) Establishing community outreach programs that will encourage elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education.

(13) Expanding the number of Hispanic and other underrepresented graduate and professional students that can be served by the institution by expanding courses and institutional resources.

(14) Other activities proposed in the application submitted pursuant to section 1101c of this title that—

(A) contribute to carrying out the purposes of this subchapter; and

(B) are approved by the Secretary as part of the review and acceptance of such application.

(c) Endowment fund limitations

(1) Portion of grant

A Hispanic-serving institution may not use more than 20 percent of the grant funds provided under this subchapter for any fiscal year for establishing or improving an endowment fund.

(2) Matching required

A Hispanic-serving institution that uses any portion of the grant funds provided under this subchapter for any fiscal year for establishing or improving an endowment fund shall provide from non-Federal funds an amount equal to or greater than the portion.

(3) Comparability

The provisions of part C of subchapter III of this chapter regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).

(Pub. L. 89–329, title V, § 503, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1768.)

PRIOR PROVISIONS

A prior section 503 of Pub. L. 89–329 was classified to section 1102b of this title prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 503 of Pub. L. 89–329 was classified to section 1091b of this title prior to repeal by Pub. L. 94–482.

§ 1101c. Duration of grant

(a) Award period

(1) In general

The Secretary may award a grant to a Hispanic-serving institution under this subchapter for 5 years.

(2) Waitout period

A Hispanic-serving institution shall not be eligible to secure a subsequent 5-year grant award under this subchapter until 2 years have elapsed since the expiration of the institution's most recent 5-year grant award under this subchapter, except that for the purpose of this subsection a grant under section 1103c(a) of this title shall not be considered a grant under this subchapter.

(b) Planning grants

Notwithstanding subsection (a) of this section, the Secretary may award a grant to a Hispanic-serving institution under this subchapter for a period of 1 year for the purpose of preparation of plans and applications for a grant under this subchapter.

(Pub. L. 89–329, title V, § 504, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1769.)

PRIOR PROVISIONS

A prior section 504 of Pub. L. 89–329 was classified to section 1102c of this title prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 504 of Pub. L. 89–329 was classified to section 1091c of this title prior to repeal by Pub. L. 94–482.

§ 1101d. Special rule

No Hispanic-serving institution that is eligible for and receives funds under this subchapter may receive funds under part A or B of subchapter III of this chapter during the period for which funds under this subchapter are awarded.

(Pub. L. 89–329, title V, § 505, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1770.)

PRIOR PROVISIONS

A prior section 505 of Pub. L. 89–329 was classified to section 1102d of this title prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 505 of Pub. L. 89–329 was classified to section 1091d of this title prior to repeal by Pub. L. 94–482.

Prior sections 1102 to 1102j were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1102, Pub. L. 89–329, title V, § 501, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 655, related to authority and allocation of funds and defined terms.

Another prior section 1102, Pub. L. 89–329, title V, § 512, Nov. 8, 1965, 79 Stat. 1255; Pub. L. 90–35, § 3(a)(3), (4), June 29, 1967, 81 Stat. 85; Pub. L. 92–318, title I, § 142, June 23, 1972, 86 Stat. 286; Pub. L. 94–482, title I, § 151(a)(5)(B), Oct. 12, 1976, 90 Stat. 2152; Pub. L. 96–88, title III, § 301(b)(2), title V, § 508(*l*)(3), Oct. 17, 1979, 93 Stat. 677, 694; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to establishment and administration of program, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1102a, Pub. L. 89–329, title V, § 502, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 656, related to State applications for allotments.

Section 1102b, Pub. L. 89–329, title V, § 503, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 658, related to local applications and use of funds.

Section 1102c, Pub. L. 89–329, title V, § 504, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 661, related to State uses of funds.

Section 1102d, Pub. L. 89–329, title V, § 505, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 663; amended Pub. L. 103–208, § 2(j)(1), Dec. 20, 1993, 107 Stat. 2480, related to State Academies for teachers.

Section 1102e, Pub. L. 89–329, title V, § 506, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 666, related to State Academies for school leaders.

Section 1102f, Pub. L. 89–329, title V, § 507, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 669, related to uses of funds by institutions of higher education.

Section 1102g, Pub. L. 89–329, title V, § 508, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 670, related to professional development academies.

Section 1102h, Pub. L. 89–329, title V, § 509, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 673, required that Federal funds supplement, not supplant, regular non-Federal funds.

Section 1102i, Pub. L. 89–329, title V, § 510, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 673, related to coordination with other programs.

Section 1102j, Pub. L. 89–329, title V, § 510A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 674, authorized appropriations for State and local programs for teacher excellence.

PART B—GENERAL PROVISIONS

PRIOR PROVISIONS

A prior part B consisted of sections 1103 to 1103g and related to National Teacher Academies prior to the general amendment of this subchapter by Pub. L. 105–244.

§ 1103. Eligibility; applications

(a) Institutional eligibility

Each Hispanic-serving institution desiring to receive assistance under this subchapter shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is a Hispanic-serving institution as defined in section 1101a of this title, along with such other data and information as the Secretary may by regulation require.

(b) Applications

(1) Applications required

Any institution which is eligible for assistance under this subchapter shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the institution's need for assistance. Subject to the availability of appropriations to carry out this subchapter, the Secretary may approve an application for a grant under this subchapter only if the Secretary determines that—

(A) the application meets the requirements of subsection (b) of this section; and

(B) the institution is eligible for assistance in accordance with the provisions of this subchapter under which the assistance is sought.

(2) Preliminary applications

In carrying out paragraph (1), the Secretary may develop a preliminary application for use by Hispanic-serving institutions applying under this subchapter prior to the submission of the principal application.

(c) Contents

A Hispanic-serving institution, in the institution's application for a grant, shall—

(1) set forth, or describe how the institution will develop, a comprehensive development plan to strengthen the institution's academic quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this subchapter);

(2) include a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic students and other low-income individuals;

(3) set forth policies and procedures to ensure that Federal funds made available under this subchapter for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 1101(b) of this title, and in no case supplant those funds;

(4) set forth policies and procedures for evaluating the effectiveness in accomplishing the

purpose of the activities for which a grant is sought under this subchapter;

(5) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the institution under this subchapter;

(6) provide that the institution will comply with the limitations set forth in section 1103e of this title;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

(B) in the case of any development project that consists of several components (as described by the institution pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this subchapter in conjunction with other parts of the development project (as specified by the institution);

(C) an evaluation by the institution of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the institution under this subchapter, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the institution pursuant to subparagraph (A));

(D) a detailed budget showing the manner in which funds for any proposed project would be spent by the institution; and

(E) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (D);

(8) provide for making reports, in such form and containing such information, as the Secretary may require to carry out the Secretary's functions under this subchapter, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded and for keeping such records and affording such access to such records, as the Secretary may find necessary to assure the correctness and verification of such reports; and

(9) include such other information as the Secretary may prescribe.

(d) Priority

With respect to applications for assistance under this section, the Secretary shall give priority to an application that contains satisfactory evidence that the Hispanic-serving institution has entered into or will enter into a collaborative arrangement with at least one local educational agency or community-based organization to provide such agency or organization with assistance (from funds other than funds provided under this subchapter) in reducing dropout rates for Hispanic students, improving rates of academic achievement for Hispanic students, and increasing the rates at which Hispanic secondary school graduates enroll in higher education.

(e) Eligibility data

The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 in making eligibility determinations and shall advance the base-year for the determinations forward following each annual grant cycle.

(Pub. L. 89–329, title V, § 511, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1770.)

PRIOR PROVISIONS

A prior section 1103, Pub. L. 89–329, title V, § 511, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 674, established program of grants for National Teacher Academies, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103, Pub. L. 89–329, title V, § 511, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1496, set forth statement of purpose for former part A of this subchapter relating to midcareer teacher training for nontraditional students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1103, Pub. L. 89–329, title V, § 513, Nov. 8, 1965, 79 Stat. 1256; Pub. L. 90–35, § 3(a)(3), (c)–(f), June 29, 1967, 81 Stat. 85, 86; Pub. L. 91–230, title VIII, §§ 803, 804(c), (d), 805(b), Apr. 13, 1970, 84 Stat. 190, 191; Pub. L. 93–380, title VIII, § 835(a)(2), (3), Aug. 21, 1974, 88 Stat. 605; Pub. L. 94–482, title I, §§ 151(a)(5)(C), 152(b)–(d), Oct. 12, 1976, 90 Stat. 2152, 2153; Pub. L. 96–374, title V, § 502(a)–(d), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1459, 1503, related to recruitment, enrollment, training, etc., of members for program, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480.

A prior section 511 of Pub. L. 89–329 was classified to section 1101 of this title prior to repeal by Pub. L. 97–35.

§ 1103a. Waiver authority and reporting requirement

(a) Waiver requirements; need-based assistance students

The Secretary may waive the requirements set forth in section 1101a(a)(2)(A)(i) of this title in the case of an institution—

(1) that is extensively subsidized by the State in which the institution is located and charges low or no tuition;

(2) that serves a substantial number of low-income students as a percentage of the institution's total student population;

(3) that is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions; or

(5) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Hispanic Americans.

(b) Waiver determinations; expenditures

(1) Waiver determinations

The Secretary may waive the requirements set forth in section 1101a(a)(2)(A)(ii) of this title if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet the requirements is due to factors which, when used in the determination of compliance with the requirements, distort such determination, and that the institution's designation as an eligible institution under part A of this subchapter is otherwise consistent with the purposes of this subchapter.

(2) Expenditures

The Secretary shall submit to Congress every other year a report concerning the institutions that, although not satisfying the requirements of section 1101a(a)(2)(A)(ii) of this title, have been determined to be eligible institutions under part A of this subchapter. Such report shall—

(A) identify the factors referred to in paragraph (1) that were considered by the Secretary as factors that distorted the determination of compliance with clauses (i) and (ii) of section 1101a(a)(2)(A) of this title; and

(B) contain a list of each institution determined to be an eligible institution under part A of this subchapter including a statement of the reasons for each such determination.

(Pub. L. 89–329, title V, §512, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1772.)

PRIOR PROVISIONS

A prior section 1103a, Pub. L. 89–329, title V, §512, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 674, related to eligible recipients, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103a, Pub. L. 89–329, title V, §512, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1496, related to selection procedures for grants to institutions offering midcareer teacher training for nontraditional students, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 512 of Pub. L. 89–329 was classified to section 1102 of this title prior to repeal by Pub. L. 97–35.

§ 1103b. Application review process

(a) Review panel

All applications submitted under this subchapter by Hispanic-serving institutions shall be read by a panel of readers composed of individuals who are selected by the Secretary and who include individuals representing Hispanic-serving institutions. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to the application that might impair the impartiality with which the individual conducts the review under this section.

(b) Instruction

All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this subchapter that are consistent with the provisions of this subchapter, including—

(1) an enumeration of the factors to be used to determine the quality of applications submitted under this subchapter; and

(2) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this subchapter, the amount of any such grant, and the duration of any such grant.

(c) Recommendations of panel

In awarding grants under this subchapter, the Secretary shall take into consideration the recommendations of the panel made under subsection (a) of this section.

(d) Notification

Not later than June 30 of each year, the Secretary shall notify each Hispanic-serving institution making an application under this subchapter of—

(1) the scores given the institution by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this subchapter, and any modifications, if any, in the recommendations of the panel made by the Secretary.

(Pub. L. 89–329, title V, §513, as added Pub. L. 105–244, title V, §501, Oct. 7, 1998, 112 Stat. 1772.)

PRIOR PROVISIONS

A prior section 1103b, Pub. L. 89–329, title V, §513, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 674, related to use of funds, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103b, Pub. L. 89–329, title V, §513, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1497, related to review of applications for grants, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 513 of Pub. L. 89–329 was classified to section 1103 of this title prior to repeal by Pub. L. 97–35.

§ 1103c. Cooperative arrangements

(a) General authority

The Secretary may make grants to encourage cooperative arrangements with funds available to carry out this subchapter, between Hispanic-serving institutions eligible for assistance under this subchapter, and between such institutions and institutions not receiving assistance under this subchapter, for the activities described in section 1101b of this title so that the resources of the cooperating institutions might be combined and shared in order to achieve the purposes of this subchapter, to avoid costly duplicative efforts, and to enhance the development of Hispanic-serving institutions.

(b) Priority

The Secretary shall give priority to grants for the purposes described under subsection (a) of this section whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant Hispanic-serving institution.

(c) Duration

Grants to Hispanic-serving institutions having a cooperative arrangement may be made under

this section for a period determined under section 1101d of this title.

(Pub. L. 89–329, title V, § 514, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1773.)

PRIOR PROVISIONS

A prior section 1103c, Pub. L. 89–329, title V, § 514, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 675, related to applications for grants, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103c, Pub. L. 89–329, title V, § 514, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1497, related to amount of grants to institutions offering midcareer teacher training for nontraditional students, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 514 of Pub. L. 89–329 was classified to section 1104 of this title prior to repeal by Pub. L. 97–35.

§ 1103d. Assistance to institutions under other programs

(a) Assistance eligibility

Each Hispanic-serving institution that the Secretary determines to be an institution eligible under this subchapter may be eligible for waivers in accordance with subsection (b) of this section.

(b) Waiver applicability

(1) In general

Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by a Hispanic-serving institution referred to in subsection (a) of this section for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

(2) Programs

The provisions of this section shall apply to any program authorized by subchapter IV of this chapter and part C of subchapter I of chapter 34 of title 42 or section 1124 of this title.

(c) Limitation

The Secretary shall not waive, under subsection (b) of this section, the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

(Pub. L. 89–329, title V, § 515, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1773.)

PRIOR PROVISIONS

A prior section 1103d, Pub. L. 89–329, title V, § 515, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 676, related to State delegations to National Teacher Academies, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1103d, Pub. L. 89–329, title V, § 515, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1497, required reports to Secretary from institutions receiving grants, prior to the general amendment of this subchapter by Pub. L. 102–325.

A prior section 515 of Pub. L. 89–329 was classified to section 1105 of this title prior to repeal by Pub. L. 97–35.

§ 1103e. Limitations

The funds appropriated under section 1103g of this title may not be used—

(1) for a school or department of divinity or any religious worship or sectarian activity;

(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to a Hispanic-serving institution;

(3) for an activity that is inconsistent with a State plan of higher education applicable to a Hispanic-serving institution; or

(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to a Hispanic-serving institution.

(Pub. L. 89–329, title V, § 516, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1774.)

PRIOR PROVISIONS

A prior section 1103e, Pub. L. 89–329, title V, § 516, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 676, related to selection of participants in National Teacher Academies, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 516 of Pub. L. 89–329 was classified to section 1106 of this title prior to repeal by Pub. L. 97–35.

§ 1103f. Penalties

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this subchapter embezzles, willfully misapplies, steals, or obtains by fraud any of the funds that are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

(Pub. L. 89–329, title V, § 517, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1774.)

PRIOR PROVISIONS

A prior section 1103f, Pub. L. 89–329, title V, § 517, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 677, related to evaluation of system of National Teacher Academies, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 517 of Pub. L. 89–329 was classified to section 1107 of this title prior to repeal by Pub. L. 97–35.

§ 1103g. Authorizations of appropriations

(a) Authorizations

There are authorized to be appropriated to carry out this subchapter $62,500,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Use of multiple year awards

In the event of a multiple year award to any Hispanic-serving institution under this subchapter, the Secretary shall make funds available for such award from funds appropriated for this subchapter for the fiscal year in which such funds are to be used by the institution.

(Pub. L. 89–329, title V, § 518, as added Pub. L. 105–244, title V, § 501, Oct. 7, 1998, 112 Stat. 1774.)

PRIOR PROVISIONS

A prior section 1103g, Pub. L. 89–329, title V, § 518, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 677, authorized appropriations for National Teacher Academies program, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 518 of Pub. L. 89–329 was classified to section 1108 of this title prior to repeal by Pub. L. 94–482.

Prior sections 1104 to 1104k, 1105 to 1105i, 1106 to 1106g, and 1107 were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1104, Pub. L. 89–329, title V, § 521, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 677, related to purpose of Paul Douglas Teacher Scholarship program and provided that scholarships be referred to as ''Paul Douglas Teacher Scholarships''.

A prior section 1104, Pub. L. 89–329, title V, § 514, Nov. 8, 1965, 79 Stat. 1257; Pub. L. 90–35, § 3(a)(3), (g)(1), June 29, 1967, 81 Stat. 85, 86; Pub. L. 90–575, title II, § 232, Oct. 16, 1968, 82 Stat. 1039; Pub. L. 91–230, title VIII, §§ 804(e), 805(c), Apr. 13, 1970, 84 Stat. 191, 192; Pub. L. 93–380, title VIII, § 835(a)(4), Aug. 21, 1974, 88 Stat. 605; Pub. L. 94–482, title I, § 152(e), Oct. 12, 1976, 90 Stat. 2153; Pub. L. 96–374, title V, § 502(e), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1459, 1503, set forth provisions respecting compensation of program members, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1104a, Pub. L. 89–329, title V, § 522, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 677, related to allocation among States.

Section 1104b, Pub. L. 89–329, title V, § 523, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 678, related to State applications for grants.

Section 1104c, Pub. L. 89–329, title V, § 524, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 680, related to amount and duration of scholarships and relation to other assistance.

Section 1104d, Pub. L. 89–329, title V, § 525, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 680; amended Pub. L. 103–208, § 2(j)(2), Dec. 20, 1993, 107 Stat. 2480, related to selection of Paul Douglas Teacher Scholars.

Section 1104e, Pub. L. 89–329, title V, § 526, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 681, related to scholarship conditions.

Section 1104f, Pub. L. 89–329, title V, § 527, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 681, related to scholarship repayment provisions.

Section 1104g, Pub. L. 89–329, title V, § 528, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 681, related to exceptions to repayment provisions.

Section 1104h, Pub. L. 89–329, title V, § 529, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 682, related to Federal administration of State programs and judicial review.

Section 1104i, Pub. L. 89–329, title V, § 530, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 682, related to evaluation of scholarship recipients.

Section 1104j, Pub. L. 89–329, title V, § 530A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 683; amended Pub. L. 103–208, § 2(j)(3), Dec. 20, 1993, 107 Stat. 2481, related to designation of shortage areas.

Section 1104k, Pub. L. 89–329, title V, § 530B, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 683, authorized appropriations for Paul Douglas Teacher Scholarship program.

Section 1105, Pub. L. 89–329, title V, § 531, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 684, related to purpose of Christa McAuliffe fellowship program and provided that fellowship recipients be known as ''Christa McAuliffe fellows''.

A prior section 1105, Pub. L. 89–329, title V, § 521, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1498, provided that the purpose of former part B of this subchapter was to encourage partnerships between institutions of higher education and secondary schools serving low-income students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1105, Pub. L. 89–329, title V, § 515, Nov. 8, 1965, 79 Stat. 1257; Pub. L. 90–35, § 3(h), June 29, 1967, 81 Stat. 87; Pub. L. 90–83, § 10(b), Sept. 11, 1967, 81 Stat. 223, related to applicability of other provisions of laws to members of the Teacher Corps, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1105a, Pub. L. 89–329, title V, § 532, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 684, authorized grants to State education agencies for Christa McAuliffe fellowship program.

A prior section 1105a, Pub. L. 89–329, title V, § 522, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1498, related to partnership agreements between institutions of higher education and secondary schools serving low-income students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1105b, Pub. L. 89–329, title V, § 533, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 684, related to award and use of Christa McAuliffe fellowships.

A prior section 1105b, Pub. L. 89–329, title V, § 523, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1498, related to grants to encourage partnerships between institutions of higher education and secondary schools serving low-income students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1105c, Pub. L. 89–329, title V, § 534, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 685, related to selection of Christa McAuliffe fellows.

A prior section 1105c, Pub. L. 89–329, title V, § 524, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1499, related to application for grants to encourage the partnership between institutions of higher education and secondary schools serving low-income students, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1105d, Pub. L. 89–329, title V, § 535, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 685; amended Pub. L. 103–208, § 2(j)(4), Dec. 20, 1993, 107 Stat. 2481, related to evaluation of applications.

A prior section 1105d, Pub. L. 89–329, title V, § 525, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1499, related to the community college pilot project, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1105e, Pub. L. 89–329, title V, § 536, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 686, related to fellowship repayment provisions.

Section 1105f, Pub. L. 89–329, title V, § 537, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 686; amended Pub. L. 103–208, § 2(j)(5), Dec. 20, 1993, 107 Stat. 2481, related to Secretary's responsibilities.

Section 1105g, Pub. L. 89–329, title V, § 538, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 686, related to State applications for grants.

Section 1105h, Pub. L. 89–329, title V, § 539, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 687, related to evaluation of Christa McAuliffe fellows and their impact.

Section 1105i, Pub. L. 89–329, title V, § 540, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 687, authorized appropriations to carry out Christa McAuliffe fellowship program.

Section 1106, Pub. L. 89–329, title V, § 541, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 687, authorized Teacher Corps program.

A prior section 1106, Pub. L. 89–329, title V, § 516, Nov. 8, 1965, 79 Stat. 1258, related to supervision and control of members by local educational agencies, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1106a, Pub. L. 89–329, title V, § 542, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 688, related to use of funds.

Section 1106b, Pub. L. 89–329, title V, § 543, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 689, related to selection of Teacher Corps members.

Section 1106c, Pub. L. 89–329, title V, § 544, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 690, related to State applications for funds.

Section 1106d, Pub. L. 89–329, title V, § 545, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 690; amended Pub. L. 103–208, § 2(j)(6), Dec. 20, 1993, 107 Stat. 2481, related to Teacher Corps scholarships.

Section 1106e, Pub. L. 89–329, title V, § 546, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 691, related to scholarship conditions.

Section 1106f, Pub. L. 89–329, title V, § 547, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 693, related to publication and recruitment.

Section 1106g, Pub. L. 89–329, title V, § 548, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 693, authorized appropriations for Teacher Corps program.

Section 1107, Pub. L. 89–329, title V, § 551, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 693; amended Pub. L. 103–227, title X, § 1013, Mar. 31, 1994, 108 Stat. 265, related to National Board for Professional Teaching Standards.

A prior section 1107, Pub. L. 89–329, title V, § 531, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1500, related to purpose and authority for professional development resource centers program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1107, Pub. L. 89–329, title V, § 517, Nov. 8, 1965, 79 Stat. 1258; Pub. L. 90–35, § 3(a)(3), June 29, 1967, 81 Stat. 85, prohibited members of the Teacher Corps from acting as replacements for teachers, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Prior sections 1107a to 1107d were omitted in the general amendment of this subchapter by Pub. L. 102–325.

Section 1107a, Pub. L. 89–329, title V, § 532, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1501, related to geographical distribution of grants to establish and operate professional development resource centers.

Another prior section 1107a, Pub. L. 89–329, title V, § 517A, as added Pub. L. 90–35, § 3(i), June 29, 1967, 81 Stat. 87, related to teaching children of migratory agricultural workers, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 1107b, Pub. L. 89–329, title V, § 533, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1501, related to grant requirements for professional development resource centers.

Section 1107c, Pub. L. 89–329, title V, § 534, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1502, related to requirement for professional development policy boards.

Section 1107d, Pub. L. 89–329, title V, § 535, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1502, related to submission and approval of applications for grants to establish and operate professional development resource centers.

Prior sections 1108 to 1108g were repealed by Pub. L. 102–325, title V, § 501(b), July 23, 1992, 106 Stat. 719, effective July 1, 1995.

Section 1108, Pub. L. 89–329, title V, § 552, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 698, provided that subpart 2 of former part D of this subchapter could be cited as the ''Alternative Routes to Teacher Certification and Licensure Act of 1992''.

A prior section 1108, Pub. L. 89–329, title V, § 518, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 87; amended Pub. L. 90–575, title II, §§ 231(a), 233(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §§ 141(a)(1)(B), (c)(1)(D), (2)(A), 143(a)(1), June 23, 1972, 86 Stat. 284–286, authorized a program for making grants to States to alleviate teacher shortages, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1108a, Pub. L. 89–329, title V, § 553, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 698, provided congressional findings concerning alternative teacher certification and licensure.

Section 1108b, Pub. L. 89–329, title V, § 554, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 698, stated purpose of subpart 2 of former part D of this subchapter.

Section 1108c, Pub. L. 89–329, title V, § 555, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 699, provided for allotments of funds to States.

Section 1108d, Pub. L. 89–329, title V, § 556, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 699; amended Pub. L. 103–382, title II, § 261(i)(2), Oct. 20, 1994, 108 Stat. 3929, related to State applications for grants under subpart 2 of former part D of this subchapter.

Section 1108e, Pub. L. 89–329, title V, § 557, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 700, outlined permissible uses of funds.

Section 1108f, Pub. L. 89–329, title V, § 558, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 700, defined ''State'' for purposes of subpart 2 of former part D of this subchapter.

Section 1108g, Pub. L. 89–329, title V, § 559, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 700, authorized appropriations for fiscal year 1993 to carry out subpart 2 of former part D of this subchapter.

Prior sections 1109 to 1109e, 1110 to 1110e, 1111 to 1111h, 1112 to 1112e, and 1113 were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1109, Pub. L. 89–329, title V, § 561, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 700, set forth purpose of class size demonstration grant program.

A prior section 1109, Pub. L. 89–329, title V, § 541, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1503; amended Pub. L. 100–50, § 16(1), June 3, 1987, 101 Stat. 358; Pub. L. 101–226, § 20, Dec. 12, 1989, 103 Stat. 1936, related to purpose of, and regulations under, leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1109, Pub. L. 89–329, title V, § 519, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 88; amended Pub. L. 90–575, title II, § 234(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(c)(2)(B), June 23, 1972, 86 Stat. 285, authorized allotments and reallotments to States, etc., for grants for implementation of program and set forth criteria for determination of amounts, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1109a, Pub. L. 89–329, title V, § 562, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 700, authorized program of grants for demonstration projects that demonstrate methods of reducing class size.

A prior section 1109a, Pub. L. 89–329, title V, § 542, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1504; amended Pub. L. 100–50, § 16(2), June 3, 1987, 101 Stat. 358, related to allocation of appropriations for leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1109b, Pub. L. 89–329, title V, § 563, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 701, related to program requirements.

A prior section 1109b, Pub. L. 89–329, title V, § 543, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1504; amended Pub. L. 100–50, § 16(3), June 3, 1987, 101 Stat. 358, related to technical assistance centers under leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1109c, Pub. L. 89–329, title V, § 564, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 701, related to applications for grants.

A prior section 1109c, Pub. L. 89–329, title V, § 544, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1505; amended Pub. L. 100–50, § 16(4), June 3, 1987, 101 Stat. 359, related to general criteria for grants under leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1109d, Pub. L. 89–329, title V, § 565, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 702, related to evaluation of demonstration projects and dissemination of information.

A prior section 1109d, Pub. L. 89–329, title V, § 545, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1505; amended Pub. L. 100–50, § 16(5), June 3, 1987, 101 Stat. 359, defined terms for purposes of leadership in educational administration development program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1109e, Pub. L. 89–329, title V, § 565A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 702, authorized appropriations for class size demonstration grant program.

Section 1110, Pub. L. 89–329, title V, § 566, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 703, stated purpose of middle school teaching demonstration grant program.

A prior section 1110, Pub. L. 89–329, title V, § 520, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 88; amended Pub. L. 90–575, title II, § 233(b), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §§ 143(a)(2), (3), 144(a), 145(a), 146(a), June 23, 1972, 86 Stat. 286, 287, set forth requirements for State plans as prerequisite for receipt of grant by State, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1110a, Pub. L. 89–329, title V, § 567, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 703, defined ''developmentally appropriate'' and ''middle school''.

A prior section 1110a, Pub. L. 89–329, title V, § 520A, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 89, set forth manner of repayment of amounts expended by each State for implementation of State plan, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1110b, Pub. L. 89–329, title V, § 568, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 703, authorized program of grants for development of model programs with specialized focus on teaching grades 6 through 9.

A prior section 1110b, Pub. L. 89–329, title V, § 520B, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 89, set forth requirements for disapproval of State plans by Commissioner, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1110c, Pub. L. 89–329, title V, § 569, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 703, related to applications for grants.

A prior section 1110c, Pub. L. 89–329, title V, § 520C, as added Pub. L. 90–35, § 4, June 29, 1967, 81 Stat. 90, set forth procedure for judicial review of determinations of Commissioner with respect to State plan, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1110d, Pub. L. 89–329, title V, § 570, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 704, related to submission of reports and other information by grant recipients.

Section 1110e, Pub. L. 89–329, title V, § 570A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 704, authorized appropriations for middle school teaching demonstration grant program.

Section 1111, Pub. L. 89–329, title V, § 571, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 704, stated purpose of new teaching careers grant program.

A prior section 1111, Pub. L. 89–329, title V, § 551, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1506; amended Pub. L. 100–50, § 17(a), June 3, 1987, 101 Stat. 359, set forth purpose of Congressional teacher scholarship program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1111, Pub. L. 89–329, title V, § 521, Nov. 8, 1965, 79 Stat. 1258; Pub. L. 90–35, § 5(b), June 29, 1967, 81 Stat. 90; Pub. L. 90–247, title VII, § 704(a), Jan. 2, 1968, 81 Stat. 820; Pub. L. 90–575, title II, § 235, Oct. 16, 1968, 82 Stat. 1040; Pub. L. 91–230, title VIII, § 806(a), Apr. 13, 1970, 84 Stat. 192; Pub. L. 92–318, title I, § 146A, June 23, 1972, 86 Stat. 287, set forth Congressional declaration of policy and statement of purpose, and definitions for fellowship program for teachers and related educational personnel, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1111a, Pub. L. 89–329, title V, § 572, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 704; amended Pub. L. 103–382, title III, § 391(e)(5), Oct. 20, 1994, 108 Stat. 4022, authorized grants to States.

A prior section 1111a, Pub. L. 89–329, title V, § 552, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1506, related to allocation of funds among the States for Congressional teacher scholarships, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111b, Pub. L. 89–329, title V, § 573, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 705, related to agreements with grant recipients.

A prior section 1111b, Pub. L. 89–329, title V, § 553, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1506; amended Pub. L. 100–50, § 17(b), June 3, 1987, 101 Stat. 359, related to grant applications for Congressional teacher scholarships, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111c, Pub. L. 89–329, title V, § 574, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 705, related to applications for grants.

A prior section 1111c, Pub. L. 89–329, title V, § 554, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1508, related to amount and duration of assistance under Congressional teacher fellowships and relationship of such assistance to other assistance, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111d, Pub. L. 89–329, title V, § 575, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 706, related to requirements of recipients of student financial assistance under programs.

A prior section 1111d, Pub. L. 89–329, title V, § 555, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1508, related to the selection of Congressional teacher scholars, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111e, Pub. L. 89–329, title V, § 576, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 707, related to special considerations in awarding grants.

A prior section 1111e, Pub. L. 89–329, title V, § 556, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1509, related to conditions for Congressional teacher scholarships, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111f, Pub. L. 89–329, title V, § 576A, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 707, related to use of funds by grant recipients.

A prior section 1111f, Pub. L. 89–329, title V, § 557, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1509; amended Pub. L. 100–50, § 17(c), June 3, 1987, 101 Stat. 359, related to Congressional teacher scholarship repayment provisions, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111g, Pub. L. 89–329, title V, § 576B, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 707, defined terms.

A prior section 1111g, Pub. L. 89–329, title V, § 558, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1509; amended Pub. L. 100–50, § 17(d), June 3, 1987, 101 Stat. 359, related to exceptions to Congressional teacher scholarship repayment provisions, prior to the general amendment of this subchapter by Pub. L. 102–325.

Section 1111h, Pub. L. 89–329, title V, § 576C, as added Pub. L. 102–325, title V, § 501(a), July 23, 1992, 106 Stat. 708, authorized appropriations for new teaching careers grant program.

A prior section 1111h, Pub. L. 89–329, title V, § 559, as added Pub. L. 99–498, title V, § 501(a), Oct. 17, 1986, 100 Stat. 1510, related to Federal administration of State programs and judicial review of Congressional teacher scholarship programs, prior to the general of this subchapter by Pub. L. 102–325.

Section 1112, Pub. L. 89–329, title V, §577, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 708, stated purpose of grant program to encourage minority students to become teachers.

A prior section 1112, Pub. L. 89–329, title V, §522, Nov. 8, 1965, 79 Stat. 1258; Pub. L. 90–35, §5(c), June 29, 1967, 81 Stat. 91; Pub. L. 90–247, title VII, §704(b), Jan. 2, 1968, 81 Stat. 820, authorized Commissioner to award fellowships for graduate study by teaching personnel, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1112a, Pub. L. 89–329, title V, §578, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 708, authorized grants for partnerships.

Section 1112b, Pub. L. 89–329, title V, §579, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 708, related to partnership agreements.

Section 1112c, Pub. L. 89–329, title V, §580, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 709, related to applications for teacher partnership program grants.

Section 1112d, Pub. L. 89–329, title V, §580A, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 710, authorized grants for teacher training and placement programs.

Section 1112e, Pub. L. 89–329, title V, §580B, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 710; amended Pub. L. 103–208, §2(j)(7), Dec. 20, 1993, 107 Stat. 2481, authorized appropriations for programs under sections 1112a and 1112d of this title.

Section 1113, Pub. L. 89–329, title V, §581, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 711; amended Pub. L. 103–208, §2(j)(8), Dec. 20, 1993, 107 Stat. 2481; Pub. L. 103–382, title III, §391(e)(6), (7), Oct. 20, 1994, 108 Stat. 4022, 4023, authorized grants for partnerships to carry out National Mini Corps Program.

A prior section 1113, Pub. L. 89–329, title V, §561, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1510, related to purpose of Christa McAuliffe fellowship program and to designation of fellowships under such program, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1113, Pub. L. 89–329, title V, §523, Nov. 8, 1965, 79 Stat. 1259; Pub. L. 90–35, §5(d), June 29, 1967, 81 Stat. 91; Pub. L. 90–575, title II, §236, Oct. 16, 1968, 82 Stat. 1040, required allocation of fellowships to institutions with approved programs and set forth criteria for approval of programs, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Prior sections 1113a to 1113e were omitted in the general amendment of this subchapter by Pub. L. 102–325.

Section 1113a, Pub. L. 89–329, title V, §562, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1511, related to use of funds for Christa McAuliffe fellowship program.

Section 1113b, Pub. L. 89–329, title V, §563, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1511, related to award, distribution, and use of Christa McAuliffe fellowships.

Section 1113c, Pub. L. 89–329, title V, §564, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1511, related to selection of Christa McAuliffe teacher fellowships.

Section 1113d, Pub. L. 89–329, title V, §565, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1511, related to evaluation of applications for Christa McAuliffe fellowships.

Section 1113e, Pub. L. 89–329, title V, §566, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1512, related to repayment of Christa McAuliffe fellowships.

Prior sections 1114, 1114a, 1115, 1116, and 1117 to 1117c were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1114, Pub. L. 89–329, title V, §586, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 712; amended Pub. L. 103–382, title III, §391(e)(8), (9), Oct. 20, 1994, 108 Stat. 4023, authorized demonstration grants for critical language and area studies.

A prior section 1114, Pub. L. 89–329, title V, §524, Nov. 8, 1965, 79 Stat. 1259; Pub. L. 90–35, §5(e), June 29, 1967, 81 Stat. 91; Pub. L. 90–575, title II, §237, Oct. 16, 1968, 82 Stat. 1040, set forth prerequisites for approval of graduate programs to develop and strengthen training of educational personnel, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1114a, Pub. L. 89–329, title V, §587, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 714, related to development of foreign language and culture instructional materials.

Section 1115, Pub. L. 89–329, title V, §591, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 714, authorized grants for development of model programs for educational excellence, teacher training, and educational reform.

A prior section 1115, Pub. L. 89–329, title V, §571, as added Pub. L. 99–498, title V, §501(a), Oct. 17, 1986, 100 Stat. 1512, related to State task forces on teacher training, prior to the general amendment of this subchapter by Pub. L. 102–325.

Another prior section 1115, Pub. L. 89–329, title V, §525, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 90–35, §5(f), June 29, 1967, 81 Stat. 91; Pub. L. 90–575, title II, §238, Oct. 16, 1968, 82 Stat. 1040; Pub. L. 92–318, title I, §141(c)(3), June 23, 1972, 86 Stat. 285, authorized Commissioner to pay stipends to individuals awarded fellowships and additional amounts to institutions of higher education for support of programs, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1116, Pub. L. 89–329, title V, §593, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 715, authorized grants for development of model programs of development and training of faculty who teach students with disabilities.

A prior section 1116, Pub. L. 89–329, title V, §526, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 92–318, title I, §131(d)(2)(C), June 23, 1972, 86 Stat. 260, prohibited award of fellowships for study at divinity school or department, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1117, Pub. L. 89–329, title V, §596, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 716, authorized grants for programs to recruit and train students for careers in early childhood education and violence counseling.

A prior section 1117, Pub. L. 89–329, title V, §527, Nov. 8, 1965, 79 Stat. 1260, set forth conditions imposed upon fellowship recipient, prior to repeal by Pub. L. 94–482, title I, §151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, eff. Sept. 30, 1976.

Section 1117a, Pub. L. 89–329, title V, §597, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 717; amended Pub. L. 103–208, §2(j)(9), Dec. 20, 1993, 107 Stat. 2481, authorized grants for early childhood staff training and professional enhancement.

Section 1117b, Pub. L. 89–329, title V, §598, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 719, required reports by grant recipients.

Section 1117c, Pub. L. 89–329, title V, §599, as added Pub. L. 102–325, title V, §501(a), July 23, 1992, 106 Stat. 719, authorized appropriations for activities described in sections 1117 and 1117a of this title.

A prior section 1118, Pub. L. 89–329, title V, §528, Nov. 8, 1965, 79 Stat. 1260; Pub. L. 90–35, §5(g), June 29, 1967, 81 Stat. 91; Pub. L. 90–247, title VII, §704(c)(1), Jan. 2, 1968, 81 Stat. 820; Pub. L. 90–575, title II, §231(a), (b)(2), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, §141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1966 to 1974 to enable persons who were awarded fellowships prior to July 1, 1972, to complete their study under fellowships, prior to repeal by Pub. L. 92–318, title I, §141(c)(1)(E), June 23, 1972, 86 Stat. 285, eff. on and after July 1, 1972.

Prior sections 1119 to 1119e–5 provided for teacher training programs, training for elementary and secondary school teachers to teach handicapped children in areas with a shortage, coordination of education pro-

fessional development, Carl D. Perkins Scholarship program, and National Talented Teacher Fellowship program, prior to the general amendment of this subchapter by Pub. L. 99–498.

Section 1119 Pub. L. 89–329, title V, § 531, as added Pub. L. 94–482, title I, § 153, formerly § 153(a), Oct. 12, 1976, 90 Stat. 2154, renumbered Pub. L. 95–43, § 1(b)(5), June 15, 1977, 91 Stat. 218; amended Pub. L. 95–561, title XIII, § 1321(a), Nov. 1, 1978, 92 Stat. 2362; Pub. L. 96–49, § 6(b), Aug. 13, 1979, 93 Stat. 353; Pub. L. 96–374, title V, §§ 501(b), 503(a), Oct. 3, 1980, 94 Stat. 1459, authorized appropriations for fiscal years 1981 to 1985 to carry out teacher training programs.

Another prior section 1119, Pub. L. 89–329, title V, § 531, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 91; amended Pub. L. 90–247, title VII, § 704(d), Jan. 2, 1968, 81 Stat. 820; Pub. L. 92–318, title I, §§ 147(a), 148(a), June 23, 1972, 86 Stat. 287, authorized training and retraining programs for education personnel other than higher education personnel, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

Section 1119a, Pub. L. 89–329, title V, § 532, as added Pub. L. 94–482, title I, § 153, formerly § 153(a), Oct. 12, 1976, 90 Stat. 2154, renumbered Pub. L. 95–43, § 1(b)(5), June 15, 1977, 91 Stat. 218; amended Pub. L. 95–561, title XIII, § 1321(b), Nov. 1, 1978, 92 Stat. 2363; Pub. L. 96–374, title V, § 503(b), (c), title XIII, § 1391(a)(1), (2), Oct. 3, 1980, 94 Stat. 1459, 1460, 1503, related to grants, functions, etc., of teacher centers, prior to repeal by Pub. L. 97–35, title V, § 587(a)(2), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Another prior section 1119a, Pub. L. 89–329, title V, § 532, as added Pub. L. 92–318, title IV, § 451(b), June 23, 1972, 86 Stat. 344, authorized teachers for Indian children as part of the training and retraining program, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

Another prior section 1119a, Pub. L. 89–329, title V, § 532, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 92; amended Pub. L. 90–575, title II, § 231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1969 to 1972, prior to repeal by section 141(c)(1)(F) of Pub. L. 92–318, effective on and after July 1, 1972.

Section 1119a–1, Pub. L. 89–329, title V, § 533, as added Pub. L. 94–482, title I, § 153, Oct. 12, 1976, 90 Stat. 2155; amended Pub. L. 95–43, § 1(a)(42), (b)(5), June 15, 1977, 91 Stat. 217, 218; Pub. L. 96–374, title V, § 504, Oct. 3, 1980, 94 Stat. 1460; Pub. L. 97–300, title I, § 183, Oct. 13, 1982, 96 Stat. 1357, related to grants for training higher education personnel.

Another prior section 1119a–1, Pub. L. 89–329, title V, § 533, as added Pub. L. 90–575, title II, § 239, Oct. 16, 1968, 82 Stat. 1040, required an equitable distribution with respect to geography for training programs, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152, effective Sept. 30, 1976.

Section 1119b, Pub. L. 89–329, title V, § 541, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1461, authorized grants to State educational agencies to train teachers for handicapped children.

Another prior section 1119b, Pub. L. 89–329, title V, § 541, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 93, authorized grants or contracts with institutions of higher education for training programs and projects for higher education personnel, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152.

Section 1119b–1, Pub. L. 89–329, title V, § 542, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1462, related to applications for grants for training teachers for handicapped children.

Another prior section 1119b–1, Pub. L. 89–329, title V, § 542, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 93, authorized the payment of stipends to persons participating in authorized training programs, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(A), Oct. 12, 1976, 90 Stat. 2152.

Section 1119b–2, Pub. L. 89–329, title V, § 543, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1462, provided for stipends and allowances for participants in program of training teachers for handicapped children.

Another prior section 1119b–2, Pub. L. 89–329, title V, § 543, as added Pub. L. 90–35, § 6, June 29, 1967, 81 Stat. 93; amended Pub. L. 90–575, title II, § 231(a), Oct. 16, 1968, 82 Stat. 1039; Pub. L. 92–318, title I, § 141(a)(1)(B), June 23, 1972, 86 Stat. 284, authorized appropriations for fiscal years 1969 to 1972, prior to repeal by Pub. L. 92–318, title I, § 141(c)(1)(G), June 23, 1972, 86 Stat. 285.

Section 1119b–3, Pub. L. 89–329, title V, § 544, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1463, set out conditions for maintaining fellowships in training teachers for handicapped children.

Section 1119b–4, Pub. L. 89–329, title V, § 545, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1463, defined ''special education''.

Section 1119b–5, Pub. L. 89–329, title V, § 546, as added Pub. L. 96–374, title V, § 505(a), Oct. 3, 1980, 94 Stat. 1463, authorized appropriations for fiscal years 1981 to 1985 to carry out grant program for training teachers for handicapped children.

Section 1119c, Pub. L. 89–329, title V, § 551, as added Pub. L. 96–374, title V, § 506, Oct. 3, 1980, 94 Stat. 1463, stated Congressional findings concerning Federal programs to train education professionals.

Another prior section 1119c, Pub. L. 89–329, title V, § 551, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1091, set forth Congressional declaration of purpose, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–1, Pub. L. 89–329, title V, § 552, as added Pub. L. 96–374, title V, § 506, Oct. 3, 1980, 94 Stat. 1464, stated Congressional declaration of policy concerning Federal programs to support education professional development.

Another prior section 1119c–1, Pub. L. 89–329, title V, § 552, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1092, related to leadership development awards, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–2, Pub. L. 89–329, title V, § 553, as added Pub. L. 96–374, title V, § 506, Oct. 3, 1980, 94 Stat. 1464; amended Pub. L. 99–386, title I, § 103(b), Aug. 22, 1986, 100 Stat. 821, established Office of Education Professional Development.

Another prior section 1119c–2, Pub. L. 89–329, title V, § 553, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1093, related to exchange programs, institutes, and in-service education for vocational education teachers, supervisors, coordinators, and administrators, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–3, Pub. L. 89–329, title V, § 554, as added Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1094, related to familiarizing teachers with new curricular methods, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

Section 1119c–4, Pub. L. 89–329, title V, § 555, as added Pub. L. 94–482, title I, § 151(a)(4)(B), Oct. 12, 1976, 90 Stat. 2152, authorized appropriation for the fiscal years ending prior to Oct. 1, 1977, prior to repeal by Pub. L. 94–482, title I, § 151(a)(4)(C), title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2152, 2215.

An identical section 555 of Pub. L. 89–329, as added Pub. L. 94–482, title II, § 201(q), Oct. 12, 1976, 90 Stat. 2169, was also classified to section 1119c–4, and was repealed by Pub. L. 94–482, title II, § 204(c)(1), Oct. 12, 1976, 90 Stat. 2215.

Another prior section 1119c–4, Pub. L. 89–329, title V, § 555, as added by Pub. L. 90–576, title II, § 201, Oct. 16, 1968, 82 Stat. 1094; amended by Pub. L. 91–230, title VII, § 708, Apr. 13, 1970, 84 Stat. 189, authorized appropriations for fiscal years 1969 to 1972, prior to repeal by Pub. L. 92–318, title I, § 141(c)(1)(H), June 23, 1972, 86 Stat. 285.

Section 1119d, Pub. L. 89–329, title V, § 561, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2894,

stated purpose and authorized appropriations for Carl D. Perkins Scholarship program.

Section 1119d–1, Pub. L. 89–329, title V, § 562, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2894, provided for allocation among States of funds appropriated for Carl D. Perkins Scholarship program.

Section 1119d–2, Pub. L. 89–329, title V, § 563, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2894, provided for form, content, and processing of applications for grants to States under Carl D. Perkins Scholarship program.

Section 1119d–3, Pub. L. 89–329, title V, § 564, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2896, related to amount and duration of Carl D. Perkins Scholarships and the relationship of Scholarships to other forms of assistance.

Section 1119d–4, Pub. L. 89–329, title V, § 565, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2896, provided for selection of Carl D. Perkins Scholars.

Section 1119d–5, Pub. L. 89–329, title V, § 566, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2897, provided conditions for continued receipt of Carl D. Perkins Scholarship assistance.

Section 1119d–6, Pub. L. 89–329, title V, § 567, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2897, provided for repayment of Carl D. Perkins Scholarship assistance in case of noncompliance with program agreement.

Section 1119d–7, Pub. L. 89–329, title V, § 568, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2897, provided exceptions to repayment requirements.

Section 1119d–8, Pub. L. 89–329, title V, § 569, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2898, related to Federal administration of State programs to make available Carl D. Perkins Scholarships and judicial review thereof.

Section 1119e, Pub. L. 89–329, title V, § 571, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2898, stated purpose of establishing national fellowship program for outstanding teachers.

Section 1119e–1, Pub. L. 89–329, title V, § 572, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2898, authorized appropriations for fiscal years 1986 to 1989 for fellowships to outstanding teachers.

Section 1119e–2, Pub. L. 89–329, title V, § 573, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2899, provided for program of talented teacher fellowships.

Section 1119e–3, Pub. L. 89–329, title V, § 574, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2899, provided for selection of recipients of talented teacher fellowships.

Section 1119e–4, Pub. L. 89–329, title V, § 575, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2899, provided for submission and evaluation of applications for talented teacher fellowship assistance.

Section 1119e–5, Pub. L. 89–329, title V, § 576, as added Pub. L. 98–558, title VII, § 701, Oct. 30, 1984, 98 Stat. 2900, provided for repayment of awards to Federal Government in case of fraud or gross noncompliance.

SUBCHAPTER VI—INTERNATIONAL EDUCATION PROGRAMS

CODIFICATION

Title VI of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1261; amended Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–49, Aug. 13, 1979; 93 Stat. 351. Title VI (except for part A) is shown herein, however, as having been added by Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1464, without reference to those intervening amendments because of the extensive revision of the title's provisions by Pub. L. 96–374.

PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

CODIFICATION

Part A of title VI of the Higher Education Act of 1965, comprising this part, was originally enacted by Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1261; amended Pub. L. 89–752, Nov. 3, 1966, 80 Stat. 1240; Pub. L. 90–575, Oct. 16, 1968, 82 Stat. 1014; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–180, Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 97–375, Dec. 21, 1982, 96 Stat. 1819; Pub. L. 99–386, Aug. 22, 1986, 100 Stat. 821; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457. Part A is shown herein, however, as having been added by Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1774, without reference to those intervening amendments because of the extensive revision of part A by Pub. L. 105–244.

§ 1121. Findings and purposes

(a) Findings

Congress finds as follows:

(1) The security, stability, and economic vitality of the United States in a complex global era depend upon American experts in and citizens knowledgeable about world regions, foreign languages, and international affairs, as well as upon a strong research base in these areas.

(2) Advances in communications technology and the growth of regional and global problems make knowledge of other countries and the ability to communicate in other languages more essential to the promotion of mutual understanding and cooperation among nations and their peoples.

(3) Dramatic post-Cold War changes in the world's geopolitical and economic landscapes are creating needs for American expertise and knowledge about a greater diversity of less commonly taught foreign languages and nations of the world.

(4) Systematic efforts are necessary to enhance the capacity of institutions of higher education in the United States for—

(A) producing graduates with international and foreign language expertise and knowledge; and

(B) research regarding such expertise and knowledge.

(5) Cooperative efforts among the Federal Government, institutions of higher education, and the private sector are necessary to promote the generation and dissemination of information about world regions, foreign languages, and international affairs throughout education, government, business, civic, and nonprofit sectors in the United States.

(b) Purposes

The purposes of this part are—

(1)(A) to support centers, programs, and fellowships in institutions of higher education in the United States for producing increased numbers of trained personnel and research in foreign languages, area studies, and other international studies;

(B) to develop a pool of international experts to meet national needs;

(C) to develop and validate specialized materials and techniques for foreign language acquisition and fluency, emphasizing (but not limited to) the less commonly taught languages;

(D) to promote access to research and training overseas; and

(E) to advance the internationalization of a variety of disciplines throughout undergraduate and graduate education;

(2) to support cooperative efforts promoting access to and the dissemination of international and foreign language knowledge, teaching materials, and research, throughout education, government, business, civic, and nonprofit sectors in the United States, through the use of advanced technologies; and

(3) to coordinate the programs of the Federal Government in the areas of foreign language, area studies, and other international studies, including professional international affairs education and research.

(Pub. L. 89–329, title VI, § 601, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1774.)

PRIOR PROVISIONS

A prior section 1121, Pub. L. 89–329, title VI, § 601, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1464; amended Pub. L. 99–498, title VI, § 601, Oct. 17, 1986, 100 Stat. 1514; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 720, set out findings of Congress and purpose of this part, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1121, Pub. L. 89–329, title VI, § 601, Nov. 8, 1965, 79 Stat. 1261; Pub. L. 89–752, § 3(b), Nov. 3, 1966, 80 Stat. 1241; Pub. L. 90–575, title II, §§ 241, 242(a), Oct. 16, 1968, 82 Stat. 1041; Pub. L. 92–318, title I, § 151(a), June 23, 1972, 86 Stat. 288; Pub. L. 94–482, title I, § 156, Oct. 12, 1976, 90 Stat. 2155; Pub. L. 96–49, § 7, Aug. 13, 1979, 93 Stat. 353, set out the Congressional statement of purpose and the authorization of appropriations for the program of equipment grants to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

EFFECTIVE DATE

Part effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

NATIONAL ENDOWMENT FOR INTERNATIONAL STUDIES

Pub. L. 99–498, title XIII, § 1302, Oct. 17, 1986, 100 Stat. 1580, as amended by Pub. L. 100–50, § 23(2), June 3, 1987, 101 Stat. 362, required Secretary of Education, in consultation with Director of United States Information Agency, Director of the Agency for International Development, Secretary of State, and Secretary of Defense, to conduct a study on establishment of a National Endowment for International Studies, such study to develop a program, a funding plan, and priorities for such an Endowment, with the Secretary to prepare and submit to Congress, not later than one year after Oct. 17, 1986, a report on the study, together with such recommendations, including recommendations for legislation, as the Secretary deemed appropriate, prior to repeal by Pub. L. 105–332, § 6(a), Oct. 31, 1998, 112 Stat. 3127.

§ 1122. Graduate and undergraduate language and area centers and programs

(a) National language and area centers and programs authorized

(1) Centers and programs

(A) In general

The Secretary is authorized—

(i) to make grants to institutions of higher education, or combinations thereof, for the purpose of establishing, strengthening, and operating comprehensive foreign language and area or international studies centers and programs; and

(ii) to make grants to such institutions or combinations for the purpose of establishing, strengthening, and operating a diverse network of undergraduate foreign language and area or international studies centers and programs.

(B) National resources

The centers and programs referred to in paragraph (1) shall be national resources for—

(i) teaching of any modern foreign language;

(ii) instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used;

(iii) research and training in international studies, and the international and foreign language aspects of professional and other fields of study; and

(iv) instruction and research on issues in world affairs that concern one or more countries.

(2) Authorized activities

Any such grant may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of—

(A) teaching and research materials;

(B) curriculum planning and development;

(C) establishing and maintaining linkages with overseas institutions of higher education and other organizations that may contribute to the teaching and research of the center or program;

(D) bringing visiting scholars and faculty to the center to teach or to conduct research;

(E) professional development of the center's faculty and staff;

(F) projects conducted in cooperation with other centers addressing themes of world regional, cross-regional, international, or global importance;

(G) summer institutes in the United States or abroad designed to provide language and area training in the center's field or topic; and

(H) support for faculty, staff, and student travel in foreign areas, regions, or countries, and for the development and support of educational programs abroad for students.

(3) Grants to maintain library collections

The Secretary may make grants to centers described in paragraph (1) having important library collections, as determined by the Secretary, for the maintenance of such collections.

(4) Outreach grants and summer institutes

The Secretary may make additional grants to centers described in paragraph (1) for any one or more of the following purposes:

(A) Programs of linkage or outreach between foreign language, area studies, or

other international fields, and professional schools and colleges.

(B) Programs of linkage or outreach with 2- and 4-year colleges and universities.

(C) Programs of linkage or outreach with departments or agencies of Federal and State governments.

(D) Programs of linkage or outreach with the news media, business, professional, or trade associations.

(E) Summer institutes in foreign area, foreign language, and other international fields designed to carry out the programs of linkage and outreach described in subparagraphs (A), (B), (C), and (D).

(b) Graduate fellowships for foreign language and area or international studies

(1) In general

The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary.

(2) Eligible students

Students receiving stipends described in paragraph (1) shall be individuals who are engaged in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program, including predissertation level studies, preparation for dissertation research, dissertation research abroad, and dissertation writing.

(c) Special rule with respect to travel

No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

(d) Allowances

Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

(Pub. L. 89–329, title VI, § 602, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1775.)

PRIOR PROVISIONS

A prior section 1122, Pub. L. 89–329, title VI, § 602, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1465; amended Pub. L. 99–498, title VI, § 602, Oct. 17, 1986, 100 Stat. 1514; Pub. L. 100–50, § 18, June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 720; Pub. L. 103–208, § 2(j)(10), (11), Dec. 20, 1993, 107 Stat. 2481, authorized grants for graduate and undergraduate language and area centers and programs, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1122, Pub. L. 89–329, title VI, § 602, Nov. 8, 1965, 79 Stat. 1261; Pub. L. 95–180, § 1(c), Nov. 15, 1977, 91 Stat. 1372, related to the allotment to States of funds under the program of equipment grants to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1123. Language resource centers

(a) Language resource centers authorized

The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating a small number of national language resource and training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively.

(b) Authorized activities

The activities carried out by the centers described in subsection (a) of this section—

(1) shall include effective dissemination efforts, whenever appropriate; and

(2) may include—

(A) the conduct and dissemination of research on new and improved teaching methods, including the use of advanced educational technology;

(B) the development and dissemination of new teaching materials reflecting the use of such research in effective teaching strategies;

(C) the development, application, and dissemination of performance testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

(D) the training of teachers in the administration and interpretation of performance tests, the use of effective teaching strategies, and the use of new technologies;

(E) a significant focus on the teaching and learning needs of the less commonly taught languages, including an assessment of the strategic needs of the United States, the determination of ways to meet those needs nationally, and the publication and dissemination of instructional materials in the less commonly taught languages;

(F) the development and dissemination of materials designed to serve as a resource for foreign language teachers at the elementary and secondary school levels; and

(G) the operation of intensive summer language institutes to train advanced foreign language students, to provide professional development, and to improve language instruction through preservice and inservice language training for teachers.

(c) Conditions for grants

Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.

(Pub. L. 89–329, title VI, § 603, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1777.)

PRIOR PROVISIONS

A prior section 1123, Pub. L. 89–329, title VI, § 603, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1466; amended Pub. L. 99–498, title VI, § 603, Oct. 17, 1986, 100 Stat. 1515; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 722; Pub. L. 103–208, § 2(j)(12), Dec. 20, 1993, 107 Stat. 2481, authorized grants for language resource centers, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1123, Pub. L. 89–329, title VI, § 603, Nov. 8, 1965, 79 Stat. 1262, related to the State plans for carrying out the program of equipment grants to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1124. Undergraduate international studies and foreign language programs

(a) Incentives for creation of new programs and strengthening of existing programs in undergraduate international studies and foreign language programs

(1) Authority

The Secretary is authorized to make grants to institutions of higher education, combinations of such institutions, or partnerships between nonprofit educational organizations and institutions of higher education, to assist such institutions, combinations or partnerships in planning, developing, and carrying out programs to improve undergraduate instruction in international studies and foreign languages. Such grants shall be awarded to institutions, combinations or partnerships seeking to create new programs or to strengthen existing programs in foreign languages, area studies, and other international fields.

(2) Use of funds

Grants made under this section may be used for Federal share of the cost of projects and activities which are an integral part of such a program, such as—

(A) planning for the development and expansion of undergraduate programs in international studies and foreign languages;

(B) teaching, research, curriculum development, faculty training in the United States or abroad, and other related activities, including—

(i) the expansion of library and teaching resources; and

(ii) preservice and inservice teacher training;

(C) expansion of opportunities for learning foreign languages, including less commonly taught languages;

(D) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

(E) programs designed to develop or enhance linkages between 2- and 4-year institutions of higher education, or baccalaureate and post-baccalaureate programs or institutions;

(F) the development of undergraduate educational programs—

(i) in locations abroad where such opportunities are not otherwise available or that serve students for whom such opportunities are not otherwise available; and

(ii) that provide courses that are closely related to on-campus foreign language and international curricula;

(G) the integration of new and continuing education abroad opportunities for undergraduate students into curricula of specific degree programs;

(H) the development of model programs to enrich or enhance the effectiveness of educational programs abroad, including predeparture and postreturn programs, and the integration of educational programs abroad into the curriculum of the home institution;

(I) the development of programs designed to integrate professional and technical education with foreign languages, area studies, and other international fields;

(J) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational programs assisted under this subsection;

(K) the conduct of summer institutes in foreign area, foreign language, and other international fields to provide faculty and curriculum development, including the integration of professional and technical education with foreign area and other international studies, and to provide foreign area and other international knowledge or skills to government personnel or private sector professionals in international activities;

(L) the development of partnerships between—

(i) institutions of higher education; and

(ii) the private sector, government, or elementary and secondary education institutions,

in order to enhance international knowledge and skills; and

(M) the use of innovative technology to increase access to international education programs.

(3) Non-Federal share

The non-Federal share of the cost of the programs assisted under this subsection—

(A) may be provided in cash from the private sector corporations or foundations in an amount equal to one-third of the total cost of the programs assisted under this section; or

(B) may be provided as an in-cash or in-kind contribution from institutional and noninstitutional funds, including State and private sector corporation or foundation contributions, equal to one-half of the total cost of the programs assisted under this section.

(4) Special rule

The Secretary may waive or reduce the required non-Federal share for institutions that—

(A) are eligible to receive assistance under part A or B of subchapter III of this chapter or under subchapter V of this chapter; and

(B) have submitted a grant application under this section.

(5) Priority

In awarding grants under this section, the Secretary shall give priority to applications from institutions of higher education, combinations or partnerships that require entering students to have successfully completed at least 2 years of secondary school foreign language instruction or that require each graduating student to earn 2 years of postsecondary credit in a foreign language (or have

demonstrated equivalent competence in the foreign language) or, in the case of a 2-year degree granting institution, offer 2 years of post-secondary credit in a foreign language.

(6) Grant conditions

Grants under this subsection shall be made on such conditions as the Secretary determines to be necessary to carry out this subsection.

(7) Application

Each application for assistance under this subsection shall include—

(A) evidence that the applicant has conducted extensive planning prior to submitting the application;

(B) an assurance that the faculty and administrators of all relevant departments and programs served by the applicant are involved in ongoing collaboration with regard to achieving the stated objectives of the application;

(C) an assurance that students at the applicant institutions, as appropriate, will have equal access to, and derive benefits from, the program assisted under this subsection; and

(D) an assurance that each institution, combination or partnership will use the Federal assistance provided under this subsection to supplement and not supplant non-Federal funds the institution expends for programs to improve undergraduate instruction in international studies and foreign languages.

(8) Evaluation

The Secretary may establish requirements for program evaluations and require grant recipients to submit annual reports that evaluate the progress and performance of students participating in programs assisted under this subsection.

(b) Programs of national significance

The Secretary may also award grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to improving undergraduate international studies and foreign language programs.

(c) Funding support

The Secretary may use not more than 10 percent of the total amount appropriated for this part for carrying out the purposes of this section.

(Pub. L. 89–329, title VI, § 604, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1778.)

PRIOR PROVISIONS

A prior section 1124, Pub. L. 89–329, title VI, § 604, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1466; amended Pub. L. 99–498, title VI, § 604, Oct. 17, 1986, 100 Stat. 1516; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 722, authorized grants for undergraduate international studies and foreign language programs, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1124, Pub. L. 89–329, title VI, § 604, Nov. 8, 1965, 79 Stat. 1263; Pub. L. 89–752, § 14, Nov. 3, 1966, 80 Stat. 1244; Pub. L. 90–575, title II, § 242(b)–(d), Oct. 16, 1968, 82 Stat. 1041; Pub. L. 94–482, title I, § 157, Oct. 12, 1976, 90 Stat. 2156, provided for grants to institutions of higher education for projects, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1124a, Pub. L. 89–329, title VI, § 605, as added Pub. L. 99–498, title VI, § 605(2), Oct. 17, 1986, 100 Stat. 1517; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 725, authorized grants for intensive summer language institutes, prior to the general amendment of this part by Pub. L. 105–244.

§ 1125. Research; studies; annual report

(a) Authorized activities

The Secretary may, directly or through grants or contracts, conduct research and studies that contribute to achieving the purposes of this part. Such research and studies may include—

(1) studies and surveys to determine needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area, and other international specialists in government, education, and the private sector;

(2) studies and surveys to assess the utilization of graduates of programs supported under this subchapter by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

(3) evaluation of the extent to which programs assisted under this subchapter that address national needs would not otherwise be offered;

(4) comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

(5) research on more effective methods of providing instruction and achieving competency in foreign languages, area studies, or other international fields;

(6) the development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists;

(7) studies and surveys of the uses of technology in foreign language, area studies, and international studies programs;

(8) studies and evaluations of effective practices in the dissemination of international information, materials, research, teaching strategies, and testing techniques throughout the education community, including elementary and secondary schools; and

(9) the application of performance tests and standards across all areas of foreign language instruction and classroom use.

(b) Annual report

The Secretary shall prepare, publish, and announce an annual report listing the books and research materials produced with assistance under this section.

(Pub. L. 89–329, title VI, § 605, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1780.)

PRIOR PROVISIONS

A prior section 1125, Pub. L. 89–329, title VI, § 606, formerly § 605, as added Pub. L. 96–374, title VI, § 601(a),

Oct. 3, 1980, 94 Stat. 1467; amended Pub. L. 97–375, title II, § 204, Dec. 21, 1982, 96 Stat. 1823; Pub. L. 99–386, title I, § 103(c), Aug. 22, 1986, 100 Stat. 821; renumbered § 606 and amended Pub. L. 99–498, title VI, §§ 605(1), 606, Oct. 17, 1986, 100 Stat. 1517; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 725, authorized research and studies and required annual report, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1125, Pub. L. 89–329, title VI, § 605, Nov. 8, 1965, 79 Stat. 1264; Pub. L. 90–575, title II, § 242(a), (e), Oct. 16, 1968, 82 Stat. 1041, related to the applications by institutions of higher education for grants under the program of equipment grants, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 605 of Pub. L. 89–329 was classified to section 1124a of this title, prior to the general amendment of this part by Pub. L. 105–244.

Prior sections 1125a and 1125b were omitted in the general amendment of this part by Pub. L. 105–244.

Section 1125a, Pub. L. 89–329, title VI, § 607, as added Pub. L. 99–498, title VI, § 607, Oct. 17, 1986, 100 Stat. 1518; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 726; Pub. L. 103–208, § 2(j)(13), Dec. 20, 1993, 107 Stat. 2481, related to periodicals and other research materials published outside the United States.

Section 1125b, Pub. L. 89–329, title VI, § 608, as added Pub. L. 99–498, title VI, § 608, Oct. 17, 1986, 100 Stat. 1518; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 727, related to selection of certain grant recipients.

§ 1126. Technological innovation and cooperation for foreign information access

(a) Authority

The Secretary is authorized to make grants to institutions of higher education, public or nonprofit private libraries, or consortia of such institutions or libraries, to develop innovative techniques or programs using new electronic technologies to collect, organize, preserve, and widely disseminate information on world regions and countries other than the United States that address our Nation's teaching and research needs in international education and foreign languages.

(b) Authorized activities

Grants under this section may be used—

(1) to facilitate access to or preserve foreign information resources in print or electronic forms;

(2) to develop new means of immediate, full-text document delivery for information and scholarship from abroad;

(3) to develop new means of shared electronic access to international data;

(4) to support collaborative projects of indexing, cataloging, and other means of bibliographic access for scholars to important research materials published or distributed outside the United States;

(5) to develop methods for the wide dissemination of resources written in non-Roman language alphabets;

(6) to assist teachers of less commonly taught languages in acquiring, via electronic and other means, materials suitable for classroom use; and

(7) to promote collaborative technology based projects in foreign languages, area studies, and international studies among grant recipients under this subchapter.

(c) Application

Each institution or consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may reasonably require.

(d) Match required

The Federal share of the total cost of carrying out a program supported by a grant under this section shall not be more than 66⅔ percent. The non-Federal share of such cost may be provided either in-kind or in cash, and may include contributions from private sector corporations or foundations.

(Pub. L. 89–329, title VI, § 606, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1781.)

PRIOR PROVISIONS

A prior section 1126, Pub. L. 89–329, title VI, § 609, formerly § 606, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1467; renumbered § 609, Pub. L. 99–498, title VI, § 605(1), Oct. 17, 1986, 100 Stat. 1517; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 727, related to equitable distribution of grants, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1126, Pub. L. 89–329, title VI, § 606, Nov. 8, 1965, 79 Stat. 1265, related to reservation and payment of equipment grants to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 606 of Pub. L. 89–329 was classified to section 1125 of this title, prior to the general amendment of this part by Pub. L. 105–244.

§ 1127. Selection of certain grant recipients

(a) Competitive grants

The Secretary shall award grants under section 1122 of this title competitively on the basis of criteria that separately, but not less rigorously, evaluates the applications for comprehensive and undergraduate language and area centers and programs.

(b) Selection criteria

The Secretary shall set criteria for grants awarded under section 1122 of this title by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions.

(c) Equitable distribution of grants

The Secretary shall, to the extent practicable, award grants under this part (other than section 1122 of this title) in such manner as to achieve an equitable distribution of the grant funds throughout the United States, based on the merit of a proposal as determined pursuant to a peer review process involving broadly representative professionals.

(Pub. L. 89–329, title VI, § 607, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1782.)

PRIOR PROVISIONS

A prior section 1127, Pub. L. 89–329, title VI, § 610, formerly § 607, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1467; renumbered § 610 and amended Pub. L. 99–498, title VI, §§ 605(1), 609, Oct. 17, 1986, 100 Stat. 1517, 1519; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 728, authorized grants and contracts for American overseas research centers, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1127, Pub. L. 89–329, title VI, § 607, Nov. 8, 1965, 79 Stat. 1265, provided procedures to

be followed in event of disapproval of a State plan under equipment grant program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 607 of Pub. L. 89–329 was classified to section 1125a of this title, prior to the general amendment of this part by Pub. L. 105–244.

§ 1128. Equitable distribution of certain funds

(a) Selection criteria

The Secretary shall make excellence the criterion for selection of grants awarded under section 1122 of this title.

(b) Equitable distribution

To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 1122 of this title) in such a manner as will achieve an equitable distribution of funds throughout the United States.

(c) Support for undergraduate education

The Secretary shall also award grants under this part in such manner as to ensure that an appropriate portion of the funds appropriated for this part (as determined by the Secretary) are used to support undergraduate education.

(Pub. L. 89–329, title VI, § 608, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1782.)

PRIOR PROVISIONS

A prior section 1128, Pub. L. 89–329, title VI, § 610A, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 728, authorized appropriations for this part, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 1128, Pub. L. 89–329, title VI, § 608, Nov. 8, 1965, 79 Stat. 1265, provided the process of judicial review in event of State dissatisfaction in equipment grant program, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 608 of Pub. L. 89–329 was classified to section 1125b of this title, prior to the general amendment of this part by Pub. L. 105–244.

§ 1128a. American overseas research centers

(a) Centers authorized

The Secretary is authorized to make grants to and enter into contracts with any American overseas research center that is a consortium of institutions of higher education (hereafter in this section referred to as a ''center'') to enable such center to promote postgraduate research, exchanges and area studies.

(b) Use of grants

Grants made and contracts entered into pursuant to this section may be used to pay all or a portion of the cost of establishing or operating a center or program, including—

(1) the cost of faculty and staff stipends and salaries;

(2) the cost of faculty, staff, and student travel;

(3) the cost of the operation and maintenance of overseas facilities;

(4) the cost of teaching and research materials;

(5) the cost of acquisition, maintenance, and preservation of library collections;

(6) the cost of bringing visiting scholars and faculty to a center to teach or to conduct research;

(7) the cost of organizing and managing conferences; and

(8) the cost of publication and dissemination of material for the scholarly and general public.

(c) Limitation

The Secretary shall only award grants to and enter into contracts with centers under this section that—

(1) receive more than 50 percent of their funding from public or private United States sources;

(2) have a permanent presence in the country in which the center is located; and

(3) are organizations described in section 501(c)(3) of title 26 which are exempt from taxation under section 501(a) of such title.

(d) Development grants

The Secretary is authorized to make grants for the establishment of new centers. The grants may be used to fund activities that, within 1 year, will result in the creation of a center described in subsection (c) of this section.

(Pub. L. 89–329, title VI, § 609, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1782.)

PRIOR PROVISIONS

A prior section 609 of Pub. L. 89–329 was classified to section 1126 of this title, prior to the general amendment of this part by Pub. L. 105–244.

Another prior section 609 of Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1266; Pub. L. 92–318, title I, § 131(d)(2)(D), June 23, 1972, 86 Stat. 260, prohibited equipment grants for sectarian instruction or religious worship and was classified to section 1129 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1128b. Authorization of appropriations

There are authorized to be appropriated to carry out this part $80,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title VI, § 610, as added Pub. L. 105–244, title VI, § 601, Oct. 7, 1998, 112 Stat. 1783.)

PRIOR PROVISIONS

A prior section 610 of Pub. L. 89–329 was classified to section 1127 of this title, prior to the general amendment of this part by Pub. L. 105–244.

Prior sections 1129 and 1129a were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1129, Pub. L. 89–329, title VI, § 609, Nov. 8, 1965, 79 Stat. 1266; Pub. L. 92–318, title I, § 131(d)(2)(D), June 23, 1972, 86 Stat. 260, prohibited equipment grants for sectarian instruction or religious worship.

Section 1129a, Pub. L. 89–329, title VI, § 610, as added Pub. L. 90–575, title II, § 243, Oct. 16, 1968, 82 Stat. 1041, provided for consultation with the National Science Foundation in regard to the purchase of laboratory equipment.

PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

§ 1130. Findings and purposes

(a) Findings

The Congress finds that—

(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business and edu-

cational community and creating an awareness among the American public of the internationalization of our economy;

(2) concerted efforts are necessary to engage business schools, language and area study programs, professional international affairs education programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

(b) Purposes

It is the purpose of this part—

(1) to enhance the broad objective of this chapter by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

(Pub. L. 89–329, title VI, § 611, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1467; amended Pub. L. 99–498, title VI, § 610, Oct. 17, 1986, 100 Stat. 1519; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 728; Pub. L. 105–244, title VI, § 602(a), Oct. 7, 1998, 112 Stat. 1783.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), was in the original ''this Act'', meaning Pub. L. 89–329, known as the Higher Education Act of 1965. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1998—Pub. L. 105–244 amended section catchline generally.

1992—Pub. L. 102–325 amended section generally, inserting subsec. headings and reenacting text without substantial change.

1986—Subsec. (a)(1). Pub. L. 99–498 inserted ''and educational'' after ''skills in the business''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1130–1. Centers for international business education

(a) Program authorized

(1) In general

The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to pay the Federal share of the cost of planning, establishing and operating centers for international business education which—

(A) will be national resources for the teaching of improved business techniques, strategies, and methodologies which emphasize the international context in which business is transacted;

(B) will provide instruction in critical foreign languages and international fields needed to provide understanding of the cultures and customs of United States trading partners; and

(C) will provide research and training in the international aspects of trade, commerce, and other fields of study.

(2) Special rule

In addition to providing training to students enrolled in the institution of higher education in which a center is located, such centers shall serve as regional resources to businesses proximately located by offering programs and providing research designed to meet the international training needs of such businesses. Such centers shall also serve other faculty, students, and institutions of higher education located within their region.

(b) Authorized expenditures

Each grant made under this section may be used to pay the Federal share of the cost of planning, establishing or operating a center, including the cost of—

(1) faculty and staff travel in foreign areas, regions, or countries;

(2) teaching and research materials;

(3) curriculum planning and development;

(4) bringing visiting scholars and faculty to the center to teach or to conduct research; and

(5) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

(c) Authorized activities

(1) Mandatory activities

Programs and activities to be conducted by centers assisted under this section shall include—

(A) interdisciplinary programs which incorporate foreign language and international studies training into business, finance, management, communications systems, and other professional curricula;

(B) interdisciplinary programs which provide business, finance, management, communications systems, and other professional training for foreign language and international studies faculty and degree candidates;

(C) programs, such as intensive language programs, available to members of the busi-

ness community and other professionals which are designed to develop or enhance their international skills, awareness, and expertise;

(D) collaborative programs, activities, or research involving other institutions of higher education, local educational agencies, professional associations, businesses, firms, or combinations thereof, to promote the development of international skills, awareness, and expertise among current and prospective members of the business community and other professionals;

(E) research designed to strengthen and improve the international aspects of business and professional education and to promote integrated curricula; and

(F) research designed to promote the international competitiveness of American businesses and firms, including those not currently active in international trade.

(2) Permissible activities

Programs and activities to be conducted by centers assisted under this section may include—

(A) the establishment of overseas internship programs for students and faculty designed to provide training and experience in international business activities, except that no Federal funds provided under this section may be used to pay wages or stipends to any participant who is engaged in compensated employment as part of an internship program;

(B) the establishment of linkages overseas with institutions of higher education and other organizations that contribute to the educational objectives of this section;

(C) summer institutes in international business, foreign area studies, foreign language studies, and other international studies designed to carry out the purposes of subparagraph (A) of this paragraph;

(D) the development of opportunities for business students to study abroad in locations which are important to the existing and future economic well-being of the United States;

(E) outreach activities or consortia with business programs located at other institutions of higher education for the purpose of providing expertise regarding the internationalization of such programs, such as assistance in research, curriculum development, faculty development, or educational exchange programs; and

(F) other eligible activities prescribed by the Secretary.

(d) Advisory council

(1) Establishment

In order to be eligible for assistance under this section, an institution of higher education, or combination of such institutions, shall establish a center advisory council which will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs.

(2) Membership on advisory council

The center advisory council shall include—

(A) one representative of an administrative department or office of the institution of higher education;

(B) one faculty representative of the business or management school or department of such institution;

(C) one faculty representative of the international studies or foreign language school or department of such institution;

(D) one faculty representative of another professional school or department of such institution, as appropriate;

(E) one or more representatives of local or regional businesses or firms;

(F) one representative appointed by the Governor of the State in which the institution of higher education is located whose normal responsibilities include official oversight or involvement in State-sponsored trade-related activities or programs; and

(G) such other individuals as the institution of higher education deems appropriate, such as a representative of a community college in the region served by the center.

(3) Meetings

In addition to the initial planning activities required under subsection (d)(1) of this section, the center advisory council shall meet not less than once each year after the establishment of the center to assess and advise on the programs and activities conducted by the center.

(e) Grant duration; Federal share

(1) Duration of grants

The Secretary shall make grants under this section for a minimum of 3 years unless the Secretary determines that the provision of grants of shorter duration is necessary to carry out the objectives of this section.

(2) Federal share

The Federal share of the cost of planning, establishing and operating centers under this section shall be—

(A) not more than 90 percent for the first year in which Federal funds are received;

(B) not more than 70 percent for the second such year; and

(C) not more than 50 percent for the third such year and for each such year thereafter.

(3) Non-Federal share

The non-Federal share of the cost of planning, establishing, and operating centers under this section may be provided either in cash or in-kind.

(4) Waiver of non-Federal share

In the case of an institution of higher education receiving a grant under this part and conducting outreach or consortia activities with another institution of higher education in accordance with subsection (c)(2)(E) of this section, the Secretary may waive a portion of the requirements for the non-Federal share required in paragraph (2) equal to the amount provided by the institution of higher education receiving such grant to such other institution of higher education for carrying out such outreach or consortia activities. Any

such waiver shall be subject to such terms and conditions as the Secretary deems necessary for carrying out the purposes of this section.

(f) Grant conditions

Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the objectives of this section. Such conditions shall include—

(1) evidence that the institution of higher education, or combination of such institutions, will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs in accordance with subsection (d)(1) of this section;

(2) assurance of ongoing collaboration in the establishment and operation of the center by faculty of the business, management, foreign language, international studies, professional international affairs, and other professional schools or departments, as appropriate;

(3) assurance that the education and training programs of the center will be open to students concentrating in each of these respective areas, as appropriate; and

(4) assurance that the institution of higher education, or combination of such institutions, will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (c)(1) of this section.

(Pub. L. 89–329, title VI, § 612, as added Pub. L. 100–418, title VI, § 6261(2), Aug. 23, 1988, 102 Stat. 1520; amended Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 729; Pub. L. 105–244, title VI, § 602(b), Oct. 7, 1998, 112 Stat. 1783.)

PRIOR PROVISIONS

A prior section 612 of Pub. L. 89–329 was renumbered section 613 and is classified to section 1130a of this title.

AMENDMENTS

1998—Subsec. (c)(1)(B). Pub. L. 105–244, § 602(b)(1)(A)(i), struck out ''advanced'' after ''faculty and''.

Subsec. (c)(1)(C). Pub. L. 105–244, § 602(b)(1)(A)(ii), struck out ''evening or summer'' before ''programs, such''.

Subsec. (c)(2)(C). Pub. L. 105–244, § 602(b)(1)(B), inserted ''foreign language studies,'' after ''area studies,''.

Subsec. (d)(2)(G). Pub. L. 105–244, § 602(b)(2), inserted '', such as a representative of a community college in the region served by the center'' before the period.

1992—Pub. L. 102–325 amended section generally, substituting present provisions for provisions relating to grants for establishing and operating international business education centers in subsec. (a), costs to be covered by Federal funds in subsec. (b), scope of programs and activities in subsec. (c), center advisory council in subsec. (d), duration of grants and allotment of Federal and non-Federal shares in subsec. (e), and conditions for grants in subsec. (f).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1130a. Education and training programs

(a) Program authorized

The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this section shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

(b) Authorized activities

Eligible activities to be conducted by institutions of higher education pursuant to grants or contracts awarded under this section shall include—

(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

(4) development of area studies programs, and interdisciplinary international programs;

(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives;

(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity;

(10) the establishment of internships overseas to enable foreign language students to develop their foreign language skills and knowledge of foreign cultures and societies;

(11) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this section; and

(12) summer institutes in international business, foreign area and other international studies designed to carry out the purposes of this section.

(c) Applications

No grant may be made and no contract may be entered into under this section unless an insti-

tution of higher education submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b) of this section.

(d) Federal share

The Federal share under this part for each fiscal year shall not exceed 50 percent of the cost of such program.

(Pub. L. 89–329, title VI, § 613, formerly § 612, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1468; amended Pub. L. 99–498, title VI, § 611, Oct. 17, 1986, 100 Stat. 1519; renumbered § 613 and amended Pub. L. 100–418, title VI, §§ 6261(1), 6263, Aug. 23, 1988, 102 Stat. 1520, 1523; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 732.)

PRIOR PROVISIONS

A prior section 613 of Pub. L. 89–329 was renumbered section 614 and is classified to section 1130b of this title.

AMENDMENTS

1992—Pub. L. 102–325 amended section generally, adding provisions relating to establishment of linkages overseas with institutions of higher education and organizations that contribute to educational objectives of this section and relating to summer institutes in international business, foreign area and other international studies designed to carry out purposes of this section.

1988—Subsecs. (a), (c), (d). Pub. L. 100–418 substituted ''section'' for ''part'' wherever appearing.

1986—Subsec. (b)(10). Pub. L. 99–498 added par. (10).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 1130b. Authorization of appropriations

(a) Centers for international business education

There are authorized to be appropriated $11,000,000 for the fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of section 1130–1 of this title.

(b) Education and training programs

There are authorized to be appropriated $7,000,000 for fiscal year 1999, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 1130a of this title.

(Pub. L. 89–329, title VI, § 614, formerly § 613, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1469; amended Pub. L. 99–498, title VI, § 612, Oct. 17, 1986, 100 Stat. 1519; renumbered § 614 and amended Pub. L. 100–418, title VI, §§ 6261(1), 6262, Aug. 23, 1988, 102 Stat. 1520, 1523; Pub. L. 101–600, § 7, Nov. 16, 1990, 104 Stat. 3046; Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 733; Pub. L. 105–244, title VI, § 602(c), Oct. 7, 1998, 112 Stat. 1783.)

AMENDMENTS

1998—Pub. L. 105–244 substituted ''1999'' for ''1993'' in subsecs. (a) and (b).

1992—Pub. L. 102–325 amended section generally. Prior to amendment, section read as follows:

''(a) There are authorized to be appropriated $7,500,000 for the fiscal year 1988 and for each of the 4 succeeding fiscal years to carry out the provisions of section 1130–1 of this title.

''(b) There are authorized to be appropriated $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 1130a of this title.''

1990—Subsec. (a). Pub. L. 101–600 substituted ''$7,500,000'' for ''$5,000,000'' and ''4 succeeding'' for ''3 succeeding''.

1988—Pub. L. 100–418, § 6262, amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.''

1986—Pub. L. 99–498 amended section generally. Prior to amendment, section read as follows: ''There are authorized to be appropriated $7,500,000 for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1985, to carry out the provisions of this part.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

PART C—INSTITUTE FOR INTERNATIONAL PUBLIC POLICY

§ 1131. Minority foreign service professional development program

(a) Establishment

The Secretary is authorized to award a grant, on a competitive basis, to an eligible recipient to enable such recipient to establish an Institute for International Public Policy (hereafter in this part referred to as the ''Institute''). The Institute shall conduct a program to significantly increase the numbers of African Americans and other underrepresented minorities in the international service, including private international voluntary organizations and the foreign service of the United States. Such program shall include a program for such students to study abroad in their junior year, fellowships for graduate study, internships, intensive academic programs such as summer institutes, or intensive language training.

(b) "Eligible recipient" defined

(1) In general

For the purpose of this part, the term ''eligible recipient'' means a consortium consisting of 1 or more of the following entities:

(A) An institution eligible for assistance under part B of subchapter III of this chapter.

(B) An institution of higher education which serves substantial numbers of African American or other underrepresented minority students.

(C) An institution of higher education with programs in training foreign service professionals.

(2) Host institution

Each eligible recipient receiving a grant under this section shall designate an institution of higher education as the host institution for the Institute.

(c) Application

Each eligible recipient desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(d) Duration

Grants made pursuant to this section shall be awarded for a period not to exceed 5 years.

(e) Match required

The eligible recipient of a grant under this section shall contribute to the conduct of the program supported by the grant an amount from non-Federal sources equal to at least one-half the amount of the grant, which contribution may be in cash or in kind.

(Pub. L. 89–329, title VI, § 621, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 734; amended Pub. L. 105–244, title VI, § 603(a), Oct. 7, 1998, 112 Stat. 1783.)

PRIOR PROVISIONS

A prior section 1131, Pub. L. 89–329, title VI, § 621, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1469; amended Pub. L. 97–241, title III, § 303(b), Aug. 24, 1982, 96 Stat. 291; Pub. L. 99–498, title VI, § 613, Oct. 17, 1986, 100 Stat. 1519, related to advisory board on the conduct of programs under this subchapter, prior to repeal by Pub. L. 101–392, title VI, §§ 612, 702(a), Sept. 25, 1990, 104 Stat. 842, 843, effective July 1, 1991.

Another prior section 1131, Pub. L. 89–329, title VI, § 621, Nov. 8, 1965, 79 Stat. 1266, related to grants for operating faculty development program workshops and institutes, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1998—Subsec. (e). Pub. L. 105–244 substituted ''one-half'' for ''one-fourth''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§ 1131–1. Institutional development

(a) In general

The Institute shall award grants, from amounts available to the Institute for each fiscal year, to historically Black colleges and universities, Hispanic-serving institutions, Tribally Controlled Colleges or Universities, and minority institutions, to enable such colleges, universities, and institutions to strengthen international affairs programs.

(b) Application

No grant may be made by the Institute unless an application is made by the college, university, or institution at such time, in such manner, and accompanied by such information as the Institute may require.

(c) Definitions

In this section—

(1) the term ''historically Black college and university'' has the meaning given the term in section 1061 of this title;

(2) the term ''Hispanic-serving institution'' has the meaning given the term in section 1101a of this title;

(3) the term ''Tribally Controlled College or University'' has the meaning given the term in section 1801 of title 25; and

(4) the term ''minority institution'' has the meaning given the term in section 1067k of this title.

(Pub. L. 89–329, title VI, § 622, as added Pub. L. 105–244, title VI, § 603(b)(2), Oct. 7, 1998, 112 Stat. 1784.)

PRIOR PROVISIONS

A prior section 622 of Pub. L. 89–329 was renumbered section 623 and is classified to section 1131a of this title.

Another prior section 622 of Pub. L. 89–329, title VI, as added Pub. L. 96–374, title VI, § 601(a), Oct. 3, 1980, 94 Stat. 1470; amended Pub. L. 99–498, title VI, § 614, Oct. 17, 1986, 100 Stat. 1520, defined terms used in this subchapter and was classified to section 1132 of this title, prior to the general amendment of this subchapter by Pub. L. 102–325. For definitions, see section 1132 of this title.

Another prior section 622 of Pub. L. 89–329, title VI, Nov. 8, 1965, 79 Stat. 1266, related to stipends for persons attending faculty development program institutes and was classified to section 1132 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 1131a. Study abroad program

(a) Program authority

The Institute shall conduct, by grant or contract, a junior year abroad program. The junior year abroad program shall be open to eligible students at institutions of higher education, including historically Black colleges and universities as defined in section 1061 of this title, tribally controlled Indian community colleges as defined in the Tribally Controlled College or University Assistance Act of 1978 [25 U.S.C. 1801 et seq.], and other institutions of higher education with significant minority student populations. Eligible student expenses shall be shared by the Institute and the institution at which the student is in attendance. Each stu-

dent may spend not more than 9 months abroad in a program of academic study, as well as social, familial and political interactions designed to foster an understanding of and familiarity with the language, culture, economics and governance of the host country.

(b) "Eligible student" defined

For the purpose of this section, the term ''eligible student'' means a student that is—

(1) enrolled full-time in a baccalaureate degree program at an institution of higher education; and

(2) entering the third year of study, or completing the third year of study in the case of a summer abroad program, at an institution of higher education which nominates such student for participation in the study abroad program.

(c) Special rule

An institution of higher education desiring to send a student on the study abroad program shall enter into a Memorandum of Understanding with the Institute under which such institution of higher education agrees to—

(1) provide the requisite academic preparation for students participating in the study abroad or internship programs;

(2) pay one-third the cost of each student it nominates for participation in the study abroad program; and

(3) meet such other requirements as the Secretary may from time to time, by regulation, reasonably require.

(Pub. L. 89–329, title VI, § 623, formerly § 622, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 734; renumbered § 623 and amended Pub. L. 105–244, title VI, § 603(b)(1), (c), title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1783, 1784, 1828.)

REFERENCES IN TEXT

The Tribally Controlled College or University Assistance Act of 1978, referred to in subsec. (a), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 623 of Pub. L. 89–329 was renumbered section 624 and is classified to section 1131b of this title.

AMENDMENTS

1998—Pub. L. 105–244, § 603(c)(1), substituted ''Study'' for ''Junior year'' in section catchline.

Subsec. (a). Pub. L. 105–244, § 901(d), substituted ''Tribally Controlled College or University Assistance Act of 1978'' for ''Tribally Controlled Community College Assistance Act of 1978''.

Subsec. (b)(2). Pub. L. 105–244, § 603(c)(2), inserted '', or completing the third year of study in the case of a summer abroad program,'' after ''year of study'' and substituted ''study abroad'' for ''junior year abroad''.

Subsec. (c). Pub. L. 105–244, § 603(c)(3)(A), substituted ''study abroad'' for ''junior year abroad'' in introductory provisions.

Subsec. (c)(1). Pub. L. 105–244, § 603(c)(3)(B), substituted ''study abroad'' for ''junior year abroad''.

Subsec. (c)(2). Pub. L. 105–244, § 603(c)(3)(C), substituted ''one-third'' for ''one-half'' and ''study abroad'' for ''junior year abroad''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1131b. Masters degree in international relations

The Institute shall provide, in cooperation with the other members participating in the eligible recipient consortium, a program of study leading to a masters degree in international relations. The masters degree program designed by the consortia shall be reviewed and approved by the Secretary. The Institute may grant fellowships in an amount not to exceed the level of support comparable to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurement of need approved by the Secretary. A fellowship recipient shall agree to undertake full-time study and to enter the international service (including work with private international voluntary organizations) or foreign service of the United States.

(Pub. L. 89–329, title VI, § 624, formerly § 623, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 735; renumbered § 624, Pub. L. 105–244, title VI, § 603(b)(1), Oct. 7, 1998, 112 Stat. 1783.)

PRIOR PROVISIONS

A prior section 624 of Pub. L. 89–329 was renumbered section 625 and is classified to section 1131c of this title.

§ 1131c. Internships

(a) In general

The Institute shall enter into agreements with historically Black colleges and universities as defined in section 1061 of this title, tribally controlled Indian community colleges as defined in the Tribally Controlled College or University Assistance Act of 1978 [25 U.S.C. 1801 et seq.], other institutions of higher education with significant numbers of minority students, and institutions of higher education with programs in training foreign service professionals, to provide academic year internships during the junior and senior year and summer internships following the sophomore and junior academic years, by work placements with an international voluntary or government organizations or agencies, including the Agency for International Development, the International Monetary Fund, the National Security Council, the Organization of American States, the Export-Import Bank, the Overseas Private Investment Corporation, the Department of State, Office of the United States Trade Representative, the World Bank, and the United Nations.

(b) Postbaccalaureate internships

The Institute shall enter into agreements with institutions of higher education described in the first sentence of subsection (a) of this section to conduct internships for students who have completed study for a baccalaureate degree. The internship program authorized by this subsection shall—

(1) assist the students to prepare for a master's degree program;

(2) be carried out with the assistance of the Woodrow Wilson International Center for Scholars;

(3) contain work experience for the students designed to contribute to the students' preparation for a master's degree program; and

(4) be assisted by the Interagency Committee on Minority Careers in International Affairs established under subsection (c) of this section.

(c) Interagency Committee on Minority Careers in International Affairs

(1) Establishment

There is established in the executive branch of the Federal Government an Interagency Committee on Minority Careers in International Affairs composed of not less than 7 members, including—

(A) the Under Secretary for Farm and Foreign Agricultural Services of the Department of Agriculture, or the Under Secretary's designee;

(B) the Assistant Secretary and Director General, of the United States and Foreign Commercial Service of the Department of Commerce, or the Assistant Secretary and Director General's designee;

(C) the Under Secretary of Defense for Personnel and Readiness of the Department of Defense, or the Under Secretary's designee;

(D) the Assistant Secretary for Postsecondary Education in the Department of Education, or the Assistant Secretary's designee;

(E) the Director General of the Foreign Service of the Department of State, or the Director General's designee;

(F) the General Counsel of the Agency for International Development, or the General Counsel's designee; and

(G) the Associate Director for Educational and Cultural Affairs of the United States Information Agency, or the Associate Director's designee.

(2) Functions

The Interagency Committee established by this section shall—

(A) on an annual basis inform the Secretary and the Institute regarding ways to advise students participating in the internship program assisted under this section with respect to goals for careers in international affairs;

(B) locate for students potential internship opportunities in the Federal Government related to international affairs; and

(C) promote policies in each department and agency participating in the Committee that are designed to carry out the objectives of this part.

(Pub. L. 89–329, title VI, §625, formerly §624, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 735; renumbered §625, and amended Pub. L. 105–244, title VI, §603(b)(1), (d), title IX, §901(d), Oct. 7, 1998, 112 Stat. 1783, 1784, 1828; Pub. L. 105–277, div. G, subdiv. A, title XIII, §1335(j), Oct. 21, 1998, 112 Stat. 2681–788.)

REFERENCES IN TEXT

The Tribally Controlled College or University Assistance Act of 1978, referred to in subsec. (a), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 625 of Pub. L. 89–329 was renumbered section 626 and is classified to section 1131d of this title.

AMENDMENTS

1998—Pub. L. 105–244, §603(d), designated existing provisions as subsec. (a), inserted heading, and added subsecs. (b) and (c).

Subsec. (a). Pub. L. 105–277, which directed the amendment of ''section 624 of Pub. L. 89–329 (20 U.S.C. 1131c)'' by striking ''the United States Information Agency,'' after ''Agency for International Development,'', was executed by making the amendment in subsec. (a) of this section, to reflect the probable intent of Congress and the intervening amendments by Pub. L. 105–244 which renumbered section 624 of Pub. L. 89–329 as section 625 and redesignated existing provisions as subsec. (a). See above.

Pub. L. 105–244, §901(d), substituted ''Tribally Controlled College or University Assistance Act of 1978'' for ''Tribally Controlled Community College Assistance Act of 1978''.

EFFECTIVE DATE OF 1998 AMENDMENTS

Amendment by Pub. L. 105–277 effective Oct. 1, 1999, see section 1301 of Pub. L. 105–277, set out as an Effective Date note under section 6531 of Title 22.

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1131d. Report

The Institute shall annually prepare a report on the activities of the Institute and shall submit such report to the Secretary of Education and the Secretary of State.

(Pub. L. 89–329, title VI, §626, formerly §625, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 735; renumbered §626, Pub. L. 105–244, title VI, §603(b)(1), Oct. 7, 1998, 112 Stat. 1783.)

PRIOR PROVISIONS

A prior section 626 of Pub. L. 89–329 was renumbered section 627 and is classified to section 1131e of this title.

§ 1131e. Gifts and donations

The Institute is authorized to receive money and other property donated, bequeathed, or devised to the Institute with or without a condition of restriction, for the purpose of providing financial support for the fellowships or underwriting the cost of the Junior Year Abroad Program. All funds or property given, devised, or bequeathed shall be retained in a separate account, and an accounting of those funds and property shall be included in the annual report described in section 1131d of this title.

(Pub. L. 89–329, title VI, §627, formerly §626, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 736; renumbered §627, and amended Pub. L. 105–244, title VI, §603(b)(1), (f), Oct. 7, 1998, 112 Stat. 1783, 1785.)

PRIOR PROVISIONS

A prior section 627 of Pub. L. 89–329 was renumbered section 628 and is classified to section 1131f of this title.

AMENDMENTS

1998—Pub. L. 105–244, § 603(f), made technical amendment to reference in original act which appears in text as reference to section 1131d of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 1131f. Authorization of appropriations

There is authorized to be appropriated $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(Pub. L. 89–329, title VI, § 628, formerly § 627, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 736; renumbered § 628, and amended Pub. L. 105–244, title VI, § 603(b)(1), (g), Oct. 7, 1998, 112 Stat. 1783, 1786.)

AMENDMENTS

1998—Pub. L. 105–244, § 603(g), substituted ''1999'' for ''1993''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

PART D—GENERAL PROVISIONS

§ 1132. Definitions

(a) Definitions

As used in this subchapter—

(1) the term ''area studies'' means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

(2) the term ''international business'' means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods, investments in industries, the licensing of processes, patents and trademarks, and the supply of services;

(3) the term ''export education'' means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures;

(4) the term ''internationalization of curricula'' means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education;

(5) the term ''comprehensive language and area center'' means an administrative unit of a university that contributes significantly to the national interest in advanced research and scholarship, employs a critical mass of scholars in diverse disciplines related to a geographic concentration, offers intensive language training in languages of its area specialization, maintains important library collections related to the area, and makes training available in language and area studies to a graduate, postgraduate, and undergraduate clientele; and

(6) the term ''undergraduate language and area center'' means an administrative unit of an institution of higher education, including but not limited to 4-year colleges, that contributes significantly to the national interest through the education and training of students who matriculate into advanced language and area studies programs, professional school programs, or incorporates substantial international and foreign language content into baccalaureate degree programs, engages in research, curriculum development and community outreach activities designed to broaden international and foreign language knowledge, employs faculty with strong language, area, and international studies credentials, maintains library holdings, including basic reference works, journals, and works in translation, and makes training available predominantly to undergraduate students;

(7) the term ''critical languages'' means each of the languages contained in the list of critical languages designated by the Secretary pursuant to section 212(d) of the Education for Economic Security Act (50 Fed. Reg. 149, 31413), except that, in the implementation of this definition, the Secretary may set priorities according to the purposes of this subchapter;

(8) the term ''institution of higher education'' means, in addition to institutions which meet the definition of section 1001 of this title, institutions which meet the requirements of section 1001 of this title except that (1) they are not located in the United States, and (2) they apply for assistance under this subchapter in consortia with institutions which meet the definition of section 1001 of this title; and

(9) the term ''educational programs abroad'' means programs of study, internships, or service learning outside the United States which are part of a foreign language or other international curriculum at the undergraduate or graduate education levels.

(b) Special conditions

All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.

(Pub. L. 89–329, title VI, § 631, as added Pub. L. 102–325, title VI, § 601, July 23, 1992, 106 Stat. 736; amended Pub. L. 105–244, title I, § 102(b)(8), title VI, § 604(a), Oct. 7, 1998, 112 Stat. 1622, 1786.)

REFERENCES IN TEXT

Section 212(d) of the Education for Economic Security Act, referred to in subsec. (a)(7), is section 212(d) of Pub. L. 98–377, title II, Aug. 11, 1984, 98 Stat. 1281, as amended, which was classified to section 3972(d) of this title and was repealed by Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324.

PRIOR PROVISIONS

A prior section 1132, Pub. L. 89–329, title VI, §622, as added Pub. L. 96–374, title VI, §601(a), Oct. 3, 1980, 94 Stat. 1470; amended Pub. L. 99–498, title VI, §614, Oct. 17, 1986, 100 Stat. 1520, defined terms used in this subchapter, prior to the general revision of this subchapter by Pub. L. 102–325.

Another prior section 1132, Pub. L. 89–329, title VI, §622, Nov. 8, 1965, 79 Stat. 1266, related to stipends for persons attending faculty development program institutes, prior to the general revision of this subchapter by Pub. L. 96–374.

AMENDMENTS

1998—Subsec. (a)(8). Pub. L. 105–244, §102(b)(8), substituted ''section 1001'' for ''section 1141(a)'' in two places and ''of section 1001'' for ''of 1141(a)''.

Subsec. (a)(9). Pub. L. 105–244, §604(a), added par. (9).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Part effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

§1132–1. Repealed. Pub. L. 105–244, title VI, §604(b), Oct. 7, 1998, 112 Stat. 1786

Section, Pub. L. 89–329, title VI, §632, as added Pub. L. 102–325, title VI, §601, July 23, 1992, 106 Stat. 737, related to preservation of pre-1992 programs.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

SUBCHAPTER VII—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS

CODIFICATION

Title VII of the Higher Education Act of 1965, comprising this subchapter, was originally enacted by Pub. L. 89–329, title VII, Nov. 8, 1965, 79 Stat. 1266; amended Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–43, June 15, 1977, 91 Stat. 213; Pub. L. 96–49, Aug. 13, 1979, 93 Stat. 351; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1268; Pub. L. 100–50, June 3, 1987, 101 Stat. 335; Pub. L. 100–203, Dec. 22, 1987, 101 Stat. 1330; Pub. L. 100–369, July 18, 1988, 102 Stat. 835; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518; Pub. L. 104–208, Sept. 30, 1996, 110 Stat. 3009. Title VII is shown herein, however, as having been added by Pub. L. 105–244, title VII, §701, Oct. 7, 1998, 112 Stat. 1786, without reference to those intervening amendments because of the extensive revision of title VII by Pub. L. 105–244.

PRIOR PROVISIONS

A prior section 1132a, Pub. L. 89–329, title VII, §701, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1520; amended Pub. L. 100–50, §19(1), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VII, §701, July 23, 1992, 106 Stat. 737, authorized programs of assistance for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132a, Pub. L. 89–329, title VII, §701, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1472, related to purpose of programs of financial assistance to institutions of higher education and to higher education building agencies, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132a, Pub. L. 89–329, title VII, §701, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 288; amended Pub. L. 94–482, title I, §§161(a), 162(a)(3), (b), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 96–49, §8(a), Aug. 13, 1979, 93 Stat. 353, authorized appropriations for a program of grants for the construction, reconstruction, and renovation of undergraduate facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132a–1, Pub. L. 89–329, title VII, §702, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1521; amended Pub. L. 100–50, §19(2), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VII, §702, July 23, 1992, 106 Stat. 738, related to prior rights and obligations prior to the general amendment of this subchapter by Pub. L. 105–244. For similar provisions, see section 1011j of this title.

Another prior section 1132a–1, Pub. L. 89–329, title VII, §702, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1472, authorized appropriations for fiscal years 1981 to 1985 to carry out programs for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 99–498.

Prior sections 1132a–1 to 1132a–7 were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1132a–1, Pub. L. 89–329, title VII, §702, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 288; amended Pub. L. 94–482, title I, §162(a)(3), Oct. 12, 1976, 90 Stat. 2156, provided for allotments of funds to public community colleges and technical institutes.

Section 1132a–2, Pub. L. 89–329, title VII, §703, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 290; amended Pub. L. 94–482, title I, §162(a)(3), Oct. 12, 1976, 90 Stat. 2156, related to allotments to institutions of higher education other than public community colleges and public technical institutes.

Section 1132a–3, Pub. L. 89–329, title VII, §704, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 290; amended Pub. L. 94–482, title I, §162(a)(3), (c), Oct. 12, 1976, 90 Stat. 2156, 2157, set out the requirements of State plans.

Section 1132a–4, Pub. L. 89–329, title VII, §705, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 291; amended Pub. L. 94–482, title I, §162(a)(3), (4), (d), Oct. 12, 1976, 90 Stat. 2156, 2157, related to the eligibility of institutions for grants.

Section 1132a–5, Pub. L. 89–329, title VII, §706, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 292; amended Pub. L. 94–482, title I, §162(a)(3), Oct. 12, 1976, 90 Stat. 2156, related to the basic criteria to be applied to State plans.

Section 1132a–6, Pub. L. 89–329, title VII, §707, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 292; amended Pub. L. 94–482, title I, §162(a)(3), (5), Oct. 12, 1976, 90 Stat. 2156, 2157, related to applications for grants for construction, renovation, and reconstruction of undergraduate facilities.

Section 1132a–7, Pub. L. 89–329, title VII, §708, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 293, related to the disapproval of State plans and to judicial review.

A prior section 1132b, Pub. L. 89–329, title VII, §711, as added Pub. L. 102–325, title VII, §703, July 23, 1992, 106 Stat. 738, provided that former part A of this subchapter could be cited as the ''Higher Education Facilities Act of 1992'', prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132b, Pub. L. 89–329, title VII, §711, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1522, related to State plans for construction, reconstruction, and renovation of undergraduate academic facilities, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 1132b, Pub. L. 89–329, title VII, §711, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980,

94 Stat. 1473, required submission of State plans, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132b, Pub. L. 89–329, title VII, §721, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 294; amended Pub. L. 94–482, title I, §§161(b), 162(e), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 96–49, §8(b), Aug. 13, 1979, 93 Stat. 353, set out Congressional declaration of purpose, grant of authority, and authorization of appropriations for the program of grants for construction, reconstruction, and renovation of graduate academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132b–1, Pub. L. 89–329, title VII, §712, as added Pub. L. 102–325, title VII, §703, July 23, 1992, 106 Stat. 738, stated findings of Congress, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132b–1, Pub. L. 89–329, title VII, §712, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1522, related to basic criteria for consideration of State plans, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 1132b–1, Pub. L. 89–329, title VII, §712, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1473, related to basic criteria for consideration of State plans, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132b–1, Pub. L. 89–329, title VII, §722, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 294, related to authority to make grants to eligible institutions, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132b–2, Pub. L. 89–329, title VII, §713, as added Pub. L. 102–325, title VII, §703, July 23, 1992, 106 Stat. 738, related to distribution of assistance, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132b–2, Pub. L. 89–329, title VII, §713, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1522, related to allotment of funds, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 1132b–2, Pub. L. 89–329, title VII, §713, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1473, related to allotment of appropriations among States, prior to the general amendment of this subchapter by Pub. L. 99–498.

Prior sections 1132b–3 to 1132b–5 were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1132b–3, Pub. L. 89–329, title VII, §714, as added Pub. L. 102–325, title VII, §703, July 23, 1992, 106 Stat. 740; amended Pub. L. 103–208, §2(j)(14), Dec. 20, 1993, 107 Stat. 2481, related to use of funds.

Section 1132b–4, Pub. L. 89–329, title VII, §715, as added Pub. L. 102–325, title VII, §703, July 23, 1992, 106 Stat. 740; amended Pub. L. 103–208, §2(j)(15), Dec. 20, 1993, 107 Stat. 2481, related to applications for allotments and grants.

Section 1132b–5, Pub. L. 89–329, title VII, §716, as added Pub. L. 102–325, title VII, §703, July 23, 1992, 106 Stat. 741, authorized appropriations for former part A of this subchapter.

A prior section 1132c, Pub. L. 89–329, title VII, §721, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 741, which stated findings of Congress, was renumbered section 341 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066 of this title.

Another prior section 1132c, Pub. L. 89–329, title VII, §721, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1524, related to grants for construction, reconstruction, and renovation of graduate academic facilities, prior to the general amendment of part B of this subchapter by Pub. L. 102–325.

Another prior section 1132c, Pub. L. 89–329, title VII, §721, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1475, authorized grants to graduate institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132c, Pub. L. 89–329, title VII, §741, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 295; amended Pub. L. 94–482, title I, §§161(c), 162(a)(3), Oct. 12, 1976, 90 Stat. 2156; Pub. L. 96–49, §8(c)(1), Aug. 13, 1979, 93 Stat. 353, set out grant of authority and authorization of appropriations for program of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–1, Pub. L. 89–329, title VII, §722, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 742, which defined terms, was renumbered section 342 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066a of this title.

Another prior section 1132c–1, Pub. L. 89–329, title VII, §742, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 295; amended Pub. L. 94–482, title I, §162(a)(3), (6), Oct. 12, 1976, 90 Stat. 2156, 2157, related to eligibility, conditions, amounts, and terms of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–2, Pub. L. 89–329, title VII, §723, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 743, and amended, which related to Federal insurance for bonds, was renumbered section 343 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066b of this title.

Another prior section 1132c–2, Pub. L. 89–329, title VII, §743, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 296; amended Pub. L. 94–482, title I, §162(f), Oct. 12, 1976, 90 Stat. 2157, contained general provisions covering programs of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–3, Pub. L. 89–329, title VII, §724, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 745, which related to limitations on Federal insurance for bonds issued by designated bonding authority, was renumbered section 344 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066c of this title.

Another prior section 1132c–3, Pub. L. 89–329, title VII, §744, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 296, provided for creation of Revolving Loan Fund and Insurance Fund, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–4, Pub. L. 89–329, title VII, §725, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 745, and amended, which related to authority of Secretary, was renumbered section 345 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066d of this title.

Another prior section 1132c–4, Pub. L. 89–329, title VII, §745, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 297; amended Pub. L. 94–482, title I, §§161(d), 162(a)(3), (g), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 95–43, §1(b)(6), June 15, 1977, 91 Stat. 218; Pub. L. 96–49, §8(c)(2), Aug. 13, 1979, 93 Stat. 353, related to annual interest grants, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–5, Pub. L. 89–329, title VII, §726, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 746, and amended, which restricted receipt of grants under former part A of this subchapter, was renumbered section 346 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, transferred to section 1066e of this title, and subsequently repealed.

Another prior section 1132c–5, Pub. L. 89–329, title VII, §746, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 298; amended Pub. L. 94–482, title I, §162(a)(3), Oct. 12, 1976, 90 Stat. 2156, related to academic facilities loan insurance, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132c–6, Pub. L. 89–329, title VII, §727, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 746, which related to HBCU Capital Financing Advisory Board, was renumbered section 347 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066f of this title.

A prior section 1132c–7, Pub. L. 89–329, title VII, §728, as added Pub. L. 102–325, title VII, §704, July 23, 1992, 106 Stat. 747, which related to minority business enterprise utilization, was renumbered section 348 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, §301(a)(3), (4), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1066g of this title.

A prior section 1132d, Pub. L. 89–329, title VII, §731, as added Pub. L. 102–325, title VII, §705, July 23, 1992, 106 Stat. 747; amended Pub. L. 103–208, §2(j)(18), (19), Dec. 20, 1993, 107 Stat. 2481, related to Federal assistance in form of loans, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d, Pub. L. 89–329, title VII, §731, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1525; amended Pub. L. 100–50, §19(3), June 3, 1987, 101 Stat. 360, related to eligibility conditions, amounts, and terms of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of part C of this subchapter by Pub. L. 102–325.

Another prior section 1132d, Pub. L. 89–329, title VII, §731, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1475, related to eligibility conditions, amounts, and terms of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d, Pub. L. 89–329, title VII, §761, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 299, authorized appropriations for the program of assistance to major disaster areas, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132d–1, Pub. L. 89–329, title VII, §732, as added Pub. L. 102–325, title VII, §705, July 23, 1992, 106 Stat. 748, contained general provisions relating to functions, powers, and duties of the Secretary under former part C of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d–1, Pub. L. 89–329, title VII, §732, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1526; amended Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837, set out general provisions for loan program, prior to the general amendment of part C of this subchapter by Pub. L. 102–325.

Another prior section 1132d–1, Pub. L. 89–329, title VII, §732, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1475, set out general provisions for program of loans for construction, reconstruction, and renovation of academic facilities, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d–1, Pub. L. 89–329, title VII, §762, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 299; amended Pub. L. 94–482, title I, §§161(e), 162(h), Oct. 12, 1979, 90 Stat. 2156, 2157, provided for disaster assistance for replacement or restoration of academic facilities, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132d–2, Pub. L. 89–329, title VII, §733, as added Pub. L. 102–325, title VII, §705, July 23, 1992, 106 Stat. 750, related to apportionment of funds, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d–2, Pub. L. 89–329, title VII, §733, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1527; amended Pub. L. 100–50, §19(4), June 3, 1987, 101 Stat. 360, related to revolving loan fund, prior to the general amendment of part C of this subchapter by Pub. L. 102–325.

Another prior section 1132d–2, Pub. L. 89–329, title VII, §733, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1476, related to revolving loan and insurance fund, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d–2, Pub. L. 89–329, title VII, §763, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 300, related to grants for the purchase of equipment and supplies, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132d–3, Pub. L. 89–329, title VII, §734, as added Pub. L. 102–325, title VII, §705, July 23, 1992, 106 Stat. 751; amended Pub. L. 103–208, §2(j)(20), Dec. 20, 1993, 107 Stat. 2481, defined terms, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d–3, Pub. L. 89–329, title VII, §734, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1477, related to annual interest grants to assist institutions of higher education and higher education building agencies, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d–3, Pub. L. 89–329, title VII, §764, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 300, related to repayable assistance in lieu of a grant, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132d–4, Pub. L. 89–329, title VII, §735, as added Pub. L. 102–325, title VII, §705, July 23, 1992, 106 Stat. 753, authorized appropriations for former part C of this subchapter, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 1132d–4, Pub. L. 89–329, title VII, §735, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1477, related to academic facilities loan insurance, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132d–4, Pub. L. 89–329, title VII, §765, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 300, related to applications for assistance to institutions of higher education, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1132d–5 and 1132d–11 were omitted in the general amendment of this subchapter by Pub. L. 96–374.

Section 1132d–5, Pub. L. 89–329, title VII, §766, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 300, defined ''major disaster'' and ''public institution of higher education''.

Section 1132d–11, Pub. L. 89–329, title VII, §771, as added Pub. L. 94–482, title I, §162(i), Oct. 12, 1976, 90 Stat. 2157; amended Pub. L. 95–43, §1(a)(43), June 15, 1977, 91 Stat. 217, provided for a program of grants or loans for reconstruction or renovation of academic facilities.

A prior section 1132e, Pub. L. 89–329, title VII, §741, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1528, provided for annual interest grants to assist institutions of higher education in reducing the cost of borrowing money, prior to repeal by Pub. L. 102–325, §2, title VII, §706, July 23, 1992, 106 Stat. 458, 753, effective Oct. 1, 1992.

Another prior section 1132e, Pub. L. 89–329, title VII, §741, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1478, related to recovery of payments of grants and use of projects, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132e, Pub. L. 89–329, title VII, §781, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 300; amended Pub. L. 94–482, title I, §162(a)(3), (4), Oct. 12, 1976, 90 Stat. 2156, 2157; Pub. L. 95–43, §1(a)(44), June 15, 1977, 91 Stat. 218, related to the recovery of payments, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1132e–1, Pub. L. 89–329, title VII, §742, as added Pub. L. 96–374, title VII, §701, Oct. 3, 1980, 94 Stat. 1479, defined terms used in this subchapter, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 1132e–1, Pub. L. 89–329, title VII, §782, as added Pub. L. 92–318, title I, §161(a), June 23, 1972, 86 Stat. 301; amended Pub. L. 94–482, title I, §162(a)(3), (4), (j), Oct. 12, 1976, 90 Stat. 2156–2158, defined terms used in this subchapter, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1132f to 1132f–9 were repealed by Pub. L. 104–208, div. A, title I, §101(e) [title VI, §603(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293.

Section 1132f, Pub. L. 89–329, title VII, §751, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1528, related to congressional declaration of purpose of this part to authorize participation of United States Government and Student Loan Marketing Association in private, for profit corporation known as College Construction Loan Insurance Association, and defined ''education facilities purpose''.

Section 1132f–1, Pub. L. 89–329, title VII, §752, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1529; amended Pub. L. 102–325, title VII, §707(b), July 23, 1992, 106 Stat. 753, related to criteria used by Corporation for providing guarantees and insurance on obligations issued for education facilities purposes.

Section 1132f–2, Pub. L. 89–329, title VII, §753, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1530, related to process of organizing Corporation.

Section 1132f–3, Pub. L. 89–329, title VII, §754, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1531, related to operation and election of Corporation's Board of Directors.

Section 1132f–4, Pub. L. 89–329, title VII, §755, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1531, related to initial capitalization of Corporation.

Section 1132f–5, Pub. L. 89–329, title VII, §756, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1532, related to issuance of nonvoting stock and debt to public.

Section 1132f–6, Pub. L. 89–329, title VII, §757, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1532, provided that no obligation which is insured, guaranteed, or otherwise backed by Corporation be deemed to be guaranteed by full faith and credit of United States or guaranteed by Student Loan Marketing Association, with provision that this section not affect determination of whether such obligation is guaranteed for purposes of Federal income taxes.

Section 1132f–7, Pub. L. 89–329, title VII, §758, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1532, related to authority of Secretary to sell common stock of Corporation and Student Loan Marketing Association's right of first refusal.

Section 1132f–8, Pub. L. 89–329, title VII, §759, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1533, related to use of stock sale proceeds.

Section 1132f–9, Pub. L. 89–329, title VII, §760, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1533, provided for audits and reports to President and Congress.

A prior section 1132f–10, Pub. L. 104–208, div. A, title I, §101(e) [title VI, §603], Sept. 30, 1996, 110 Stat. 3009–233, 3009–290, which related to Connie Lee privatization, was transferred to section 1155 of this title.

Prior sections 1132g to 1132g–3 and 1132h to 1132h–6 were repealed by Pub. L. 102–325, §2, title VII, §706, July 23, 1992, 106 Stat. 458, 753, effective Oct. 1, 1992.

Section 1132g, Pub. L. 89–329, title VII, §761, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1533, related to Federal assistance to undergraduate postsecondary educational institutions in form of loans.

Section 1132g–1, Pub. L. 89–329, title VII, §762, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1535; amended Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837, set out general provisions applicable to loans, including budget and accounting, use of funds, legal powers of Secretary in loan program, and limitations.

Section 1132g–2, Pub. L. 89–329, title VII, §763, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1537, directed that not more than 12.5 percent of loan funds be made available in any one State and set priorities as to types of projects to be approved.

Section 1132g–3, Pub. L. 89–329, title VII, §764, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1537; amended Pub. L. 100–50, §19(5), June 3, 1987, 101 Stat. 360, defined terms used in sections 1132g to 1132g–3 of this title.

Section 1132h, Pub. L. 89–329, title VII, §771, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1539, provided for financial assistance to Eastern Michigan University in Ypsilanti, Michigan, for renovation and restoration of Welch Hall.

Section 1132h–1, Pub. L. 89–329, title VII, §772, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1539, provided for financial assistance to Rochester Institute of Technology in Rochester, New York, for Federal share of construction and related costs of Academic Health Education Center facility.

Section 1132h–2, Pub. L. 89–329, title VII, §773, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1540, provided financial assistance to Shaw University of Raleigh, North Carolina, for renovation and restoration of Estey Hall.

Section 1132h–3, Pub. L. 89–329, title VII, §774, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1540, provided for an electronic instructional network for gifted and talented students.

Section 1132h–4, Pub. L. 89–329, title VII, §775, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1541, provided for financial assistance to Bethune-Cookman College in Volusia County, Florida, for establishment of Mary McLeod Bethune Memorial Fine Arts Center.

Section 1132h–5, Pub. L. 89–329, title VII, §776, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1541, provided for financial assistance for University of Connecticut Behavioral Science Facility at Storrs, Connecticut.

Section 1132h–6, Pub. L. 89–329, title VII, §777, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1541, provided for financial assistance for the establishment of a business administration program at University of Rhode Island in Kingston, Rhode Island.

Prior sections 1132i to 1132i–2 were omitted in the general amendment of this subchapter by Pub. L. 105–244.

Section 1132i, Pub. L. 89–329, title VII, §781, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1542; amended Pub. L. 102–325, title VII, §708(b), July 23, 1992, 106 Stat. 754; Pub. L. 103–208, §2(j)(21), Dec. 20, 1993, 107 Stat. 2481, related to recovery of payments upon cessation of public benefit. See section 1011k of this title.

Section 1132i–1, (Pub. L. 89–329, title VII, §782, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1542; amended Pub. L. 100–50, §19(6), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title VII, §708(c), July 23, 1992, 106 Stat. 754; Pub. L. 103–208, §2(j)(22), Dec. 20, 1993, 107 Stat. 2481, defined terms used in this subchapter.

Section 1132i–2, Pub. L. 89–329, title VII, §783, as added Pub. L. 99–498, title VII, §701, Oct. 17, 1986, 100 Stat. 1545; amended Pub. L. 100–203, title III, §3101, Dec. 22, 1987, 101 Stat. 1330–39; Pub. L. 102–325, title VII, §708(d), July 23, 1992, 106 Stat. 754; Pub. L. 103–208, §2(j)(23), Dec. 20, 1993, 107 Stat. 2481, related to forgiveness of certain loans.

A prior section 1132j, Pub. L. 89–329, title VII, §795, as added Pub. L. 100–418, title VI, §6211, Aug. 23, 1988, 102 Stat. 1517, provided for a program of agricultural, strategic metals, minerals, forestry, and oceans college and university research facilities and instrumentation modernization, prior to repeal by Pub. L. 102–325, §2, title VII, §706, July 23, 1992, 106 Stat. 458, 753, effective Oct. 1, 1992.

§ 1133. Purpose

It is the purpose of this subchapter—

(1) to authorize national graduate fellowship programs—

(A) in order to attract students of superior ability and achievement, exceptional promise, and demonstrated financial need, into high-quality graduate programs and provide the students with the financial support necessary to complete advanced degrees; and

(B) that are designed to—

(i) sustain and enhance the capacity for graduate education in areas of national need; and

(ii) encourage talented students to pursue scholarly careers in the humanities, social sciences, and the arts; and

(2) to promote postsecondary programs.

(Pub. L. 89–329, title VII, § 700, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1786.)

PRIOR PROVISIONS

Prior sections 1133 to 1133c, which comprised a prior subchapter VIII of this chapter, were repealed by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1133, Pub. L. 89–329, title VIII, § 801, as added Pub. L. 99–498, title VIII, § 801, Oct. 17, 1986, 100 Stat. 1546; amended Pub. L. 102–325, title VIII, § 801, July 23, 1992, 106 Stat. 755, stated purpose of former subchapter VIII of this chapter and defined ''cooperative education''.

Another prior section 1133, Pub. L. 89–329, title VIII, § 801, as added Pub. L. 94–482, title I, § 129(b), Oct. 12, 1976, 90 Stat. 2144; amended Pub. L. 96–374, title VIII, § 801(a), (b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1481, 1482, 1503, authorized appropriations for fiscal years 1976 to 1985 for grants and contracts for cooperative education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 99–498.

Another prior section 1133, Pub. L. 89–329, title VIII, § 801, as added Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1042; amended Pub. L. 92–318, title I, § 172(a), June 23, 1972, 86 Stat. 304, authorized projects and grants for sharing educational and related resources by institutions of higher education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 94–482.

Section 1133a, Pub. L. 89–329, title VIII, § 802, as added Pub. L. 99–498, title VIII, § 801, Oct. 17, 1986, 100 Stat. 1546; amended Pub. L. 102–325, title VIII, § 801, July 23, 1992, 106 Stat. 755; Pub. L. 103–208, § 2(j)(24), Dec. 20, 1993, 107 Stat. 2482, authorized appropriations for former subchapter VIII of this chapter.

Another prior section 1133a, Pub. L. 89–329, title VIII, § 802, as added Pub. L. 94–482, title I, § 129(b), Oct. 12, 1976, 90 Stat. 2145; amended Pub. L. 96–374, title VIII, § 801(c), (d), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1482, 1503, authorized grants for programs of cooperative education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 99–498.

Another prior section 1133a, Pub. L. 89–329, title VIII, § 802, as added Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1043; amended Pub. L. 92–318, title I, § 171, June 23, 1972, 86 Stat. 304, authorized appropriations for projects and grants for sharing educational and related resources, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 94–482.

Section 1133b, Pub. L. 89–329, title VIII, § 803, as added Pub. L. 99–498, title VIII, § 801, Oct. 17, 1986, 100 Stat. 1548; amended Pub. L. 102–325, title VIII, § 801, July 23, 1992, 106 Stat. 756; Pub. L. 103–208, § 2(j)(25), (26), Dec. 20, 1993, 107 Stat. 2482, authorized grants for cooperative education.

Another prior section 1133b, Pub. L. 89–329, title VIII, § 803, as added Pub. L. 94–482, title I, § 129(b), Oct. 12, 1976, 90 Stat. 2146; amended Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, authorized grants and contracts for training and research related to cooperative education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 99–498.

Another prior section 1133b, Pub. L. 89–329, title VIII, § 803, as added Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1043, authorized free or reduced rates for sharing educational or related resources by institutions of higher education, prior to the general amendment of subchapter VIII of this chapter by Pub. L. 94–482.

Section 1133c, Pub. L. 89–329, title VIII, § 804, as added Pub. L. 102–325, title VIII, § 801, July 23, 1992, 106 Stat. 759, authorized grants and contracts for demonstration and innovation projects, training and resource centers, and research.

CONTINUATION OF CHAPTER 21 PROGRAMS

Pub. L. 92–318, title I, § 161(b)(1), June 23, 1972, 86 Stat. 303, provided that: ''The programs authorized by title VII of the Higher Education Act of 1965 [this subchapter] shall be deemed to be a continuation of the comparable programs authorized by the Higher Education Facilities Act of 1963 [former section 701 et seq. of this title].''

PART A—GRADUATE EDUCATION PROGRAMS

SUBPART 1—JACOB K. JAVITS FELLOWSHIP PROGRAM

§ 1134. Award of Jacob K. Javits fellowships

(a) Authority and timing of awards

The Secretary is authorized to award fellowships in accordance with the provisions of this subpart for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement, financial need, and exceptional promise. The fellowships shall be awarded to students who are eligible to receive any grant, loan, or work assistance pursuant to section 1091 of this title and intend to pursue a doctoral degree, except that fellowships may be granted to students pursuing a master's degree in those fields in which the master's degree is the terminal highest degree awarded in the area of study. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year following the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.

(b) Designation of fellows

Students receiving awards under this subpart shall be known as ''Jacob K. Javits Fellows''.

(c) Interruptions of study

The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed 12 months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program.

(d) Process and timing of competition

The Secretary shall make applications for fellowships under this part available not later than October 1 of the academic year preceding the academic year for which fellowships will be awarded, and shall announce the recipients of fellowships under this section not later than March 1 of the academic year preceding the academic year for which the fellowships are awarded.

(e) Authority to contract

The Secretary is authorized to enter into a contract with a nongovernmental agency to administer the program assisted under this part if the Secretary determines that entering into the contract is an efficient means of carrying out the program.

(Pub. L. 89–329, title VII, § 701, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1786.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134h of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134, Pub. L. 89–329, title IX, § 901, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1549; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 760; Pub. L. 103–208, § 2(j)(27), Dec. 20, 1993, 107 Stat. 2482, stated purpose of former subchapter IX of this chapter and contained administrative provisions, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134, Pub. L. 89–329, title IX, § 901, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304; amended Pub. L. 94–482, title I, § 171(a)(1), (2), Oct. 12, 1976, 90 Stat. 2159; Pub. L. 96–49, § 9(a), Aug. 13, 1979, 93 Stat. 353; Pub. L. 96–374, title IX, § 901(a), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1482, 1503, set forth Congressional declaration of purpose and authorized appropriations for grants to institutions of higher education, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134, Pub. L. 89–329, title IX, § 901, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1043, set forth Congressional declaration of purpose respecting education for the public service, prior to repeal by Pub. L. 92–318.

A prior section 701 of Pub. L. 89–329 was classified to section 1132a of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 701 of Pub. L. 89–329 was classified to section 1132a of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 701 of Pub. L. 89–329 was classified to section 1132a of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1134a. Allocation of fellowships

(a) Fellowship Board

(1) Appointment

The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board (hereinafter in this subpart referred to as the ''Board'') consisting of 9 individuals representative of both public and private institutions of higher education who are especially qualified to serve on the Board. In making appointments, the Secretary shall give due consideration to the appointment of individuals who are highly respected in the academic community. The Secretary shall assure that individuals appointed to the Board are broadly representative of a range of disciplines in graduate education in arts, humanities, and social sciences.

(2) Duties

The Board shall—

(A) establish general policies for the program established by this subpart and oversee the program's operation;

(B) establish general criteria for the award of fellowships in academic fields identified by the Board, or, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program assisted under this subpart, by such nongovernmental entity;

(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of selecting fellows, except that, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity; and

(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.

(3) Consultations

In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

(4) Term

The term of office of each member of the Board shall be 4 years, except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

(5) Initial meeting; vacancy

The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairperson and a Vice Chairperson, who shall serve until 1 year after the date of the appointment of the Chairperson and Vice Chairperson. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

(6) Quorum; additional meetings

(A) A majority of the members of the Board shall constitute a quorum.

(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out the Board's responsibilities.

(7) Compensation

Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate of basic pay payable for level IV of the Executive Schedule, including travel time, and while so serving away from their homes or regular places of business, the members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(b) Use of selection panels

The recipients of fellowships shall be selected in each designated field from among all appli-

cants nationwide in each field by distinguished panels appointed by the Board to make such selections under criteria established by the Board, except that, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Board.

(c) Fellowship portability

Each recipient shall be entitled to use the fellowship in a graduate program at any accredited institution of higher education in which the recipient may decide to enroll.

(Pub. L. 89–329, title VII, § 702, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1787.)

REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (a)(7), is set out in section 5315 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134i of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134a, Pub. L. 89–329, title IX, § 911, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 761, authorized grants to encourage women and minority participation in graduate education, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134a, Pub. L. 89–329, title IX, § 902, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1550, related to submission and contents of applications, prior to the general amendment of part A of subchapter IX of this chapter by Pub. L. 102–325.

Another prior section 1134a, Pub. L. 89–329, title IX, § 902, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 305; amended Pub. L. 94–482, title I, § 171(a)(3), Oct. 12, 1976, 90 Stat. 2159; Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, related to applications for grants to institutions of higher education, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134a, Pub. L. 89–329, title IX, § 903, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1043, related to project grants and contracts to strengthen and improve education for the public service, prior to repeal by Pub. L. 92–318.

A prior section 702 of Pub. L. 89–329 was classified to section 1132a–1 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 702 of Pub. L. 89–329 was classified to section 1132a–1 of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 702 of Pub. L. 89–329 was classified to section 1132a–1 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1134b. Stipends

(a) Award by Secretary

The Secretary shall pay to individuals awarded fellowships under this subpart such stipends as the Secretary may establish, reflecting the purpose of this program to encourage highly talented students to undertake graduate study as described in this subpart. In the case of an individual who receives such individual's first stipend under this subpart in academic year 1999–2000 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need determined in accordance with part E of subchapter IV of this chapter.

(b) Institutional payments

(1) In general

(A) The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship under this subpart at such institution, an institutional allowance. Except as provided in subparagraph (B), such allowance shall be, for 1999–2000 and succeeding academic years, the same amount as the institutional payment made for 1998–1999 under section 1134j(b) of this title (as such section was in effect on the day before October 7, 1998) adjusted for 1999–2000 and annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(B) The institutional allowance paid under subparagraph (A) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(2) Special rules

(A) Beginning March 1, 1992, any applicant for a fellowship under this subpart who has been notified in writing by the Secretary that such applicant has been selected to receive such a fellowship and is subsequently notified that the fellowship award has been withdrawn, shall receive such fellowship unless the Secretary subsequently makes a determination that such applicant submitted fraudulent information on the application.

(B) Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this subsection shall not be reduced for any purpose other than the purposes specified under paragraph (1).

(Pub. L. 89–329, title VII, § 703, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1789.)

REFERENCES IN TEXT

Section 1134j of this title, referred to in subsec. (b)(1), was repealed by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134j of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134b, Pub. L. 89–329, title IX, § 912, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 761, related to submission and contents of application for assistance, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134b, Pub. L. 89–329, title IX, § 903, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1550, related to use of award funds, prior to the general amendment of part A of subchapter IX of this chapter by Pub. L. 102–325.

Another prior section 1134b, Pub. L. 89–329, title IX, § 903, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 305; amended Pub. L. 94–482, title I, § 171(a)(4), Oct. 12, 1976, 90 Stat. 2160; Pub. L. 96–374, title IX, § 901(b), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1482, 1503, related to the uses of funds appropriated to make grants to institutions of higher education, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134b, Pub. L. 89–329, title IX, § 904, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1044, related to application for grants or contracts to strengthen and improve education for the public service, providing in subsec. (a) for requisites of application, subsec. (b) for allocation of grants and contracts, and subsec. (c) for payment of compensation of students employed in public service and participation of Federal agencies and departments, prior to repeal by Pub. L. 92–318.

A prior section 703 of Pub. L. 89–329 was classified to section 1132a–2 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1134c. Fellowship conditions

(a) Requirements for receipt

An individual awarded a fellowship under the provisions of this subpart shall continue to receive payments provided in section 1134b of this title only during such periods as the Secretary finds that such individual is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

(b) Reports from recipients

The Secretary is authorized to require reports containing such information in such form and filed at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this subpart. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

(Pub. L. 89–329, title VII, § 704, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1789.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134k of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134c, Pub. L. 89–329, title IX, § 913, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 762, related to use of funds by grant recipients, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134c, Pub. L. 89–329, title IX, § 904, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 96–374, title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1503, authorized studies and research activities on the need for, and improvement of, graduate programs, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134c, Pub. L. 89–329, title IX, § 911, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1044, provided for authorization to award public service fellowships, prior to repeal by Pub. L. 92–318.

A prior section 704 of Pub. L. 89–329 was classified to section 1132a–3 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1134c–1 and 1134c–2 were repealed by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1134c–1, Pub. L. 89–329, title IX, § 914, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 762, related to information collection.

Section 1134c–2, Pub. L. 89–329, title IX, § 915, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 762, authorized appropriations for part A of former subchapter IX of this chapter.

§ 1134d. Authorization of appropriations

There are authorized to be appropriated $30,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

(Pub. L. 89–329, title VII, § 705, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1790.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134k–1 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1134d, Pub. L. 89–329, title IX, § 921, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1550; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 762, stated purpose of the Patricia Roberts Harris Fellowship program and provided that a recipient of an award under that program be known as a ''Patricia Roberts Harris Graduate Fellow'', prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1134d, Pub. L. 89–329, title IX, § 921, as added Pub. L. 96–374, title IX, § 902(a), Oct. 3, 1980, 94 Stat. 1482, set forth Congressional statement of purpose, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134d, Pub. L. 89–329, title IX, § 921, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2160, authorized appropriations for carrying out the program of fellowships for graduate and professional study, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134d, Pub. L. 89–329, title IX, § 912, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for allocation of public service fellowships, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

A prior section 705 of Pub. L. 89–329 was classified to section 1132a–4 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1134e to 1134w were repealed by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1134e, Pub. L. 89–329, title IX, § 922, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1550; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 763; Pub. L. 103–208, § 2(j)(28), Dec. 20, 1993, 107 Stat. 2482, authorized Patricia Roberts Harris Fellowship program.

Another prior section 1134e, Pub. L. 89–329, title IX, § 922, as added Pub. L. 96–374, title IX, § 902(a), Oct. 3, 1980, 94 Stat. 1482, authorized program of grants to assist graduate and professional study, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134e, Pub. L. 89–329, title IX, § 922, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2160; Pub. L. 96–49, § 9(b),

Aug. 13, 1979, 93 Stat. 353, related to the authorization, duration, and extension of the period of fellowships, the awarding of vacated fellowships, and the question of the interruption of studies of fellowship recipients, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134e, Pub. L. 89–329, title IX, § 913, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for approval of programs, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134f, Pub. L. 89–329, title IX, § 923, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1552; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 764; Pub. L. 103–208, § 2(j)(29)–(31), Dec. 20, 1993, 107 Stat. 2482, 2483, related to award of fellowships.

Another prior section 1134f, Pub. L. 89–329, title IX, § 923, as added Pub. L. 96–374, title IX, § 902(a), Oct. 3, 1980, 94 Stat. 1484, related to award of fellowships to graduate and professional students, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134f, Pub. L. 89–329, title IX, § 923, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 306; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2160, related to the award of fellowships and the approval of graduate programs, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134f, Pub. L. 89–329, title IX, § 914, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for stipends for public service fellowships, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134g, Pub. L. 89–329, title IX, § 924, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 765; amended Pub. L. 103–208, § 2(j)(32), Dec. 20, 1993, 107 Stat. 2483, authorized appropriations for Patricia Roberts Harris Fellowship program.

Another prior section 1134g, Pub. L. 89–329, title IX, § 924, as added Pub. L. 96–374, title IX, § 902(a), Oct. 3, 1980, 94 Stat. 1484, authorized appropriations for fiscal years 1981 to 1985 for grant program to assist graduate and professional students, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134g, Pub. L. 89–329, title IX, § 924, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 307; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2161, related to fellowship stipends, additional allowances to institutions of higher education, and deductions, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134g, Pub. L. 89–329, title IX, § 915, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1045, provided for public service fellowship conditions, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134h, Pub. L. 89–329, title IX, § 931, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1552; amended Pub. L. 100–50, § 20(1), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 765; Pub. L. 103–208, § 2(j)(33), Dec. 20, 1993, 107 Stat. 2483, authorized award of Jacob K. Javits fellowships and provided that award recipients be known as ''Jacob K. Javits Fellows''. See section 1134 of this title.

Another prior section 1134h, Pub. L. 89–329, title IX, § 931, as added Pub. L. 96–374, title IX, § 903, Oct. 3, 1980, 94 Stat. 1484; amended Pub. L. 99–159, title VIII, § 802, Nov. 22, 1985, 99 Stat. 908, authorized award of fellowships for graduate study in arts, humanities, and social sciences, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134h, Pub. L. 89–329, title IX, § 925, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 307; amended Pub. L. 94–482, title I, § 171(b), Oct. 12, 1976, 90 Stat. 2162, set out conditions attached to fellowships for graduate and professional study, prior to the general amendment of part B of subchapter IX of this chapter by Pub. L. 96–374.

Another prior section 1134h, Pub. L. 89–329, title IX, § 921, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, defined ''State'', ''institution of higher education'', ''public service'' and ''academic year'', prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134i, Pub. L. 89–329, title IX, § 932, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1553; amended Pub. L. 100–50, § 20(2), (3), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 766; Pub. L. 103–208, § 2(j)(34), (35), Dec. 20, 1993, 107 Stat. 2483, related to Jacob K. Javits Fellows Program Fellowship Board and to allocation of fellowships. See section 1134a of this title.

Another prior section 1134i, Pub. L. 89–329, title IX, § 932, as added Pub. L. 96–374, title IX, § 903, Oct. 3, 1980, 94 Stat. 1485, related to allocation of fellowships for graduate study in arts, humanities, and social sciences, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134i, Pub. L. 89–329, title IX, § 941, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 308; amended Pub. L. 94–482, title I, § 171(c)(1), Oct. 12, 1976, 90 Stat. 2162; Pub. L. 96–49, § 9(c), Aug. 13, 1979, 93 Stat. 353, related to award of public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134i, Pub. L. 89–329, title IX, § 922, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, related to coordination of Federal assistance respecting education for the public service, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134j, Pub. L. 89–329, title IX, § 933, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1554; amended Pub. L. 100–50, § 20(4), June 3, 1987, 101 Stat. 360; Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 767; Pub. L. 103–208, § 2(j)(36), Dec. 20, 1993, 107 Stat. 2483, related to payment of stipends to award recipients. See section 1134b of this title.

Another prior section 1134j, Pub. L. 89–329, title IX, § 933, as added Pub. L. 96–374, title IX, § 903, Oct. 3, 1980, 94 Stat. 1486, related to stipends paid to individuals awarded fellowships for graduate study in arts, humanities, and social sciences, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134j, Pub. L. 89–329, title IX, § 942, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 308; amended Pub. L. 94–482, title I, § 171(c)(2), Oct. 12, 1976, 90 Stat. 2163, related to the allocation of public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134j, Pub. L. 89–329, title IX, § 923, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046; amended Pub. L. 92–318, title I, § 131(d)(2)(E), June 23, 1972, 86 Stat. 260, prohibited any grant, contract, or fellowship for study at schools or departments of divinity, prior to repeal by Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 304.

Section 1134k, Pub. L. 89–329, title IX, § 934, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1554; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 767, related to fellowship conditions. See section 1134c of this title.

Another prior section 1134k, Pub. L. 89–329, title IX, § 934, as added Pub. L. 96–374, title IX, § 903, Oct. 3, 1980, 94 Stat. 1486, related to conditions on continuance of fellowships for graduate study in arts, humanities, and social sciences, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134k, Pub. L. 89–329, title IX, § 943, as added Pub. L. 92–318, title I, § 181(a), June 23, 1972, 86 Stat. 308; amended Pub. L. 94–482, title I, § 171(c)(3), Oct. 12, 1976, 90 Stat. 2163, related to requisite approval of programs of graduate or professional study, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134k, Pub. L. 89–329, title IX, § 924, as added Pub. L. 90–575, title II, § 261, Oct. 16, 1968, 82 Stat. 1046, provided for annual report of the Secretary to Congress of activities relating to education

for public service, prior to repeal by Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 304.

Section 1134k–1, Pub. L. 89–329, title IX, §935, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 768, authorized appropriations for Jacob K. Javits Fellowship program. See section 1134d of this title.

Section 1134*l*, Pub. L. 89–329, title IX, §941, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1555; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 768; Pub. L. 103–208, §2(j)(37), Dec. 20, 1993, 107 Stat. 2484, stated purpose of graduate assistance in areas of national need grant program.

Another prior section 1134*l*, Pub. L. 89–329, title IX, §941, as added Pub. L. 96–374, title IX, §904, Oct. 3, 1980, 94 Stat. 1486, authorized assistance for training in legal profession, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134*l*, Pub. L. 89–329, title IX, §944, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 309; amended Pub. L. 94–482, title I, §171(c)(4), Oct. 12, 1976, 90 Stat. 2163, related to payments to persons awarded public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Another prior section 1134*l*, Pub. L. 89–329, title IX, §925, as added Pub. L. 90–575, title II, §261, Oct. 16, 1968, 82 Stat. 1046, authorized appropriations for education for the public service, prior to repeal by Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 304.

Section 1134m, Pub. L. 89–329, title IX, §942, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1555; amended Pub. L. 100–369, §7(c), July 18, 1988, 102 Stat. 837; Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 768, authorized grants to academic departments and programs to provide assistance to graduate students. See section 1135 of this title.

Another prior section 1134m, Pub. L. 89–329, title IX, §942, as added Pub. L. 96–374, title IX, §904, Oct. 3, 1980, 94 Stat. 1487, authorized appropriations for fiscal years 1981 to 1985 for program of assistance for training in legal profession, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134m, Pub. L. 89–329, title IX, §945, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 309, related to conditions attached to public service fellowships, prior to repeal by section 902(b) of Pub. L. 96–374.

Section 1134n, Pub. L. 89–329, title IX, §943, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1556; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 769; Pub. L. 103–208, §2(j)(38), Dec. 20, 1993, 107 Stat. 2484, related to institutional eligibility for grants. See section 1135a of this title.

Another prior section 1134n, Pub. L. 89–329, title IX, §951, as added Pub. L. 96–374, title IX, §905, Oct. 3, 1980, 94 Stat. 1487, authorized assistance for law school clinical experience programs, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134n, Pub. L. 89–329, title IX, §961, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 309; amended Pub. L. 94–482, title I, §171(d)(1)–(3), Oct. 12, 1976, 90 Stat. 2163; Pub. L. 96–49, §9(d), Aug. 13, 1979, 93 Stat. 353, provided for a program of fellowships for other purposes, prior to repeal by section 902(b) of Pub. L. 96–374.

Section 1134*o*, Pub. L. 89–329, title IX, §944, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1556; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 770, related to criteria for applications for grants. See section 1135b of this title.

Another prior section 1134*o*, Pub. L. 89–329, title IX, §952, as added Pub. L. 96–374, title IX, §905, Oct. 3, 1980, 94 Stat. 1488, related to applications for assistance for law school clinical experience programs, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134*o*, Pub. L. 89–329, title IX, §962, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 310, related to the award of fellowships for other purposes, prior to repeal by section 902(b) of Pub. L. 96–374.

Section 1134p, Pub. L. 89–329, title IX, §945, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1557; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 770; Pub. L. 103–208, §2(j)(39), Dec. 20, 1993, 107 Stat. 2484, related to awards to graduate students. See section 1135c of this title.

Another prior section 1134p, Pub. L. 89–329, title IX, §953, as added Pub. L. 96–374, title IX, §905, Oct. 3, 1980, 94 Stat. 1488, authorized appropriations for fiscal years 1981 to 1985 for providing assistance for law school clinical experience programs, prior to the general amendment of subchapter IX of this chapter by Pub. L. 99–498.

Another prior section 1134p, Pub. L. 89–329, title IX, §963, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 310; amended Pub. L. 94–482, title I, §171(d)(4), Oct. 12, 1976, 90 Stat. 2163, related to the amount of payments to persons awarded fellowships for other purposes, prior to repeal by section 902(b) of Pub. L. 96–374.

Section 1134q, Pub. L. 89–329, title IX, §946, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1558; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 771; Pub. L. 103–208, §2(j)(40), Dec. 20, 1993, 107 Stat. 2484, related to additional assistance for cost of education. See section 1135d of this title.

Another prior section 1134q, Pub. L. 89–329, title IX, §964, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 311, related to fellowship conditions in program of fellowships other than public service fellowships or fellowships for graduate and professional study, prior to repeal by Pub. L. 96–374, title IX, §902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980.

Section 1134q–1, Pub. L. 89–329, title IX, §947, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 771, authorized appropriations for graduate assistance in areas of national need grant program.

Section 1134r, Pub. L. 89–329, title IX, §951, as added Pub. L. 99–498, title IX, §901(a), Oct. 17, 1986, 100 Stat. 1558; amended Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 772; Pub. L. 103–208, §2(j)(41), Dec. 20, 1993, 107 Stat. 2484, authorized grants for faculty development fellowship awards and provided that fellowship recipients be known as ''Faculty Development Fellows''.

Another prior section 1134r, Pub. L. 89–329, title IX, §965, as added Pub. L. 92–318, title I, §181(a), June 23, 1972, 86 Stat. 311, authorized appropriations for program of fellowships other than public service fellowships or fellowships for graduate and professional study, prior to repeal by Pub. L. 96–374, title IX, §902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980.

Section 1134r–1, Pub. L. 89–329, title IX, §952, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 773, related to amount of fellowships.

Another prior section 1134r–1, Pub. L. 89–329, title IX, §966, as added Pub. L. 93–380, title VIII, §836(a), Aug. 21, 1974, 88 Stat. 605; amended Pub. L. 94–482, title I, §171(d)(5), Oct. 12, 1976, 90 Stat. 2164; Pub. L. 96–49, §9(e), Aug. 13, 1979, 93 Stat. 353, related to a program of assistance for training in legal profession, prior to repeal by Pub. L. 96–374, title IX, §902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980.

Section 1134r–2, Pub. L. 89–329, title IX, §953, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 773, related to applications required for grants.

Another prior section 1134r–2, Pub. L. 89–329, title IX, §971, as added Pub. L. 94–482, title I, §171(e), Oct. 12, 1976, 90 Stat. 2164, related to an annual report on graduate and assistance program, prior to repeal by Pub. L. 96–374, title IX, §902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980, and also by Pub. L. 96–470, title I, §106(b), Oct. 19, 1980, 94 Stat. 2238.

Section 1134r–3, Pub. L. 89–329, title IX, §954, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 774, related to fellowship agreements.

Section 1134r–4, Pub. L. 89–329, title IX, §955, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 774, related to fellowship repayment provisions.

Section 1134r–5, Pub. L. 89–329, title IX, §956, as added Pub. L. 102–325, title IX, §901, July 23, 1992, 106 Stat. 774, related to exceptions to repayment provisions.

Section 1134r–6, Pub. L. 89–329, title IX, § 957, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 775, authorized appropriations for faculty development fellowship program.

Section 1134s, Pub. L. 89–329, title IX, § 961, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1558; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 775, authorized program for assistance for training in legal profession.

Another prior section 1134s, Pub. L. 89–329, title IX, § 981, as added Pub. L. 92–318, title X, § 1001(b), June 23, 1972, 86 Stat. 380, related to a program of general assistance to graduate schools, prior to repeal by Pub. L. 96–374, title IX, § 902(b), Oct. 3, 1980, 94 Stat. 1484, eff. Oct. 1, 1980. Subsequent to repeal, subsec. (f) of that section was repealed by Pub. L. 96–470, title I, § 106(c), Oct. 19, 1980, 94 Stat. 2238.

Section 1134t, Pub. L. 89–329, title IX, § 962, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1559; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 776, authorized appropriations for program for assistance for training in legal profession.

Section 1134u, Pub. L. 89–329, title IX, § 971, as added Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1560; amended Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 776, authorized grants and contracts for programs to provide law school clinical experience programs.

Section 1134v, Pub. L. 89–329, title IX, § 972, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 777, related to applications for grants or contracts.

Section 1134w, Pub. L. 89–329, title IX, § 973, as added Pub. L. 102–325, title IX, § 901, July 23, 1992, 106 Stat. 777, authorized appropriations for law school clinical experience programs.

SUBPART 2—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

§ 1135. Grants to academic departments and programs of institutions

(a) Grant authority

(1) In general

The Secretary shall make grants to academic departments, programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree in order to enable such institutions to provide assistance to graduate students in accordance with this subpart.

(2) Additional grants

The Secretary may also make grants to such departments, programs and other academic units of institutions of higher education granting graduate degrees which submit joint proposals involving nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. Nondegree granting institutions eligible for awards as part of such joint proposals include any organization which—

(A) is described in section 501(c)(3) of title 26, and is exempt from tax under section 501(a) of such title;

(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

(C) is not a private foundation;

(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

(E) has necessary research resources not otherwise readily available in such institutions to such students.

(b) Award and duration of grants

(1) Awards

The principal criterion for the award of grants shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications, the Secretary shall, in awarding such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

(2) Duration and amount

(A) Duration

The Secretary shall award a grant under this subpart for a period of 3 years.

(B) Amount

The Secretary shall award a grant to an academic department, program or unit of an institution of higher education under this subpart for a fiscal year in an amount that is not less than $100,000 and not greater than $750,000.

(3) Reallotment

Whenever the Secretary determines that an academic department, program or unit of an institution of higher education is unable to use all of the amounts available to the department, program or unit under this subpart, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not needed to academic departments, programs and units of institutions which can use the grants authorized by this subpart.

(c) Preference to continuing grant recipients

(1) In general

The Secretary shall make new grant awards under this subpart only to the extent that each previous grant recipient under this subpart has received continued funding in accordance with subsection (b)(2)(A) of this section.

(2) Ratable reduction

To the extent that appropriations under this subpart are insufficient to comply with paragraph (1), available funds shall be distributed by ratably reducing the amounts required to be awarded under subsection (b)(2)(A) of this section.

(Pub. L. 89–329, title VII, § 711, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1790.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134m of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135, Pub. L. 89–329, title X, § 1001, as added Pub. L. 96–374, title X, § 1001(a), Oct. 3, 1980, 94 Stat. 1489; amended Pub. L. 102–325, title X, § 1001, July 23, 1992, 106 Stat. 778, related to Fund for the Improvement of Postsecondary Education, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138 of this title.

Another prior section 1135, Pub. L. 89–329, title X, § 1001, as added Pub. L. 92–318, title I, § 186(a)(1), June 23,

1972, 86 Stat. 312; amended Pub. L. 93–380, title VIII, § 837, Aug. 21, 1974, 88 Stat. 606; Pub. L. 94–482, title I, § 176(a)(3)–(5), title V, § 501(a)(20), Oct. 12, 1976, 90 Stat. 2165, 2236; Pub. L. 95–180, § 1(c), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–49, § 53(a), Aug. 13, 1979, 93 Stat. 354, related to development plans for expansion or improvement of postsecondary education programs in community colleges, prior to repeal by section 1001(a) of Pub. L. 96–374.

Another prior section 1135, Pub. L. 89–329, title X, § 1001, as added Pub. L. 90–575, title II, § 271, Oct. 16, 1968, 82 Stat. 1047, contained Congressional statement of purpose respecting improvement of graduate programs, prior to the general amendment of subchapter X of this chapter by Pub. L. 92–318.

A prior section 711 of Pub. L. 89–329 was classified to section 1132b of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 711 of Pub. L. 89–329 was classified to section 1132b of this title, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 711 of Pub. L. 89–329 was classified to section 1132b of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

§ 1135a. Institutional eligibility

(a) Eligibility criteria

Any academic department, program or unit of an institution of higher education that offers a program of postbaccalaureate study leading to a graduate degree in an area of national need (as designated under subsection (b) of this section) may apply for a grant under this subpart. No department, program or unit shall be eligible for a grant unless the program of postbaccalaureate study has been in existence for at least 4 years at the time of application for assistance under this subpart.

(b) Designation of areas of national need

After consultation with appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need. In making such designations, the Secretary shall take into account the extent to which the interest in the area is compelling, the extent to which other Federal programs support postbaccalaureate study in the area concerned, and an assessment of how the program could achieve the most significant impact with available resources.

(Pub. L. 89–329, title VII, § 712, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1791.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134n of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135a, Pub. L. 89–329, title X, § 1002, as added Pub. L. 96–374, title X, § 1001(a), Oct. 3, 1980, 94 Stat. 1489; amended Pub. L. 102–325, title X, § 1001, July 23, 1992, 106 Stat. 778, related to National Board of the Fund for the Improvement of Postsecondary Education, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138a of this title.

Another prior section 1135a, Pub. L. 89–329, title X, § 1011, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 313; amended Pub. L. 94–482, title I, § 176(b)(2), Oct. 12, 1976, 90 Stat. 2165; Pub. L. 96–49, § 53(b), Aug. 13, 1979, 93 Stat. 354, authorized appropriations for a program of establishment and expansion of community colleges, prior to repeal by section 1001(a) of Pub. L. 96–374.

Another prior section 1135a, Pub. L. 89–329, title X, § 1002, as added Pub. L. 90–575, title II, § 271, Oct. 16, 1968, 82 Stat. 1047, authorized appropriations, provided for types of programs, and prescribed limitations respecting improvement of graduate programs, prior to the general amendment of subchapter X of this chapter by Pub. L. 92–318.

A prior section 712 of Pub. L. 89–329 was classified to section 1132b–1 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 712 of Pub. L. 89–329 was classified to section 1132b–1 of this title, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 712 of Pub. L. 89–329 was classified to section 1132b–1 of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1135a–1, Pub. L. 89–329, title X, § 1003, as added Pub. L. 96–374, title X, § 1001(a), Oct. 3, 1980, 94 Stat. 1490; amended Pub. L. 99–498, title X, § 1001(a), Oct. 17, 1986, 100 Stat. 1560; Pub. L. 102–325, title X, § 1001, July 23, 1992, 106 Stat. 779, contained administrative provisions, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138b of this title.

Another prior section 1135a–1, Pub. L. 89–329, title X, § 1012, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 313; amended Pub. L. 94–482, title I, § 176(b)(3), Oct. 12, 1976, 90 Stat. 2165; Pub. L. 95–180, § 1(c), Nov. 15, 1977, 91 Stat. 1372, related to the apportionment of funds in the program of establishing and expanding community colleges, prior to repeal by section 1001(a) of Pub. L. 96–374.

A prior section 1135a–2, Pub. L. 89–329, title X, § 1004, as added Pub. L. 96–374, title X, § 1001(a), Oct. 3, 1980, 94 Stat. 1490; amended Pub. L. 102–325, title X, § 1001, July 23, 1992, 106 Stat. 779; Pub. L. 103–208, § 2(j)(42), Dec. 20, 1993, 107 Stat. 2484, authorized appropriations for the Fund for the Improvement of Postsecondary Education, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1138d of this title.

Another prior section 1135a–2, Pub. L. 89–329, title X, § 1013, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 314, provided for establishment grants and defined the term ''new community college'', prior to repeal by section 1001(a) of Pub. L. 96–374.

A prior section 1135a–3, Pub. L. 89–329, title X, § 1005, as added Pub. L. 96–374, title X, § 1001(a), Oct. 3, 1980, 94 Stat. 1491; amended Pub. L. 99–498, title X, § 1001(b), Oct. 17, 1986, 100 Stat. 1561, authorized appropriations to carry out part A of former subchapter X of this chapter for fiscal years 1987 to 1991, prior to the general amendment of that part by Pub. L. 102–325.

Another prior section 1135a–3 and prior sections 1135a–4 to 1135a–7 were repealed by Pub. L. 96–374, title X, § 1001(a), Oct. 3, 1980, 94 Stat. 1489, eff. Oct. 1, 1980.

Section 1135a–3, Pub. L. 89–329, title X, § 1014, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 314; amended Pub. L. 94–482, title I, § 177, Oct. 12, 1976, 90 Stat. 2165, related to expansion grants.

Section 1135a–4, Pub. L. 89–329, title X, § 1015, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 314, related to leasing of facilities.

Section 1135a–5, Pub. L. 89–329, title X, § 1016, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 315, related to establishment and expansion grants.

Section 1135a–6, Pub. L. 89–329, title X, § 1017, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 315, authorized payment to approved applicants.

Section 1135a–7, Pub. L. 89–329, title X, § 1018, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 315; amended Pub. L. 94–482, title I, § 178, Oct. 12, 1976, 90 Stat. 2166, defined the term ''community college''.

A prior section 1135a–11, Pub. L. 89–329, title X, § 1011, as added Pub. L. 102–325, title X, § 1001, July 23, 1992, 106 Stat. 780; amended Pub. L. 103–208, § 2(j)(43), Dec. 20, 1993, 107 Stat. 2484, authorized grants for special projects in areas of national need, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat.

1585, 1803, effective Oct. 1, 1998. See section 1138c of this title.

§ 1135b. Criteria for applications

(a) Selection of applications

The Secretary shall make grants to academic departments, programs and units of institutions of higher education on the basis of applications submitted in accordance with subsection (b) of this section. Applications shall be ranked on program quality by review panels of nationally recognized scholars and evaluated on the quality and effectiveness of the academic program and the achievement and promise of the students to be served. To the extent possible (consistent with other provisions of this section), the Secretary shall make awards that are consistent with recommendations of the review panels.

(b) Contents of applications

An academic department, program or unit of an institution of higher education, in the department, program or unit's application for a grant, shall—

(1) describe the current academic program of the applicant for which the grant is sought;

(2) provide assurances that the applicant will provide, from other non-Federal sources, for the purposes of the fellowship program under this subpart an amount equal to at least 25 percent of the amount of the grant received under this subpart, which contribution may be in cash or in kind, fairly valued;

(3) set forth policies and procedures to assure that, in making fellowship awards under this subpart, the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

(4) describe the number, types, and amounts of the fellowships that the applicant intends to offer with grant funds provided under this part;

(5) set forth policies and procedures to assure that, in making fellowship awards under this subpart, the institution will make awards to individuals who—

(A) have financial need, as determined under part E of subchapter IV of this chapter;

(B) have excellent academic records in their previous programs of study; and

(C) plan to pursue the highest possible degree available in their course of study;

(6) set forth policies and procedures to ensure that Federal funds made available under this subpart for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this subpart and in no case to supplant those funds;

(7) provide assurances that, in the event that funds made available to the academic department, program or unit under this subpart are insufficient to provide the assistance due a student under the commitment entered into between the academic department, program or unit and the student, the academic department, program or unit will, from any funds available to the department, program or unit, fulfill the commitment to the student;

(8) provide that the applicant will comply with the limitations set forth in section 1135d of this title;

(9) provide assurances that the academic department will provide at least 1 year of supervised training in instruction for students; and

(10) include such other information as the Secretary may prescribe.

(Pub. L. 89–329, title VII, § 713, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1791.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134*o* of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135b, Pub. L. 89–329, title X, § 1021, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1561, and amended, which related to purpose of and authority for minority science improvement program, was renumbered section 351 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067a of this title.

Another prior section 1135b, Pub. L. 89–329, title X, § 1051, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 316, authorized appropriations for occupational education programs, prior to repeal by Pub. L. 94–482, title I, § 176(c), title II, § 204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1977, Oct. 1, 1977.

Another prior section 1135b, Pub. L. 89–329, title X, § 1003, as added Pub. L. 90–575, title II, § 271, Oct. 16, 1968, 82 Stat. 1048, related to selection of grant recipients for improvement of graduate programs, prior to the general amendment of subchapter X of this chapter by Pub. L. 92–318.

A prior section 713 of Pub. L. 89–329 was classified to section 1132b–2 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 713 of Pub. L. 89–329 was classified to section 1132b–2 of this title, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 713 of Pub. L. 89–329 was classified to section 1132b–2 of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1135b–1, Pub. L. 89–329, title X, § 1022, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1561, which related to grant recipient selection, was renumbered section 352 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067b of this title.

Another prior section 1135b–1, Pub. L. 89–329, title X, § 1052, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 316, set forth allotment and reallotment requirements for funds appropriated for programs, prior to repeal by Pub. L. 94–482, title I, § 176(c), title II, § 204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1977, Oct. 1, 1977.

A prior section 1135b–2, Pub. L. 89–329, title X, § 1023, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1562, which related to use of funds, was renumbered section 353 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067c of this title.

Another prior section 1135b–2, Pub. L. 89–329, title X, § 1053, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 317, set forth requirements for administration of programs by Secretary, prior to repeal by Pub. L. 94–482, title I, § 176(c), title II, § 204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1987, Oct. 1, 1977.

A prior section 1135b–3, Pub. L. 89–329, title X, § 1024, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1562, and amended, which required multiagency study of minority science programs, was renumbered section 1024 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), Oct. 7, 1998, 112 Stat. 1636,

transferred to section 1067d of this title, and omitted from the Code.

Another prior section 1135b–3 and prior sections 1135b–4 to 1135b–9 were repealed by Pub. L. 94–482, title I, § 176(c), title II, § 204(c)(2), Oct. 12, 1976, 90 Stat. 2165, 2215, eff. Sept. 30, 1977, Oct. 1, 1977.

Section 1135b–3, Pub. L. 89–329, title X, § 1054, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 317, set forth responsibilities of Commissioner of Education in the administration of programs.

Section 1135b–4, Pub. L. 89–329, title X, § 1055, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 318, set forth requirements for State participation and administration of programs.

Section 1135b–5, Pub. L. 89–329, title X, § 1056, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 318, authorized planning grants for State occupational education programs and set forth criteria for State participation.

Section 1135b–6, Pub. L. 89–329, title X, § 1057, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 319, authorized program grants for State occupational education programs and set forth criteria for State administration of grants.

Section 1135b–7, Pub. L. 89–329, title X, § 1058, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 320, set forth prerequisites and procedures for program grants by Commissioner and provided for judicial review of actions of Commissioner.

Section 1135b–8, Pub. L. 89–329, title X, § 1059, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 321, authorized technical assistance to the States by Commissioner and the establishment of model programs.

Section 1135b–9, Pub. L. 89–329, title X, § 1060, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 322, defined the terms ''State'' and ''postsecondary occupational education'' for purposes of occupational education programs.

§ 1135c. Awards to graduate students

(a) Commitments to graduate students

(1) In general

An academic department, program or unit of an institution of higher education shall make commitments to graduate students who are eligible students under section 1091 of this title (including students pursuing a doctoral degree after having completed a master's degree program at an institution of higher education) at any point in their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years.

(2) Special rule

No such commitments shall be made to students under this subpart unless the academic department, program or unit has determined adequate funds are available to fulfill the commitment from funds received or anticipated under this subpart, or from institutional funds.

(b) Amount of stipends

The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this subpart. The stipends the Secretary establishes shall reflect the purpose of the program under this subpart to encourage highly talented students to undertake graduate study as described in this subpart. In the case of an individual who receives such individual's first stipend under this subpart in academic year 1999–2000 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need as determined under part E of subchapter IV of this chapter.

(c) Treatment of institutional payments

An institution of higher education that makes institutional payments for tuition and fees on behalf of individuals supported by fellowships under this subpart in amounts that exceed the institutional payments made by the Secretary pursuant to section 1135d(a)[1] of this title may count such excess toward the amounts the institution is required to provide pursuant to section 1135b(b)(2)[1] of this title.

(d) Academic progress required

Notwithstanding the provisions of subsection (a) of this section, no student shall receive an award—

(1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded; or

(2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

(Pub. L. 89–329, title VII, § 714, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1792.)

REFERENCES IN TEXT

Section 1135d(a) of this title, referred to in subsec. (c), was in the original ''section 716(a)'', meaning section 716(a) of Pub. L. 89–329, which was translated as reading section 715(a) of that Act to reflect the probable intent of Congress, because section 715(a) relates to institutional payments, and section 716, which is classified to section 1135e of this title, does not relate to institutional payments and does not contain a subsec. (a).

Section 1135b(b)(2) of this title, referred to in subsec. (c), was in the original ''section 714(b)(2)'', meaning section 714(b)(2) of Pub. L. 89–329, which was translated as reading section 713(b)(2) of that Act to reflect the probable intent of Congress, because section 713(b)(2) relates to amounts that institutions are required to provide from non-Federal sources, and section 714, which is classified to this section, does not relate to amounts that institutions are required to provide and does not contain a subsec. (b)(2).

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134p of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135c, Pub. L. 89–329, title X, § 1031, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1563, related to minority support in science and engineering programs, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1135c, Pub. L. 89–329, title X, § 1021, formerly § 1071, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 322, established Bureau

[1] See References in Text note below.

of Occupational and Adult Education and set forth functions, personnel etc., of the Bureau, prior to repeal by Pub. L. 94–482, title II, § 204(c)(3), Oct. 12, 1976, 90 Stat. 2215, eff. Oct. 1, 1977. Subsequent to repeal, this prior section 1135c was renumbered section 1021 of Pub. L. 89–329 and amended by deleting ''this title'' by Pub. L. 96–374, title X, § 1001(b), Oct. 3, 1980, 94 Stat. 1491.

Another prior section 1135c, Pub. L. 89–329, title X, § 1004, as added Pub. L. 90–575, title II, § 271, Oct. 16, 1968, 82 Stat. 1048, provided for consultations respecting improvement of graduate programs, prior to the general amendment of subchapter X of this chapter by Pub. L. 92–318.

A prior section 714 of Pub. L. 89–329 was classified to section 1132b–3 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 1135c–1, Pub. L. 89–329, title X, § 1032, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1563, related to the special service projects program, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1135c–1, Pub. L. 89–329, title X, § 1022, formerly § 1072, as added Pub. L. 92–318, title I, § 186(a)(1), June 23, 1972, 86 Stat. 323; amended Pub. L. 96–88, title III, § 301(b)(2), Oct. 17, 1979, 93 Stat. 678, renumbered and amended Pub. L. 96–374, title X, § 1001(b)(1), title XIII, § 1391(a)(1), Oct. 3, 1980, 94 Stat. 1491, 1503; Pub. L. 98–524, § 4(c)(3), Oct. 19, 1984, 98 Stat. 2488, established a Community College Unit in Department of Education, prior to the general amendment of part B of subchapter X of this chapter by Pub. L. 99–498.

A prior section 1135c–2, Pub. L. 89–329, title X, § 1033, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1563; amended Pub. L. 102–325, title X, § 1002(c), July 23, 1992, 106 Stat. 780, related to supportable activities, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

§ 1135d. Additional assistance for cost of education

(a) Institutional payments

(1) In general

The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship under this subpart at such institution, an institutional allowance. Except as provided in paragraph (2), such allowance shall be, for 1999–2000 and succeeding academic years, the same amount as the institutional payment made for 1998–1999 adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

(2) Reduction

The institutional allowance paid under paragraph (1) shall be reduced by the amount the institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

(b) Use for overhead prohibited

Funds made available pursuant to this subpart may not be used for the general operational overhead of the academic department or program.

(Pub. L. 89–329, title VII, § 715, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1793.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1134q of this title, prior to repeal by Pub. L. 105–244.

A prior section 1135d, Pub. L. 89–329, title X, § 1041, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564, which related to eligibility for grants, was renumbered section 361 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067g of this title.

A prior section 715 of Pub. L. 89–329 was classified to section 1132b–4 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

A prior section 1135d–1, Pub. L. 89–329, title X, § 1042, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564, which related to grant applications, was renumbered section 362 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067h of this title.

A prior section 1135d–2, Pub. L. 89–329, title X, § 1043, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564, and amended, which related to cross program and cross agency cooperation, was renumbered section 363 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067i of this title.

A prior section 1135d–3, Pub. L. 89–329, title X, § 1044, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1564, which contained administrative provisions, was renumbered section 364 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067j of this title.

A prior section 1135d–4, Pub. L. 89–329, title X, § 1045, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1565, related to establishment of Advisory Board for the Minority Science and Engineering Improvement Programs, prior to repeal by Pub. L. 102–325, § 2, title X, § 1002(e), July 23, 1992, 106 Stat. 458, 780, effective Oct. 1, 1992.

A prior section 1135d–5, Pub. L. 89–329, title X, § 1046, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1566, which defined terms, was renumbered section 365 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067k of this title.

A prior section 1135d–6, Pub. L. 89–329, title X, § 1047, as added Pub. L. 99–498, title X, § 1002, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 100–418, title VI, § 6221, Aug. 23, 1988, 102 Stat. 1518; Pub. L. 102–325, title X, § 1002(f), July 23, 1992, 106 Stat. 780, which authorized appropriations, was renumbered section 366 of title III of Pub. L. 89–329 by Pub. L. 105–244, title III, § 301(a)(5), (7), Oct. 7, 1998, 112 Stat. 1636, and transferred to section 1067*l* of this title, and repealed by section 301(a)(8) of Pub. L. 105–244.

§ 1135e. Authorization of appropriations

There are authorized to be appropriated $35,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

(Pub. L. 89–329, title VII, § 716, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1794.)

PRIOR PROVISIONS

A prior section 1135e, Pub. L. 89–329, title X, § 1061, as added Pub. L. 99–498, title X, § 1003, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 781, stated purpose of women and minorities science and engineering outreach demonstration program, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

A prior section 716 of Pub. L. 89–329 was classified to section 1132b–5 of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Prior sections 1135e–1 to 1135g were repealed by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1135e–1, Pub. L. 89–329, title X, § 1062, as added Pub. L. 99–498, title X, § 1003, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 781, authorized grants for programs to encourage female and minority elementary and secondary school students to pursue higher education for careers in science and engineering.

Section 1135e–2, Pub. L. 89–329, title X, § 1063, as added Pub. L. 99–498, title X, § 1003, Oct. 17, 1986, 100 Stat. 1567; amended Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 781, defined ''eligible institution'' and related to availability of funds.

Section 1135e–3, Pub. L. 89–329, title X, § 1064, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 782, related to amount, duration, and use of funds.

Section 1135e–4, Pub. L. 89–329, title X, § 1065, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 782, related to applications for grants.

Section 1135e–5, Pub. L. 89–329, title X, § 1066, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 782, related to evaluation of assisted activities.

Section 1135e–6, Pub. L. 89–329, title X, § 1067, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 783, related to Federal share of costs.

Section 1135e–7, Pub. L. 89–329, title X, § 1068, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 783, related to use of funds to supplement and not supplant other funds.

Section 1135e–8, Pub. L. 89–329, title X, § 1069, as added Pub. L. 102–325, title X, § 1003, July 23, 1992, 106 Stat. 783, authorized appropriations for women and minorities science and engineering outreach demonstration program.

Section 1135f, Pub. L. 89–329, title X, § 1081, formerly § 1181, as added Pub. L. 102–325, title X, § 1004, July 23, 1992, 106 Stat. 783; renumbered § 1081 and amended Pub. L. 103–208, § 2(j)(44), (45), Dec. 20, 1993, 107 Stat. 2485, established Dwight D. Eisenhower Leadership Program and provided that part D of former subchapter X of this chapter could be cited as the ''Dwight D. Eisenhower Leadership Development Act of 1992''.

Section 1135g, Pub. L. 89–329, title X, § 1091, as added Pub. L. 103–382, title III, § 360D, Oct. 20, 1994, 108 Stat. 3972, authorized grants to States for workplace and community transition training for incarcerated youth offenders.

SUBPART 3—THURGOOD MARSHALL LEGAL EDUCATIONAL OPPORTUNITY PROGRAM

§ 1136. Legal educational opportunity program

(a) Program authority

The Secretary shall carry out a program to be known as the ''Thurgood Marshall Legal Educational Opportunity Program'' designed to provide low-income, minority, or disadvantaged college students with the information, preparation, and financial assistance to gain access to and complete law school study.

(b) Eligibility

A college student is eligible for assistance under this section if the student is—

(1) from a low-income family;

(2) a minority; or

(3) from an economically or otherwise disadvantaged background.

(c) Contract or grant authorized

The Secretary is authorized to enter into a contract with, or make a grant to, the Council on Legal Education Opportunity, for a period of not less than 5 years—

(1) to identify college students who are from low-income families, are minorities, or are from disadvantaged backgrounds described in subsection (b)(3) of this section;

(2) to prepare such students for study at accredited law schools;

(3) to assist such students to select the appropriate law school, make application for entry into law school, and receive financial assistance for such study;

(4) to provide support services to such students who are first-year law students to improve retention and success in law school studies; and

(5) to motivate and prepare such students with respect to law school studies and practice in low-income communities.

(d) Services provided

In carrying out the purposes described in subsection (c) of this section, the contract or grant shall provide for the delivery of services through prelaw information resource centers, summer institutes, midyear seminars, and other educational activities, conducted under this section. Such services may include—

(1) information and counseling regarding—

(A) accredited law school academic programs, especially tuition, fees, and admission requirements;

(B) course work offered and required for graduation;

(C) faculty specialties and areas of legal emphasis; and

(D) undergraduate preparatory courses and curriculum selection;

(2) tutoring and academic counseling, including assistance in preparing for bar examinations;

(3) prelaw mentoring programs, involving law school faculty, members of State and local bar associations, and retired and sitting judges, justices, and magistrates;

(4) assistance in identifying preparatory courses and material for the law school aptitude or admissions tests;

(5) summer institutes for Thurgood Marshall Fellows that expose the Fellows to a rigorous curriculum that emphasizes abstract thinking, legal analysis, research, writing, and examination techniques; and

(6) midyear seminars and other educational activities that are designed to reinforce reading, writing, and studying skills of Thurgood Marshall Fellows.

(e) Duration of provision of services

The services described in subsection (d) of this section may be provided—

(1) prior to the period of law school study;

(2) during the period of law school study; and

(3) during the period following law school study and prior to taking a bar examination.

(f) Subcontracts and subgrants

For the purposes of planning, developing, or delivering one or more of the services described in subsection (d) of this section, the Council on Legal Education Opportunity shall enter into subcontracts with, and make subgrants to, institutions of higher education, law schools, public and private agencies and organizations, and combinations of such institutions, schools, agencies, and organizations.

(g) Stipends

The Secretary shall annually establish the maximum stipend to be paid (including allowances for participant travel and for the travel of the dependents of the participant) to Thurgood Marshall Fellows for the period of participation in summer institutes and midyear seminars. A Fellow may be eligible for such a stipend only if the Thurgood Marshall Fellow maintains satisfactory academic progress toward the Juris Doctor or Bachelor of Laws degree, as determined by the respective institutions.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title VII, § 721, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1794.)

PRIOR PROVISIONS

A prior section 1136, Pub. L. 89–329, title XI, § 1101, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 784, stated findings of Congress, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998. See section 1139 of this title.

Another prior section 1136, Pub. L. 89–329, title XI, § 1101, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1568, stated Congressional findings and purpose relating to partnerships for economic development, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Another prior section 1136, Pub. L. 89–329, title XI, § 1101, as added Pub. L. 96–374, title XI, § 1101, Oct. 3, 1980, 94 Stat. 1491, stated Congressional findings and declaration of purpose, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Another prior section 1136, Pub. L. 89–329, title XI, § 1101, as added Pub. L. 90–575, title II, § 281, Oct. 16, 1968, 82 Stat. 1048; amended Pub. L. 92–318, title I, § 191(a), (b), June 23, 1972, 86 Stat. 323, authorized a program for grants and contracts covering the establishment of a law school clinical experiences regimen, prior to the general amendment of subchapter XI of this chapter by Pub. L. 96–374.

A prior section 721 of Pub. L. 89–329 was renumbered section 341 and is classified to section 1066 of this title.

Another prior section 721 of Pub. L. 89–329 was classified to section 1132c of this title, prior to the general amendment of part A of this subchapter by Pub. L. 102–325.

Another prior section 721 of Pub. L. 89–329 was classified to section 1132c of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 721 of Pub. L. 89–329 was classified to section 1132b of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1136a to 1136h were repealed by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Section 1136a, Pub. L. 89–329, title XI, § 1102, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 785, stated purpose of and authorized program for urban community service assistance. See section 1139a of this title.

A prior section 1136a, Pub. L. 89–329, title XI, § 1102, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1568, related to use of economic development funds, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Another prior section 1136a, Pub. L. 89–329, title XI, § 1102, as added Pub. L. 96–374, title XI, § 1101, Oct. 3, 1980, 94 Stat. 1491, authorized appropriations for fiscal years 1981 to 1985 for urban grant university program, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Another prior section 1136a, Pub. L. 89–329, title XI, § 1102, as added Pub. L. 90–575, title II, § 281, Oct. 16, 1968, 82 Stat. 1048; amended Pub. L. 92–318, title I, § 191(a), June 23, 1972, 86 Stat. 323, related to required applications for participation in law school clinical experiences program, prior to the general amendment of subchapter XI of this chapter by Pub. L. 96–374.

Section 1136b, Pub. L. 89–329, title XI, § 1103, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 785, related to applications for urban community service grants. See section 1139b of this title.

A prior section 1136b, Pub. L. 89–329, title XI, § 1103, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1569, related to requirements for economic development grant applications, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Another prior section 1136b, Pub. L. 89–329, title XI, § 1103, as added Pub. L. 96–374, title XI, § 1101, Oct. 3, 1980, 94 Stat. 1492, authorized grants to urban universities, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Another prior section 1136b, Pub. L. 89–329, title XI, § 1103, as added Pub. L. 90–575, title II, § 281, Oct. 16, 1968, 82 Stat. 1049; amended Pub. L. 92–318, title I, § 191(c), June 23, 1972, 86 Stat. 323; Pub. L. 94–482, title I, § 172, Oct. 12, 1976, 90 Stat. 2164; Pub. L. 96–49, § 11, Aug. 13, 1979, 93 Stat. 354, authorized appropriations for the law school clinical experiences program, prior to the general amendment of subchapter XI of this chapter by Pub. L. 96–374.

Section 1136c, Pub. L. 89–329, title XI, § 1104, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 786, related to allowable activities. See section 1139c of this title.

Another prior section 1136c, Pub. L. 89–329, title XI, § 1104, as added Pub. L. 96–374, title XI, § 1101, Oct. 3, 1980, 94 Stat. 1492, placed geographical limitations on assistance to urban universities, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Section 1136d, Pub. L. 89–329, title XI, § 1105, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 786, related to peer review. See section 1139d of this title.

Another prior section 1136d, Pub. L. 89–329, title XI, § 1105, as added Pub. L. 96–374, title XI, § 1101, Oct. 3, 1980, 94 Stat. 1492, defined terms, prior to the general amendment of subchapter XI of this chapter by Pub. L. 99–498.

Section 1136e, Pub. L. 89–329, title XI, § 1106, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 786; amended Pub. L. 103–208, § 2(j)(46), Dec. 20, 1993, 107 Stat. 2485, related to disbursement of funds. See section 1139e of this title.

Section 1136f, Pub. L. 89–329, title XI, § 1107, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 787, related to designation of Urban Grant Institutions. See section 1139f of this title.

Section 1136g, Pub. L. 89–329, title XI, § 1108, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 787, defined terms ''urban area'' and ''eligible institution''. See section 1139g of this title.

Section 1136h, Pub. L. 89–329, title XI, § 1109, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 787, authorized appropriations for urban community service program. See section 1139h of this title.

SUBPART 4—GENERAL PROVISIONS

§ 1137. Administrative provisions for subparts 1, 2, and 3

(a) Coordinated administration

In carrying out the purpose described in section 1133(1) of this title, the Secretary shall provide for coordinated administration and regulation of graduate programs assisted under subparts 1, 2, and 3 of this part with other Federal

programs providing assistance for graduate education in order to minimize duplication and improve efficiency to ensure that the programs are carried out in a manner most compatible with academic practices and with the standard timetables for applications for, and notifications of acceptance to, graduate programs.

(b) Hiring authority

For purposes of carrying out subparts 1, 2, and 3 of this part, the Secretary shall appoint, without regard to the provisions of title 5 that govern appointments in the competitive service, such administrative and technical employees, with the appropriate educational background, as shall be needed to assist in the administration of such parts[1]. The employees shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(c) Use for religious purposes prohibited

No institutional payment or allowance under section 1134b(b) or 1135d(a) of this title shall be paid to a school or department of divinity as a result of the award of a fellowship under subpart 1 or 2 of this part, respectively, to an individual who is studying for a religious vocation.

(d) Evaluation

The Secretary shall evaluate the success of assistance provided to individuals under subpart 1, 2, or 3 of this part with respect to graduating from their degree programs, and placement in faculty and professional positions.

(e) Continuation awards

The Secretary, using funds appropriated to carry out subparts 1 and 2 of this part, and before awarding any assistance under such parts[1] to a recipient that did not receive assistance under part C or D of title IX (as such parts were in effect prior to October 7, 1998) shall continue to provide funding to recipients of assistance under such part C or D (as so in effect), as the case may be, pursuant to any multiyear award of such assistance.

(Pub. L. 89–329, title VII, § 731, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1795.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (b), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

Parts C and D of title IX (as such parts were in effect prior to October 7, 1998), referred to in subsec. (e), means parts C and D of title IX of the Higher Education Act of 1965, as added by Pub. L. 99–498, title IX, § 901(a), Oct. 17, 1986, 100 Stat. 1552, as amended, which were classified generally to parts C (§ 1134h et seq.) and D (§ 1134*l* et seq.), respectively, of subchapter IX of this chapter prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

PRIOR PROVISIONS

A prior section 1137, Pub. L. 89–329, title XI, § 1121, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 788, related to purpose of innovative projects for community service program, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1137, Pub. L. 89–329, title XI, § 1111, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1570, related to the purpose of urban community service program, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 731 of Pub. L. 89–329 was classified to section 1132d of this title, prior to the general amendment of this subchapter by Pub. L. 105–244.

Another prior section 731 of Pub. L. 89–329 was classified to section 1132d of this title, prior to the general amendment of part C of this subchapter by Pub. L. 102–325.

Another prior section 731 of Pub. L. 89–329 was classified to section 1132d of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

A prior section 1137a, Pub. L. 89–329, title XI, § 1122, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 788; amended Pub. L. 103–82, title I, § 111(b)(4), Sept. 21, 1993, 107 Stat. 860, authorized program for innovative projects for community service, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1137a and prior section 1137b were omitted in the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

Section 1137a, Pub. L. 89–329, title XI, § 1112, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1570, related to use of urban community service funds.

Section 1137b, Pub. L. 89–329, title XI, § 1113, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1570, related to contents for applications for urban community services projects.

PART B—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

§ 1138. Fund for the Improvement of Postsecondary Education

(a) Authority

The Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education, combinations of such institutions, and other public and private nonprofit institutions and agencies, to enable such institutions, combinations, and agencies to improve postsecondary education opportunities by—

(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(2) the creation of institutions, programs, and joint efforts involving paths to career and professional training, and combinations of academic and experiential learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out, in postsecondary educational institutions, of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

[1] So in original. Probably should be ''subparts''.

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

(b) Planning grants

The Secretary is authorized to make planning grants to institutions of higher education for the development and testing of innovative techniques in postsecondary education. Such grants shall not exceed $20,000.

(Pub. L. 89–329, title VII, § 741, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1796.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1135 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1138, Pub. L. 89–329, title XI, § 1141, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 788, related to purpose to assist development of student literacy corps and student mentoring corps programs, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1138, Pub. L. 89–329, title XI, § 1121, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1571, related to administrative provisions, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 741 of Pub. L. 89–329 was classified to section 1132e of this title, prior to repeal by Pub. L. 102–325.

Another prior section 741 of Pub. L. 89–329 was classified to section 1132e of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 741 of Pub. L. 89–329 was classified to section 1132c of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1138a. National Board of the Fund for the Improvement of Postsecondary Education

(a) Establishment

There is established a National Board of the Fund for the Improvement of Postsecondary Education (in this part referred to as the ''Board''). The Board shall consist of 15 members appointed by the Secretary for overlapping 3-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for 6 consecutive years shall thereafter be ineligible for appointment to the Board during a 2-year period following the expiration of such sixth year.

(b) Membership

(1) In general

The Secretary shall designate one of the members of the Board as Chairperson of the Board. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

(2) Appointment of Director

The Secretary shall appoint the Director of the Fund for the Improvement of Postsecondary Education (hereafter in this part referred to as the ''Director'').

(c) Duties

The Board shall—

(1) advise the Secretary and the Director on priorities for the improvement of postsecondary education and make such recommendations as the Board may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

(2) advise the Secretary and the Director on the operation of the Fund for the Improvement of Postsecondary Education, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

(3) meet at the call of the Chairperson, except that the Board shall meet whenever one-third or more of the members request in writing that a meeting be held.

(d) Information and assistance

The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

(Pub. L. 89–329, title VII, § 742, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1797.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1135a of this title, prior to repeal by Pub. L. 105–244.

A prior section 1138a, Pub. L. 89–329, title XI, § 1142, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 789; amended Pub. L. 103–208, § 2(j)(47), Dec. 20, 1993, 107 Stat. 2485, authorized grants for student literacy corps and student mentoring corps programs, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1138a, Pub. L. 89–329, title XI, § 1122, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1571, authorized appropriations to carry out parts A and B of subchapter XI of this chapter, prior to the general amendment of such subchapter by Pub. L. 102–325.

A prior section 742 of Pub. L. 89–329 was classified to section 1132e–1 of this title, prior to the general amendment of this subchapter by Pub. L. 99–498.

Another prior section 742 of Pub. L. 89–329 was classified to section 1132c–1 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1138b. Administrative provisions

(a) Technical employees

The Secretary may appoint, for terms not to exceed 3 years, without regard to the provisions of title 5 governing appointments in the competitive service, not more than 7 technical employees to administer this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) Procedures

The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this part. Procedures

for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

(Pub. L. 89–329, title VII, § 743, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1797.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1135a–1 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1138b, Pub. L. 89–329, title XI, § 1143, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 789, related to use of funds, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1138b, Pub. L. 89–329, title XI, § 1123, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1571, defined terms, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 743 of Pub. L. 89–329 was classified to section 1132c–2 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1138c. Special projects

(a) Grant authority

The Director is authorized to make grants to institutions of higher education, or consortia thereof, and such other public agencies and nonprofit organizations as the Director deems necessary for innovative projects concerning one or more areas of particular national need identified by the Director.

(b) Application

No grant shall be made under this part unless an application is made at such time, in such manner, and contains or is accompanied by such information as the Secretary may require.

(c) Areas of national need

Areas of national need shall initially include, but shall not be limited to, the following:

(1) Institutional restructuring to improve learning and promote productivity, efficiency, quality improvement, and cost and price control.

(2) Articulation between 2- and 4-year institutions of higher education, including developing innovative methods for ensuring the successful transfer of students from 2- to 4-year institutions of higher education.

(3) Evaluation and dissemination of model programs.

(4) International cooperation and student exchange among postsecondary educational institutions.

(Pub. L. 89–329, title VII, § 744, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1798.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1135a–11 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1138c, Pub. L. 89–329, title XI, § 1144, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 789; amended Pub. L. 103–382, title III, § 391(e)(10), Oct. 20, 1994, 108 Stat. 4023, related to applications for grants, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

A prior section 744 of Pub. L. 89–329 was classified to section 1132c–3 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1138d. Authorization of appropriations

There are authorized to be appropriated to carry out this part $30,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title VII, § 745, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1798.)

PRIOR PROVISIONS

A prior section 1138d, Pub. L. 89–329, title XI, § 1145, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 791, related to technical assistance and coordination contract, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

A prior section 745 of Pub. L. 89–329 was classified to section 1132c–4 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

A prior section 1138e, Pub. L. 89–329, title XI, § 1146, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106 Stat. 791, defined terms ''institution of higher education'' and ''public community agency'', prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

PART C—URBAN COMMUNITY SERVICE

§ 1139. Findings

The Congress finds that—

(1) the Nation's urban centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public health, housing, crime, education, environmental concerns, planning and work force preparation;

(2) there are, in the Nation's urban institutions, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services toward the amelioration of the problems described in paragraph (1);

(3) the skills, knowledge and experience in these urban institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

(4) the application of such skills, knowledge and experience is hindered by the limited funds available to redirect attention to solutions to such urban problems.

(Pub. L. 89–329, title VII, § 751, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1798.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136 of this title, prior to repeal by Pub. L. 105–244.

A prior section 1139, Pub. L. 89–329, title XI, § 1151, as added Pub. L. 102–325, title XI, § 1101, July 23, 1992, 106

Stat. 792, authorized appropriations for the innovative projects for community service program, student literacy corps program, and student mentoring corps program, prior to repeal by Pub. L. 105–244, § 3, title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1803, effective Oct. 1, 1998.

Another prior section 1139, Pub. L. 89–329, title XI, § 1131, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1572, stated purpose of providing assistance to establish Robert F. Wagner, Sr., Institute of Urban Public Policy, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 751 of Pub. L. 89–329 was classified to section 1132f of this title, prior to repeal by Pub. L. 104–208.

§ 1139a. Purpose; program authorized

(a) Purpose

It is the purpose of this part to provide incentives to urban academic institutions to enable such institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their communities.

(b) Program authorized

The Secretary is authorized to carry out a program of providing assistance to eligible institutions to enable such institutions to carry out the activities described in section 1139c of this title in accordance with the provisions of this part.

(Pub. L. 89–329, title VII, § 752, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1798.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136a of this title, prior to repeal by Pub. L. 105–244.

A prior section 1139a, Pub. L. 89–329, title XI, § 1132, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1572, related to application for and use of funds, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 752 of Pub. L. 89–329 was classified to section 1132f–1 of this title, prior to repeal by Pub. L. 104–208.

§ 1139b. Application for urban community service grants

(a) Application

(1) In general

An eligible institution seeking assistance under this part shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances as the Secretary may require by regulation.

(2) Contents

Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities and services for which assistance is sought; and

(B) include a plan that is agreed to by the members of a consortium that includes, in addition to the eligible institution, one or more of the following entities:

(i) A community college.

(ii) An urban school system.

(iii) A local government.

(iv) A business or other employer.

(v) A nonprofit institution.

(3) Waiver

The Secretary may waive the consortium requirements described in paragraph (2) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this part.

(b) Priority in selection of applications

The Secretary shall give priority to applications that propose to conduct joint projects supported by other local, State, and Federal programs. In addition, the Secretary shall give priority to eligible institutions submitting applications that demonstrate the eligible institution's commitment to urban community service.

(c) Selection procedures

The Secretary shall, by regulation, develop a formal procedure for the submission of applications under this part and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this part.

(Pub. L. 89–329, title VII, § 753, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1799.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136b of this title, prior to repeal by Pub. L. 105–244.

A prior section 1139b, Pub. L. 89–329, title XI, § 1133, as added Pub. L. 99–498, title XI, § 1101, Oct. 17, 1986, 100 Stat. 1573, authorized appropriations, prior to the general amendment of subchapter XI of this chapter by Pub. L. 102–325.

A prior section 753 of Pub. L. 89–329 was classified to section 1132f–2 of this title, prior to repeal by Pub. L. 104–208.

§ 1139c. Allowable activities

Funds made available under this part shall be used to support planning, applied research, training, resource exchanges or technology transfers, the delivery of services, or other activities the purpose of which is to design and implement programs to assist urban communities to meet and address their pressing and severe problems, such as the following:

(1) Work force preparation.

(2) Urban poverty and the alleviation of such poverty.

(3) Health care, including delivery and access.

(4) Underperforming school systems and students.

(5) Problems faced by the elderly and individuals with disabilities in urban settings.

(6) Problems faced by families and children.

(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

(8) Urban housing.

(9) Urban infrastructure.

(10) Economic development.

(11) Urban environmental concerns.

(12) Other problem areas which participants in the consortium described in section

1139b(a)(2)(B) of this title concur are of high priority in the urban area.

(13)(A) Problems faced by individuals with disabilities regarding accessibility to institutions of higher education and other public and private community facilities.

(B) Amelioration of existing attitudinal barriers that prevent full inclusion by individuals with disabilities in their community.

(14) Improving access to technology in local communities.

(Pub. L. 89–329, title VII, § 754, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1799.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136c of this title, prior to repeal by Pub. L. 105–244.

A prior section 754 of Pub. L. 89–329 was classified to section 1132f–3 of this title, prior to repeal by Pub. L. 104–208.

§ 1139d. Peer review

The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary may consult with other appropriate Cabinet-level officials and with non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of representatives from public and private institutions of higher education, labor, business, and State and local government, who have expertise in urban community service or in education.

(Pub. L. 89–329, title VII, § 755, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1800.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136d of this title, prior to repeal by Pub. L. 105–244.

A prior section 755 of Pub. L. 89–329 was classified to section 1132f–4 of this title, prior to repeal by Pub. L. 104–208.

§ 1139e. Disbursement of funds

(a) Multiyear availability

Subject to the availability of appropriations, grants under this part may be made on a multiyear basis, except that no institution, individually or as a participant in a consortium of such institutions, may receive such a grant for more than 5 years.

(b) Equitable geographic distribution

The Secretary shall award grants under this part in a manner that achieves an equitable geographic distribution of such grants.

(c) Matching requirement

An applicant under this part and the local governments associated with the application shall contribute to the conduct of the program supported by the grant an amount from non-Federal funds equal to at least one-fourth of the amount of the grant, which contribution may be in cash or in kind.

(Pub. L. 89–329, title VII, § 756, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1800.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136e of this title, prior to repeal by Pub. L. 105–244.

A prior section 756 of Pub. L. 89–329 was classified to section 1132f–5 of this title, prior to repeal by Pub. L. 104–208.

§ 1139f. Designation of Urban Grant Institutions

The Secretary shall publish a list of eligible institutions under this part and shall designate these institutions of higher education as ''Urban Grant Institutions''. The Secretary shall establish a national network of Urban Grant Institutions so that the results of individual projects achieved in one metropolitan area can then be generalized, disseminated, replicated, and applied throughout the Nation. The information developed as a result of this section shall be made available to Urban Grant Institutions and to any other interested institution of higher education by any appropriate means.

(Pub. L. 89–329, title VII, § 757, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1800.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136f of this title, prior to repeal by Pub. L. 105–244.

A prior section 757 of Pub. L. 89–329 was classified to section 1132f–6 of this title, prior to repeal by Pub. L. 104–208.

§ 1139g. Definitions

As used in this part:

(1) Urban area

The term ''urban area'' means a metropolitan statistical area having a population of not less than 350,000, or two contiguous metropolitan statistical areas having a population of not less than 350,000, or, in any State which does not have a metropolitan statistical area which has such a population, the eligible entity in the State submitting an application under section 1139b of this title, or, if no such entity submits an application, the Secretary, shall designate one urban area for the purposes of this part.

(2) Eligible institution

The term ''eligible institution'' means—

(A) a nonprofit municipal university, established by the governing body of the city in which it is located, and operating as of July 23, 1992, under that authority; or

(B) an institution of higher education, or a consortium of such institutions any one of which meets all of the requirements of this paragraph, which—

(i) is located in an urban area;

(ii) draws a substantial portion of its undergraduate students from the urban area in which such institution is located, or from contiguous areas;

(iii) carries out programs to make postsecondary educational opportunities more

accessible to residents of such urban area, or contiguous areas;

(iv) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas;

(v) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

(vi) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and the people of such areas.

(Pub. L. 89–329, title VII, § 758, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1801.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136g of this title, prior to repeal by Pub. L. 105–244.

A prior section 758 of Pub. L. 89–329 was classified to section 1132f–7 of this title, prior to repeal by Pub. L. 104–208.

§ 1139h. Authorization of appropriations

There are authorized to be appropriated $20,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(Pub. L. 89–329, title VII, § 759, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1801.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1136h of this title, prior to repeal by Pub. L. 105–244.

A prior section 759 of Pub. L. 89–329 was classified to section 1132f–8 of this title, prior to repeal by Pub. L. 104–208.

PART D—DEMONSTRATION PROJECTS TO ENSURE STUDENTS WITH DISABILITIES RECEIVE A QUALITY HIGHER EDUCATION

§ 1140. Purposes

It is the purpose of this part to support model demonstration projects to provide technical assistance or professional development for faculty and administrators in institutions of higher education in order to provide students with disabilities a quality postsecondary education.

(Pub. L. 89–329, title VII, § 761, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1801.)

PRIOR PROVISIONS

A prior section 761 of Pub. L. 89–329 was classified to section 1132g of this title, prior to repeal by Pub. L. 102–325.

Another prior section 761 of Pub. L. 89–329 was classified to section 1132d of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1140a. Grants authorized

(a) Competitive grants authorized

The Secretary may award grants, contracts, and cooperative agreements, on a competitive basis, to institutions of higher education, of which at least two such grants shall be awarded to institutions that provide professional development and technical assistance in order for students with learning disabilities to receive a quality postsecondary education.

(b) Duration; activities

(1) Duration

Grants under this part shall be awarded for a period of 3 years.

(2) Authorized activities

Grants under this part shall be used to carry out one or more of the following activities:

(A) Teaching methods and strategies

The development of innovative, effective, and efficient teaching methods and strategies to provide faculty and administrators with the skills and supports necessary to teach students with disabilities. Such methods and strategies may include inservice training, professional development, customized and general technical assistance, workshops, summer institutes, distance learning, and training in the use of assistive and educational technology.

(B) Synthesizing research and information

Synthesizing research and other information related to the provision of postsecondary educational services to students with disabilities.

(C) Professional development and training sessions

Conducting professional development and training sessions for faculty and administrators from other institutions of higher education to enable the faculty and administrators to meet the postsecondary educational needs of students with disabilities.

(3) Mandatory evaluation and dissemination

Grants under this part shall be used for evaluation, and dissemination to other institutions of higher education, of the information obtained through the activities described in subparagraphs (A) through (C).[1]

(c) Considerations in making awards

In awarding grants, contracts, or cooperative agreements under this section, the Secretary shall consider the following:

(1) Geographic distribution

Providing an equitable geographic distribution of such grants.

(2) Rural and urban areas

Distributing such grants to urban and rural areas.

(3) Range and type of institution

Ensuring that the activities to be assisted are developed for a range of types and sizes of institutions of higher education.

(4) Prior experience or exceptional programs

Institutions of higher education with demonstrated prior experience in, or exceptional

[1] So in original. Probably should refer to subparagraphs (A) through (C) of paragraph (2).

programs for, meeting the postsecondary educational needs of students with disabilities.

(Pub. L. 89–329, title VII, § 762, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1801.)

PRIOR PROVISIONS

A prior section 762 of Pub. L. 89–329 was classified to section 1132g–1 of this title, prior to repeal by Pub. L. 102–325.

Another prior section 762 of Pub. L. 89–329 was classified to section 1132d–1 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1140b. Applications

Each institution of higher education desiring to receive a grant, contract, or cooperative agreement under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall include—

(1) a description of how such institution plans to address each of the activities required under this part;

(2) a description of how the institution consulted with a broad range of people within the institution to develop activities for which assistance is sought; and

(3) a description of how the institution will coordinate and collaborate with the office that provides services to students with disabilities within the institution.

(Pub. L. 89–329, title VII, § 763, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1802.)

PRIOR PROVISIONS

A prior section 763 of Pub. L. 89–329 was classified to section 1132g–2 of this title, prior to repeal by Pub. L. 102–325.

Another prior section 763 of Pub. L. 89–329 was classified to section 1132d–2 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1140c. Rule of construction

Nothing in this part shall be construed to impose any additional duty, obligation, or responsibility on an institution of higher education or on the institution's faculty, administrators, or staff than are required by section 794 of title 29 and the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.].

(Pub. L. 89–329, title VII, § 764, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1803.)

REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in text, is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 764 of Pub. L. 89–329 was classified to section 1132g–3 of this title, prior to repeal by Pub. L. 102–325.

Another prior section 764 of Pub. L. 89–329 was classified to section 1132d–3 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

§ 1140d. Authorization of appropriations

There are authorized to be appropriated for this part $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 89–329, title VII, § 765, as added Pub. L. 105–244, title VII, § 701, Oct. 7, 1998, 112 Stat. 1803.)

PRIOR PROVISIONS

A prior section 765 of Pub. L. 89–329 was classified to section 1132d–4 of this title, prior to the general amendment of this subchapter by Pub. L. 96–374.

Prior sections 1141 and 1142 were repealed by Pub. L. 105–244, § 3, title I, § 101(b), title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1616, 1803, effective Oct. 1, 1998.

Section 1141, Pub. L. 89–329, title XII, § 1201, formerly title VIII, § 801, Nov. 8, 1965, 79 Stat. 1269; renumbered title XII, § 1201, and amended Pub. L. 90–575, title II, §§ 251, 293, 294, Oct. 16, 1968, 82 Stat. 1042, 1050, 1051; Pub. L. 91–230, title VIII, § 806(b), Apr. 13, 1970, 84 Stat. 192; Pub. L. 92–318, title I, § 131(d)(1), June 23, 1972, 86 Stat. 260; Pub. L. 94–482, title I, § 181(a), formerly § 181, Oct. 12, 1976, 90 Stat. 2167, renumbered Pub. L. 95–43, § 1(b)(7), June 15, 1977, 91 Stat. 218; Pub. L. 95–180, § 1(a), Nov. 15, 1977, 91 Stat. 1372; Pub. L. 96–374, title XIII, § 1391(a)(1), (b), Oct. 3, 1980, 94 Stat. 1503; Pub. L. 100–50, § 21(a), June 3, 1987, 101 Stat. 360; Pub. L. 102–26, § 2(a)(4), Apr. 9, 1991, 105 Stat. 123; Pub. L. 102–325, title XII, § 1201, July 23, 1992, 106 Stat. 792; Pub. L. 102–394, title III, § 308(a), Oct. 6, 1992, 106 Stat. 1820; Pub. L. 103–82, title I, § 111(b)(5), Sept. 21, 1993, 107 Stat. 861; Pub. L. 103–208, § 2(j)(48), Dec. 20, 1993, 107 Stat. 2485, defined terms for purposes of this chapter. See sections 1001 and 1003 of this title.

Section 1142, Pub. L. 89–329, title XII, § 1202, formerly § 1207, as added Pub. L. 94–482, title I, § 182, Oct. 12, 1976, 90 Stat. 2167; renumbered § 1202, Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1493; amended Pub. L. 102–325, title XII, § 1202, July 23, 1992, 106 Stat. 793, related to antidiscrimination requirements for institutions of higher education receiving Federal assistance. See section 1011 of this title.

Another prior section 1142, Pub. L. 89–329, title XII, § 1202, formerly title VIII, § 802, Nov. 8, 1965, 79 Stat. 1270; renumbered title XII, § 1202, Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1042, related to method of payment pursuant to grants, loans, or contracts under this chapter, prior to repeal by section 1201 of Pub. L. 96–374.

Prior sections 1142a and 1142b were repealed by Pub. L. 96–374, title XII, § 1201, title XIII, § 1393(a), Oct. 3, 1980, 94 Stat. 1493, 1504, effective Oct. 1, 1980.

Section 1142a, Pub. L. 89–329, title XII, § 1202, as added Pub. L. 92–318, title I, § 196, June 23, 1972, 86 Stat. 324, related to designation of a State postsecondary education commission.

Section 1142b, Pub. L. 89–329, title XII, § 1203, as added Pub. L. 92–318, title I, § 196, June 23, 1972, 86 Stat. 325; amended Pub. L. 94–482, title I, § 179, Oct. 12, 1976, 90 Stat. 2166; Pub. L. 96–49, § 12, Aug. 13, 1979, 93 Stat. 354, related to comprehensive statewide planning.

Prior sections 1143 to 1145g were repealed by Pub. L. 105–244, § 3, title I, § 101(b), title VII, § 702, Oct. 7, 1998, 112 Stat. 1585, 1616, 1803, effective Oct. 1, 1998.

Section 1143, Pub. L. 89–329, title XII, § 1203, as added Pub. L. 96–374, title XII, § 1201, Oct. 3, 1980, 94 Stat. 1493, related to State agreements.

Another prior section 1143, Pub. L. 89–329, title XII, § 1203, formerly title VIII, § 803, Nov. 8, 1965, 79 Stat. 1270; renumbered title XII, § 1203, Pub. L. 90–575, title II, § 251, Oct. 16, 1968, 82 Stat. 1042, provided for delegation of functions by Commissioner of Education and utilization of services and facilities of other agencies, prior to repeal by Pub. L. 91–230, title IV, § 401(c)(5), Apr. 13, 1970, 84 Stat. 173.

Section 1144, Pub. L. 89–329, title XII, § 1204, formerly title VIII, § 804, Nov. 8, 1965, 79 Stat. 1270; renumbered

title XII, §1204, Pub. L. 90–575, title II, §251, Oct. 16, 1968, 82 Stat. 1042; amended Pub. L. 91–230, title IV, §401(f)(6), Apr. 13, 1970, 84 Stat. 173, prohibited Federal control over education.

Section 1144a, Pub. L. 89–329, title XII, §1204, as added Pub. L. 96–374, title XII, §1201, Oct. 3, 1980, 94 Stat. 1495; amended Pub. L. 99–498, title XII, §1201, Oct. 17, 1986, 100 Stat. 1573; Pub. L. 102–73, title VIII, §801(c), July 25, 1991, 105 Stat. 360; Pub. L. 103–208, §2(j)(49), Dec. 20, 1993, 107 Stat. 2485, related to treatment of territories and territorial student assistance. See section 1011b of this title.

Another prior section 1144a, Pub. L. 92–318, title V, §510, June 23, 1972, 86 Stat. 353, set forth sense of Congress that governing boards of institutions of higher education give consideration to student participation on such boards, prior to being omitted from the Code.

Section 1145, Pub. L. 89–329, title XII, §1205, as added Pub. L. 96–374, title XII, §1201, Oct. 3, 1980, 94 Stat. 1495; amended Pub. L. 99–498, title XII, §1202, Oct. 17, 1986, 100 Stat. 1573; Pub. L. 102–325, title XII, §1203, July 23, 1992, 106 Stat. 793; Pub. L. 103–208, §2(j)(50)–(53), Dec. 20, 1993, 107 Stat. 2485, related to National Advisory Committee on Institutional Quality and Integrity. See section 1011c of this title.

Another prior section 1145, Pub. L. 89–329, title XII, §1205, as added Pub. L. 90–575, title II, §291(a), Oct. 16, 1968, 82 Stat. 1049; amended Pub. L. 91–230, title IV, §401(h)(4), Apr. 13, 1970, 84 Stat. 174, established an Advisory Council on Graduate Education in the Office of Education, prior to repeal by section 1201 of Pub. L. 96–374.

Section 1145a, Pub. L. 89–329, title XII, §1206, as added Pub. L. 99–498, title XII, §1203, Oct. 17, 1986, 100 Stat. 1573, related to Commission to study postsecondary institutional and programmatic recognition process.

Another prior section 1145a, Pub. L. 89–329, title XII, §1206, as added Pub. L. 92–318, title I, §197, June 23, 1972, 86 Stat. 325, related to supplying cost-of-education data by institutions of higher education, prior to repeal by Pub. L. 96–374, title XII, §1201, Oct. 3, 1980, 94 Stat. 1493, eff. Oct. 1, 1980.

Section 1145b, Pub. L. 89–329, title XII, §1207, as added Pub. L. 99–498, title XII, §1204, Oct. 17, 1986, 100 Stat. 1576, related to student representation in connection with administration of this chapter. See section 1011d of this title.

Another prior section 1145b, Pub. L. 89–329, title XII, §1202, formerly §1207, as added Pub. L. 94–482, title I, §182, Oct. 12, 1976, 90 Stat. 2167; renumbered title XII, §1202, Pub. L. 96–374, title XII, §1201, Oct. 3, 1980, 94 Stat. 1493, which related to antidiscrimination requirements for institutions of higher education receiving Federal assistance, was transferred to section 1142 of this title and subsequently repealed by Pub. L. 105–244.

Section 1145c, Pub. L. 89–329, title XII, §1208, as added Pub. L. 99–498, title XII, §1205, Oct. 17, 1986, 100 Stat. 1577, related to financial responsibility of foreign students. See section 1011e of this title.

Another prior section 1145c, Pub. L. 89–329, title XII, §1208, as added Pub. L. 94–482, title I, §183, Oct. 12, 1976, 90 Stat. 2167, related to availability of appropriations, prior to repeal by Pub. L. 96–374, title XII, §1201, Oct. 3, 1980, 94 Stat. 1493, eff. Oct. 1, 1980.

Section 1145d, Pub. L. 89–329, title XII, §1209, as added Pub. L. 102–325, title XII, §1204, July 23, 1992, 106 Stat. 794; amended Pub. L. 103–208, §2(j)(54), Dec. 20, 1993, 107 Stat. 2485, related to disclosures of foreign gifts. See section 1011f of this title.

Another prior section 1145d, Pub. L. 89–329, title XII, §1209, as added Pub. L. 99–498, title XII, §1206(a), Oct. 17, 1986, 100 Stat. 1577, related to disclosures of foreign gifts, prior to repeal by Pub. L. 99–498, title XII, §1206(b), Oct. 17, 1986, 100 Stat. 1579, as amended by Pub. L. 100–50, §22(f), June 3, 1987, 101 Stat. 362, effective Aug. 1, 1989.

Section 1145d–1, Pub. L. 89–329, title XII, §1210, as added Pub. L. 100–50, §21(b), June 3, 1987, 101 Stat. 360, related to application of peer review process. See section 1011g of this title.

Section 1145e, Pub. L. 89–329, title XII, §1211, formerly §1210, as added Pub. L. 99–498, title XII, §1207, Oct. 17, 1986, 100 Stat. 1579; renumbered §1211, Pub. L. 100–50, §21(b), June 3, 1987, 101 Stat. 360, related to aggregate limit of authorization of appropriations.

Section 1145f, Pub. L. 89–329, title XII, §1212, formerly §1211, as added Pub. L. 100–418, title VI, §6231, Aug. 23, 1988, 102 Stat. 1518; renumbered §1212 and amended Pub. L. 103–208, §2(j)(55), (56), Dec. 20, 1993, 107 Stat. 2485, related to technology transfer centers.

Section 1145g, Pub. L. 89–329, title XII, §1213, as added Pub. L. 101–226, §22(a)(1), Dec. 12, 1989, 103 Stat. 1938, related to drug and alcohol abuse prevention. See section 1011i of this title.

A prior section 1145h, Pub. L. 102–325, title XV, §1541, July 23, 1992, 106 Stat. 834; Pub. L. 103–208, §2(k)(13), Dec. 20, 1993, 107 Stat. 2486, authorized grants for campus sexual offense education, prior to repeal by Pub. L. 105–332, §6(b)(3), Oct. 31, 1998, 112 Stat. 3128.

A prior section 1146, Pub. L. 96–374, title XIII, §1392, Oct. 3, 1980, 94 Stat. 1504, which related to contract authority, was transferred to section 1154 of this title.

Another prior section 1146, Pub. L. 89–329, title XII, §1206, as added Pub. L. 90–575, title II, §292, Oct. 16, 1968, 82 Stat. 1050, provided for dissemination of information and authorization of $2,000,000 for fiscal year ending June 30, 1970, and such amount as Congress might authorize for fiscal year ending June 30, 1971, prior to repeal by Pub. L. 91–230, title IV, §401(d)(5), Apr. 13, 1970, 84 Stat. 173.

A prior section 1146a, Pub. L. 99–498, §3, Oct. 17, 1986, 100 Stat. 1278, which provided that contracting authority be subject to appropriations, was transferred, and is set out as a Contracting Authority Subject to Appropriations note under section 1154 of this title.

Prior sections 1147 to 1150, Pub. L. 89–329, title XII, §§1207–1210, as added Pub. L. 90–575, title II, §295, Oct. 16, 1968, 82 Stat. 1051, 1052, provided for program planning and evaluation for higher education programs; advance funding; evaluation reports and Congressional review; and availability of appropriations on academic or school year basis, prior to repeal by Pub. L. 91–230, title IV, §401(b), Apr. 13, 1970, 84 Stat. 172.

SUBCHAPTER VIII—MISCELLANEOUS

§1151. Grants to States for workplace and community transition training for incarcerated youth offenders

(a) Findings

Congress makes the following findings:

(1) Over 150,000 youth offenders age 21 and younger are incarcerated in the Nation's jails, juvenile facilities, and prisons.

(2) Most youth offenders who are incarcerated have been sentenced as first-time adult felons.

(3) Approximately 75 percent of youth offenders are high school dropouts who lack basic literacy and life skills, have little or no job experience, and lack marketable skills.

(4) The average incarcerated youth has attended school only through grade 10.

(5) Most of these youths can be diverted from a life of crime into productive citizenship with available educational, vocational, work skills, and related service programs.

(6) If not involved with educational programs while incarcerated, almost all of these youths will return to a life of crime upon release.

(7) The average length of sentence for a youth offender is about 3 years. Time spent in prison provides a unique opportunity for education and training.

(8) Even with quality education and training provided during incarceration, a period of intense supervision, support, and counseling is needed upon release to ensure effective reintegration of youth offenders into society.

(9) Research consistently shows that the vast majority of incarcerated youths will not return to the public schools to complete their education.

(10) There is a need for alternative educational opportunities during incarceration and after release.

(b) "Youth offender" defined

For purposes of this section, the term ''youth offender'' means a male or female offender under the age of 25, who is incarcerated in a State prison, including a prerelease facility.

(c) Grant program

The Secretary of Education (in this section referred to as the ''Secretary'') shall establish a program in accordance with this section to provide grants to the State correctional education agencies in the States, from allocations for the States under subsection (i) of this section, to assist and encourage incarcerated youths to acquire functional literacy, life, and job skills, through the pursuit of a postsecondary education certificate, or an associate of arts or bachelor's degree while in prison, and employment counseling and other related services which start during incarceration and continue through prerelease and while on parole.

(d) Application

To be eligible for a grant under this section, a State correctional education agency shall submit to the Secretary a proposal for a youth offender program that—

(1) identifies the scope of the problem, including the number of incarcerated youths in need of postsecondary education and vocational training;

(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

(4) describes the evaluation methods and performance measures that the State correctional education agency will employ, which methods and measures—

(A) shall be appropriate to meet the goals and objectives of the proposal; and

(B) shall include measures of—

(i) program completion;

(ii) student academic and vocational skill attainment;

(iii) success in job placement and retention; and

(iv) recidivism;

(5) describes how the proposed programs are to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

(6) addresses the educational needs of youth offenders who are in alternative programs (such as boot camps); and

(7) describes how students will be selected so that only youth offenders eligible under subsection (f) of this section will be enrolled in postsecondary programs.

(e) Program requirements

Each State correctional education agency receiving a grant under this section shall—

(1) integrate activities carried out under the grant with the objectives and activities of the school-to-work programs of such State, including—

(A) work experience or apprenticeship programs;

(B) transitional worksite job training for vocational education students that is related to the occupational goals of such students and closely linked to classroom and laboratory instruction;

(C) placement services in occupations that the students are preparing to enter;

(D) employment-based learning programs; and

(E) programs that address State and local labor shortages;

(2) annually report to the Secretary and the Attorney General on the results of the evaluations conducted using the methods and performance measures contained in the proposal; and

(3) provide to each State for each student eligible under subsection (f) of this section not more than $1,500 annually for tuition, books, and essential materials, and not more than $300 annually for related services such as career development, substance abuse counseling, parenting skills training, and health education, for each eligible incarcerated youth.

(f) Student eligibility

A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

(1) is eligible to be released within 5 years (including a youth offender who is eligible for parole within such time); and

(2) is 25 years of age or younger.

(g) Length of participation

A State correctional education agency receiving a grant under this section shall provide educational and related services to each participating youth offender for a period not to exceed 5 years, 1 year of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a secondary school diploma or its recognized equivalent. Educational and related services shall start during the period of incarceration in prison or prerelease and may continue during the period of parole.

(h) Education delivery systems

State correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this section.

(i) Allocation of funds

From the funds appropriated pursuant to subsection (j) of this section for each fiscal year,

the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of students eligible under subsection (f) of this section in such State bears to the total number of such students in all States.

(j) Authorization of appropriations

There are authorized to be appropriated to carry out this section $17,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 105–244, title VIII, § 821, Oct. 7, 1998, 112 Stat. 1813.)

CODIFICATION

Section was enacted as part of the Higher Education Amendments of 1998, and not as part of the Higher Education Act of 1965 which comprises this chapter.

§ 1152. Repealed. Pub. L. 109–162, title III, § 304(f), Jan. 5, 2006, 119 Stat. 3016

Section, Pub. L. 105–244, title VIII, § 826, Oct. 7, 1998, 112 Stat. 1815; Pub. L. 106–386, div. B, title I, § 1108(a), title V, § 1512(d), Oct. 28, 2000, 114 Stat. 1500, 1533; Pub. L. 109–162, title XI, § 1135(d), Jan. 5, 2006, 119 Stat. 3109, related to grants to combat violent crimes against women on campuses.

§ 1153. Underground Railroad educational and cultural program

(a) Program established

The Secretary of Education, in consultation and cooperation with the Secretary of the Interior, is authorized to make grants to 1 or more nonprofit educational organizations that are established to research, display, interpret, and collect artifacts relating to the history of the Underground Railroad.

(b) Grant agreement

Each nonprofit educational organization awarded a grant under this section shall enter into an agreement with the Secretary of Education. Each such agreement shall require the organization—

(1) to establish a facility to house, display, and interpret the artifacts related to the history of the Underground Railroad, and to make the interpretive efforts available to institutions of higher education that award a baccalaureate or graduate degree;

(2) to demonstrate substantial private support for the facility through the implementation of a public-private partnership between a State or local public entity and a private entity for the support of the facility, which private entity shall provide matching funds for the support of the facility in an amount equal to 4 times the amount of the contribution of the State or local public entity, except that not more than 20 percent of the matching funds may be provided by the Federal Government;

(3) to create an endowment to fund any and all shortfalls in the costs of the on-going operations of the facility;

(4) to establish a network of satellite centers throughout the United States to help disseminate information regarding the Underground Railroad throughout the United States, if such satellite centers raise 80 percent of the funds required to establish the satellite centers from non-Federal public and private sources;

(5) to establish the capability to electronically link the facility with other local and regional facilities that have collections and programs which interpret the history of the Underground Railroad; and

(6) to submit, for each fiscal year for which the organization receives funding under this section, a report to the Secretary of Education that contains—

(A) a description of the programs and activities supported by the funding;

(B) the audited financial statement of the organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported by the funding as the Secretary may require; and

(D) an evaluation of the programs and activities supported by the funding as the Secretary may require.

(c) Authorization of appropriations

There are authorized to be appropriated to carry out this section $6,000,000 for fiscal year 1999, $6,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $3,000,000 for fiscal year 2002, and $3,000,000 for fiscal year 2003.

(Pub. L. 105–244, title VIII, § 841, Oct. 7, 1998, 112 Stat. 1820.)

CODIFICATION

Section was enacted as part of the Higher Education Amendments of 1998, and not as part of the Higher Education Act of 1965 which comprises this chapter.

§ 1154. Contract authority

The authorization to enter into contracts or other obligations under the Act, as amended by this Act, shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 96–374, title XIII, § 1392, Oct. 3, 1980, 94 Stat. 1504.)

REFERENCES IN TEXT

The Act, as amended by this Act, referred to in text, means the Higher Education Act of 1965, Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended by the Education Amendments of 1980, Pub. L. 96–373, Oct. 3, 1980, 94 Stat. 1367, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

CODIFICATION

Section was formerly classified to section 1146 of this title.

Section was enacted as part of the Education Amendments of 1980, and not as part of the Higher Education Act of 1965 which comprises this chapter.

Section was enacted as part of the Higher Education Amendments of 1986, and not as part of the Higher Education Act of 1965 which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

CONTRACTING AUTHORITY SUBJECT TO APPROPRIATIONS

Pub. L. 99–498, § 3, Oct. 17, 1986, 100 Stat. 1278, provided that: ''The authority to enter into contracts or other

obligations under this Act (other than amendments made to part B of title IV of the Act) [see Tables for classification] shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.''

§ 1155. Connie Lee privatization

(a) Status of Corporation and corporate powers; obligations not federally guaranteed

(1) Status of the Corporation

The Corporation shall not be an agency, instrumentality, or establishment of the United States Government, nor a Government corporation, nor a Government controlled corporation, as such terms are defined in section 103 of title 5. No action under section 1491 of title 28 (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(2) Corporate powers

The Corporation shall be subject to the provisions of this section, and, to the extent not inconsistent with this section, to the District of Columbia Business Corporation Act (or the comparable law of another State, if applicable). The Corporation shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act (or such other applicable State law) as from time to time in effect in order to conduct the Corporation's affairs as a private, for-profit corporation and to carry out the Corporation's purposes and activities incidental thereto. The Corporation shall have the power to enter into contracts, to execute instruments, to incur liabilities, to provide products and services, and to do all things as are necessary or incidental to the proper management of the Corporation's affairs and the efficient operation of a private, for-profit business.

(3) Limitation on ownership of stock

(A) Student Loan Marketing Association

The Student Loan Marketing Association shall not increase its share of the ownership of the Corporation in excess of 42 percent of the shares of stock of the Corporation outstanding on September 30, 1996. The Student Loan Marketing Association shall not control the operation of the Corporation, except that the Student Loan Marketing Association may participate in the election of directors as a shareholder, and may continue to exercise the Student Loan Marketing Association's right to appoint directors under section 1132f–3 of this title as long as that section is in effect.

(B) Prohibition

Until such time as the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c) of this section, the Student Loan Marketing Association shall not provide financial support or guarantees to the Corporation.

(C) Financial support or guarantees

After the Secretary of the Treasury sells the stock of the Corporation owned by the Secretary of Education pursuant to subsection (c) of this section, the Student Loan Marketing Association may provide financial support or guarantees to the Corporation, if such support or guarantees are subject to terms and conditions that are no more advantageous to the Corporation than the terms and conditions the Student Loan Marketing Association provides to other entities, including, where applicable, other monoline financial guaranty corporations in which the Student Loan Marketing Association has no ownership interest.

(4) No Federal guarantee

(A) Obligations insured by the Corporation

(i) Full faith and credit of the United States

No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the full faith and credit of the United States.

(ii) Student Loan Marketing Association

No obligation that is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation that is guaranteed by the Student Loan Marketing Association.

(iii) Special rule

This paragraph shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(B) Securities offered by the Corporation

No debt or equity securities of the Corporation shall be deemed to be guaranteed by the full faith and credit of the United States.

(5) "Corporation" defined

The term ''Corporation'' as used in this section means the College Construction Loan Insurance Association as in existence on the day before September 30, 1996, and any successor corporation.

(b) Related privatization requirements

(1) Notice requirements

(A) In general

During the six-year period following September 30, 1996, the Corporation shall include, in each of the Corporation's contracts for the insurance, guarantee, or reinsurance of obligations, and in each document offering debt or equity securities of the Corporation, a prominent statement providing notice that—

(i) such obligations or such securities, as the case may be, are not obligations of the United States, nor are such obligations or such securities, as the case may be, guaranteed in any way by the full faith and credit of the United States; and

(ii) the Corporation is not an instrumentality of the United States.

(B) Additional notice

During the five-year period following the sale of stock pursuant to subsection (c)(1) of

this section, in addition to the notice requirements in subparagraph (A), the Corporation shall include, in each of the contracts and documents referred to in such subparagraph, a prominent statement providing notice that the United States is not an investor in the Corporation.

(2) Corporate charter

The Corporation's charter shall be amended as necessary and without delay to conform to the requirements of this section.

(3) Corporate name

The name of the Corporation, or of any direct or indirect subsidiary thereof, may not contain the term ''College Construction Loan Insurance Association'', or any substantially similar variation thereof.

(4) Articles of incorporation

The Corporation shall amend the Corporation's articles of incorporation without delay to reflect that one of the purposes of the Corporation shall be to guarantee, insure, and reinsure bonds, leases, and other evidences of debt of educational institutions, including Historically Black Colleges and Universities and other academic institutions which are ranked in the lower investment grade category using a nationally recognized credit rating system.

(5) Requirements until stock sale

Notwithstanding subsection (d) of this section, the requirements of sections 1132f–3 and 1132f–9 of this title, as such sections were in effect on the day before September 30, 1996, shall continue to be effective until the day immediately following the date of closing of the purchase of the Secretary of Education's stock (or the date of closing of the final purchase, in the case of multiple transactions) pursuant to subsection (c)(1) of this Act.[1]

(c) Sale of federally owned stock

(1) Purchase by the Corporation

The Secretary of the Treasury shall sell and the Corporation shall purchase, within 90 days after September 30, 1996, the stock of the Corporation held by the Secretary of Education at a price determined by the binding, independent appraisal of a nationally recognized financial firm, except that the 90-day period may be extended by mutual agreement of the Secretary of the Treasury and the Corporation to not more than 150 days after September 30, 1996. The appraiser shall be jointly selected by the Secretary of the Treasury and the Corporation. In the event that the Secretary of the Treasury and the Corporation cannot agree on the appraiser, then the Secretary of the Treasury and the Corporation shall name an independent third party to select the appraiser.

(2) Reimbursement of costs and expenses of sale

The Secretary of the Treasury shall be reimbursed from the proceeds of the sale of the stock under this subsection for all reasonable costs and expenses related to such sale, except that one-half of all reasonable costs and expenses relating to the independent appraisal under paragraph (1) shall be borne by the Corporation.

(3) Deposit into account

Amounts collected from the sale of stock pursuant to this subsection that are not used to reimburse the Secretary of the Treasury pursuant to paragraph (2) shall be deposited into the account established under subsection (e) of this section.

(4) Assistance by the Corporation

The Corporation shall provide such assistance as the Secretary of the Treasury and the Secretary of Education may require to facilitate the sale of the stock under this subsection.

(5) Report to Congress

Not later than 6 months after September 30, 1996, the Secretary of the Treasury shall report to the appropriate committees of Congress on the completion and terms of the sale of stock of the Corporation pursuant to this subsection.

(d) Omitted

(e) Establishment of account

(1) In general

Notwithstanding any other provision of law, the District of Columbia Financial Responsibility and Management Assistance Authority shall establish an account to receive—

(A) amounts collected from the sale and proceeds resulting from the exercise of stock warrants pursuant to section 1087–3(c)(9) of this title;

(B) amounts and proceeds remitted as compensation for the right to assign the ''Sallie Mae'' name as a trademark or service mark pursuant to section 1087–3(e)(3) of this title; and

(C) amounts and proceeds collected from the sale of the stock of the Corporation and deposited pursuant to subsection (c)(3) of this section.

(2) Amounts and proceeds

(A) Amounts and proceeds relating to Sallie Mae

The amounts and proceeds described in subparagraphs (A) and (B) of paragraph (1) shall be used to finance public elementary and secondary school facility construction and repair within the District of Columbia or to carry out the District of Columbia School Reform Act of 1995.

(B) Amounts and proceeds relating to Connie Lee

The amounts and proceeds described in subparagraph (C) of paragraph (1) shall be used to finance public and public charter elementary and secondary school facility construction and repair within the District of Columbia. Of such amounts and proceeds, $5,000,000 shall be set aside for a credit enhancement revolving fund for public charter schools in the District of Columbia, to be ad-

[1] So in original. Probably should be ''section.''

ministered and disbursed in accordance with paragraph (3).

(3) Credit enhancement revolving fund for public charter schools

(A) Distribution of amounts

Of the amounts in the credit enhancement revolving fund established under paragraph (2)(B)—

(i) 50 percent shall be used to make grants under subparagraph (B); and

(ii) 50 percent shall be used to make grants under subparagraph (C).

(B) Grants to eligible nonprofit corporations

(i) In general

Using the amounts described in subparagraph (A)(i), the Mayor of the District of Columbia shall make and disburse grants to eligible nonprofit corporations to carry out the purposes described in subparagraph (E).

(ii) Administration

Subject to subparagraph (F), the Mayor shall administer the program of grants under this subparagraph, except that if the committee described in subparagraph (C)(iii) is in operation and is fully functional prior to the date the Mayor makes the grants, the Mayor may delegate the administration of the program to the committee.

(C) Other grants

(i) In general

Using the amounts described in subparagraph (A)(ii), the Mayor of the District of Columbia shall make grants to entities to carry out the purposes described in subparagraph (E).

(ii) Participation of schools

A public charter school in the District of Columbia may receive a grant under this subparagraph to carry out the purposes described in subparagraph (E) in the same manner as other entities receiving grants to carry out such activities.

(iii) Administration through committee

Subject to subparagraph (F), the Mayor shall carry out this subparagraph through the committee appointed by the Mayor under the second sentence of paragraph (2)(B) (as in effect prior to November 22, 2000). The committee may enter into an agreement with a third party to carry out its responsibilities under this subparagraph.

(iv) Cap on administrative costs

Not more than 5 percent of the funds available for grants under this subparagraph for a fiscal year may be used to cover the administrative costs of making grants under this subparagraph for the fiscal year.

(D) Special rule regarding eligibility of nonprofit corporations

In order to be eligible to receive a grant under this paragraph, a nonprofit corporation must provide appropriate certification to the Mayor or to the committee described in subparagraph (C)(iii) (as the case may be) that it is duly authorized by two or more public charter schools in the District of Columbia to act on their behalf in obtaining financing (or in assisting them in obtaining financing) to cover the costs of activities described in subparagraph (E)(i).

(E) Purposes of grants

(i) In general

The recipient of a grant under this paragraph shall use the funds provided under the grant to carry out activities to assist public charter schools in the District of Columbia in—

(I) obtaining financing to acquire interests in real property (including by purchase, lease, or donation), including financing to cover planning, development, and other incidental costs;

(II) obtaining financing for construction of facilities or the renovation, repair, or alteration of existing property or facilities (including the purchase or replacement of fixtures and equipment), including financing to cover planning, development, and other incidental costs;

(III) enhancing the availability of loans (including mortgages) and bonds; and

(IV) obtaining lease guarantees (in accordance with regulations promulgated by the Office of Public Charter School Financing).

(ii) No direct funding for schools

Funds provided under a grant under this subparagraph may not be used by a recipient to make direct loans or grants to public charter schools.

(F) Role of Office of Public Charter School Financing and Support

During fiscal year 2003 and each succeeding fiscal year, the Office of Public Charter School Financing and Support shall be responsible for receiving applications, making payments, and otherwise administering this paragraph, except that no grant may be made under this paragraph without the approval of the committee described in subparagraph (C)(iii).

(Pub. L. 104–208, div. A, title I, § 101(e) [title VI, § 603], Sept. 30, 1996, 110 Stat. 3009–233, 3009–290; Pub. L. 106–113, div. A, title I, § 153, Nov. 29, 1999, 113 Stat. 1526; Pub. L. 106–522, § 161, Nov. 22, 2000, 114 Stat. 2483; Pub. L. 106–553, § 1(a)(1) [§ 161], Dec. 21, 2000, 114 Stat. 2762, 2762A–45; Pub. L. 106–554, § 1(a)(4) [div. A, § 406(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–189; Pub. L. 107–96, Dec. 21, 2001, 115 Stat. 936; Pub. L. 108–7, div. C, title III, § 143(c), Feb. 20, 2003, 117 Stat. 131; Pub. L. 108–199, div. C, title IV, § 434, Jan. 23, 2004, 118 Stat. 141; Pub. L. 108–335, title III, § 340(a), Oct. 18, 2004, 118 Stat. 1348; Pub. L. 108–447, div. J, title I, § 103(a)(2), Dec. 8, 2004, 118 Stat. 3341.)

REFERENCES IN TEXT

The District of Columbia Business Corporation Act, referred to in subsec. (a)(2), is act June 8, 1954, ch. 269,

68 Stat. 179, as amended, which is not classified to the Code.

Sections 1132f–3 and 1132f–9 of this title, referred to in subsecs. (a)(3)(A) and (b)(5), were repealed by subsec. (d) of this section.

The District of Columbia School Reform Act of 1995, referred to in subsec. (e)(2)(A), is Pub. L. 104–134, title I, §101(b) [title II], Apr. 26, 1996, 110 Stat. 1321–77, 1321–107, as amended, which amended sections 6322, 6364, and 6365 of this title and enacted provisions set out as a note under section 6322 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was formerly classified to section 1132f–10 of this title.

Section enacted as part of the Student Loan Marketing Association Reorganization Act of 1996, and not as part of the Higher Education Act of 1965 which comprises this chapter.

Section is comprised of section 101(e) [title VI, §603] of div. A of Pub. L. 104–208. Subsec. (d) of section 603 of title VI of section 101(e) of Pub. L. 104–208, repealed sections 1132f to 1132f–9 of this title.

AMENDMENTS

2004—Subsec. (e)(3)(C)(iv). Pub. L. 108–199 inserted ''for a fiscal year'' after ''this subparagraph'' and ''for the fiscal year'' before period at end.

Subsec. (e)(3)(E)(i)(IV). Pub. L. 108–335, §340, as amended by Pub. L. 108–447, which directed the amendment of subsec. (e)(3)(E) by adding subcl. (IV) at the end, was executed by adding subcl. (IV) at the end of cl. (i), to reflect the probable intent of Congress.

2003—Subsec. (e)(3)(B)(ii), (C)(iii). Pub. L. 108–7, §143(c)(1), substituted ''Subject to subparagraph (F), the Mayor'' for ''The Mayor''.

Subsec. (e)(3)(F). Pub. L. 108–7, §143(c)(2), added subpar. (F).

2001—Subsec. (e)(2)(B). Pub. L. 107–96, par. (2), which directed amendment of section 161 of Pub. L. 106–522, by inserting ''revolving'' after ''enhancement'' in second sentence of par. (2)(B), was executed by revising the amendment by Pub. L. 106–522, §161(1), which had amended the second sentence of subsec. (e)(2)(B) of this section, to reflect the probable intent of Congress. See 2000 Amendment note below.

Subsec. (e)(3). Pub. L. 107–96, pars. (1), (3), amended Pub. L. 106–522, §161(2). See 2000 Amendment note below.

Pub. L. 107–96, par. (2), which directed amendment of section 161 of Pub. L. 106–522, by inserting ''revolving'' after ''enhancement'' in heading of par. (3) and in par. (3)(A), was executed by revising the amendment by Pub. L. 106–522, §161(2), which had added subsec. (e)(3) to this section, to reflect the probable intent of Congress. See 2000 Amendment note below.

Subsec. (e)(3)(C)(iv). Pub. L. 107–96, proviso, which directed amendment of the cap on administrative costs as amended by Pub. L. 106–522, §161, by substituting ''5 percent'' for ''10 percent'', could not be executed because the words ''10 percent'' did not appear in this section after the amendment of Pub. L. 106–522, §161(2), by Pub. L. 107–96, par. (3). See 2000 Amendment note below.

2000—Subsec. (e)(2)(B). Pub. L. 106–553, §1(a)(1) [§161(1)], which directed amendment identical to amendment by Pub. L. 106–522, §161(1), below, was repealed by Pub. L. 106–554, §1(a)(4) [div. A, §406(a)]. See Effective Date and Construction of 2000 Amendment note below.

Pub. L. 106–522, §161(1), as amended by Pub. L. 107–96, par. (2), amended second sentence generally. Prior to amendment, second sentence read as follows: ''Of such amounts and proceeds, $5,000,000 shall be set aside for use as a credit enhancement fund for public charter schools in the District of Columbia, with the administration of the fund (including the making of loans) to be carried out by the Mayor through a committee consisting of three individuals appointed by the Mayor of the District of Columbia and two individuals appointed by the Public Charter School Board established under section 2214 of the District of Columbia School Reform Act of 1995.''

Subsec. (e)(3). Pub. L. 106–553, §1(a)(1) [§161(2)], which directed amendment identical to amendment by Pub. L. 106–522, §161(2), below, was repealed by Pub. L. 106–554, §1(a)(4) [div. A, §406(a)]. See Effective Date and Construction of 2000 Amendment note below.

Pub. L. 106–522, §161(2), as amended by Pub. L. 107–96, pars. (1) to (3), added par. (3).

1999—Subsec. (e)(2)(B). Pub. L. 106–113 inserted ''and public charter'' after ''public'' and inserted at end ''Of such amounts and proceeds, $5,000,000 shall be set aside for use as a credit enhancement fund for public charter schools in the District of Columbia, with the administration of the fund (including the making of loans) to be carried out by the Mayor through a committee consisting of three individuals appointed by the Mayor of the District of Columbia and two individuals appointed by the Public Charter School Board established under section 2214 of the District of Columbia School Reform Act of 1995.''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–447, div. J, title I, §103(b), Dec. 8, 2004, 118 Stat. 3343, provided that: ''The amendments made by this section [amending this section] shall take effect as if included in the enactment of the District of Columbia Appropriations Act, 2005 [Pub. L. 108–335].''

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–96, Dec. 21, 2001, 115 Stat. 936, provided that the amendments made by that act to section 161 of Pub. L. 106–522 are effective as if included in Pub. L. 106–522.

EFFECTIVE DATE AND CONSTRUCTION OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(4) [div. A, §406], Dec. 21, 2000, 114 Stat. 2763, 2763A–189, provided that:

''(a) The provisions of H.R. 5547 (as enacted into law by H.R. 4942 of the 106th Congress) [H.R. 5547 as enacted by section 1(a)(1) of Pub. L. 106–553, amending this section and enacting provisions set out as a note under section 6301 of Title 31, Money and Finance] are repealed and shall be deemed for all purposes (including section 1(b) of H.R. 4942 [Pub. L. 106–553, 1 U.S.C. 112 note]) to have never been enacted.

''(b) The repeal made by this section shall take effect as if included in H.R. 4942 of the 106th Congress [Pub. L. 106–553] on the date of its enactment [Dec. 21, 2000].''

CHAPTER 29—INTERNATIONAL STUDIES AND RESEARCH

§ 1171. Omitted

CODIFICATION

Section, Pub. L. 89–698, §2, Oct. 29, 1966, 80 Stat. 1066, which set out the Congressional findings and declaration of purpose in providing for a program of international studies and research, was omitted in view of the repeal of the remaining sections of this chapter by Pub. L. 96–374, title VI, §601(c)(2), Oct. 3, 1980, 94 Stat. 1472.

§§ 1172 to 1174. Repealed. Pub. L. 96–374, title VI, § 601(c)(2), Oct. 3, 1980, 94 Stat. 1472

Section 1172, Pub. L. 89–698, title I, §101, Oct. 29, 1966, 80 Stat. 1066, made provision for a program of international studies and research involving operation of centers for advanced international studies. See section 1123 of this title.

Section 1173, Pub. L. 89–698, title I, §102, Oct. 29, 1966, 80 Stat. 1067, provided for undergraduate programs in international studies. See section 1124 of this title.

Section 1174, Pub. L. 89–698, title I, §103, Oct. 29, 1966, 80 Stat. 1068; Pub. L. 91–230, title IV, §401(c)(7), Apr. 13,

1970, 84 Stat. 173, authorized payment in installments and in advance or by way of reimbursement.

EFFECTIVE DATE OF REPEAL

Sections repealed effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§ 1175. Repealed. Pub. L. 91–230, title IV, § 401(f)(7), Apr. 13, 1970, 84 Stat. 174

Section, Pub. L. 89–698, title I, § 104, Oct. 29, 1966, 80 Stat. 1068, prohibited Federal control of education (curriculum, program of instruction, administration, personnel of any educational institution, selection of library resources, and content of any material developed or published), and was superseded by section 1232a of this title.

§§ 1176, 1177. Repealed. Pub. L. 96–374, title VI, § 601(c)(2), Oct. 3, 1980, 94 Stat. 1472

Section 1176, Pub. L. 89–698, title I, § 105, Oct. 29, 1966, 80 Stat. 1068; Pub. L. 90–575, title V, § 502, Oct. 16, 1968, 82 Stat. 1062; Pub. L. 92–318, title I, § 183, June 23, 1972, 86 Stat. 312; Pub. L. 94–482, title III, § 303, Oct. 12, 1976, 90 Stat. 2216, authorized appropriations and provided for an annual report to Congress. See section 1125 of this title.

Section 1177, Pub. L. 89–698, title I, § 106, Oct. 29, 1966, 80 Stat. 1069; Pub. L. 91–230, title IV, § 401(h)(5), Apr. 13, 1970, 84 Stat. 174, provided for creation of a National Advisory Committee on International Studies. See section 1131 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

CHAPTER 30—BASIC EDUCATION FOR ADULTS

SUBCHAPTER I—BASIC PROGRAM PROVISIONS

§§ 1201 to 1201b. Repealed. Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1201, Pub. L. 89–750, title III, § 311, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 302, stated purpose of chapter.

A prior section 1201, Pub. L. 89–750, title III, § 302, Nov. 3, 1966, 80 Stat. 1216; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 159; Pub. L. 95–561, title XIII, § 1301, Nov. 1, 1978, 92 Stat. 2356; Pub. L. 98–511, title I, § 101, Oct. 19, 1984, 98 Stat. 2366, related to Congressional declaration of purpose of chapter, prior to the general amendment of this chapter by Pub. L. 100–297.

Section 1201a, Pub. L. 89–750, title III, § 312, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 302; amended Pub. L. 101–26, § 3(a), May 11, 1989, 103 Stat. 55; Pub. L. 101–589, title VII, § 723, Nov. 16, 1990, 104 Stat. 2913; Pub. L. 102–73, title VIII, § 802(b)(1), July 25, 1991, 105 Stat. 361, defined terms used in chapter.

Section 1201b, Pub. L. 89–750, title III, § 313, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 304; amended Pub. L. 102–73, title III, § 301(a), title VIII, § 802(b)(2), July 25, 1991, 105 Stat. 345, 361, authorized appropriations and required allotments.

A prior section 1202, Pub. L. 89–750, title III, § 303, Nov. 3, 1966, 80 Stat. 1216; Pub. L. 90–576, title III, § 302, Oct. 16, 1968, 82 Stat. 1095; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 159; Pub. L. 93–380, title VI, § 601, title VIII, § 843(c)(1), Aug. 21, 1974, 88 Stat. 576, 611; Pub. L. 95–561, title XIII, §§ 1302, 1304(a), Nov. 1, 1978, 92 Stat. 2357; Pub. L. 98–511, title I, § 102(a)–(f)(1), Oct. 19, 1984, 98 Stat. 2366, 2367, related to definitions used in this chapter, prior to the general amendment of this chapter by Pub. L. 100–297.

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–73, § 1, July 25, 1991, 105 Stat. 333, provided that Pub. L. 102–73 was to be cited as the ''National Literacy Act of 1991'', prior to repeal by Pub. L. 105–220, title II, § 251(a)(2), Aug. 7, 1998, 112 Stat. 1079.

SHORT TITLE OF 1988 AMENDMENT

Section 2101 of Pub. L. 100–297 provided that part B (§§ 2101, 2102) of title II of Pub. L. 100–297, enacting this chapter, was to be cited as the ''Adult Education Amendments of 1988''.

SHORT TITLE

Pub. L. 89–750, title III, § 301, as added by Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 302, provided that title III of Pub. L. 89–750, enacting this chapter, was to be cited as the ''Adult Education Act'', prior to repeal by Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079.

CONGRESSIONAL FINDINGS REGARDING NATIONAL LITERACY ACT OF 1991

Pub. L. 102–73, § 2, July 25, 1991, 105 Stat. 333, stated findings of Congress regarding the National Literacy Act of 1991, prior to repeal by Pub. L. 105–220, title II, § 251(a)(2), Aug. 7, 1998, 112 Stat. 1079.

DEFINITIONS

Pub. L. 102–73, § 3, July 25, 1991, 105 Stat. 334, defined the term ''literacy'' for purposes of Pub. L. 102–73, prior to repeal by Pub. L. 105–220, title II, § 251(a)(2), Aug. 7, 1998, 112 Stat. 1079.

SUBCHAPTER II—STATE PROGRAMS

PART A—BASIC STATE GRANTS

§§ 1203 to 1203b. Repealed. Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1203, Pub. L. 89–750, title III, § 321, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 305, authorized basic State grants.

A prior section 1203, Pub. L. 89–750, title III, § 304, Nov. 3, 1966, 80 Stat. 1217; Pub. L. 90–247, title V, § 502(a), Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 160; Pub. L. 93–380, title VI, § 602, Aug. 21, 1974, 88 Stat. 576; Pub. L. 95–561, title XIII, § 1303, Nov. 1, 1978, 92 Stat. 2357; Pub. L. 98–511, title I, §§ 102(f)(1), 103, Oct. 19, 1984, 98 Stat. 2366, 2367, related to grants to States, prior to the general amendment of this chapter by Pub. L. 100–297.

Section 1203a, Pub. L. 89–750, title III, § 322, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 305; amended Pub. L. 102–73, title III, § 301(b), July 25, 1991, 105 Stat. 345; Pub. L. 103–382, title III, § 393(a), Oct. 20, 1994, 108 Stat. 4026; Pub. L. 104–66, title I, § 1041(g), Dec. 21, 1995, 109 Stat. 715, related to use of funds and local applications.

Section 1203b, Pub. L. 89–750, title III, § 323, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 306, related to local administrative cost limits.

PART B—PROGRAMS FOR CORRECTIONS EDUCATION AND EDUCATION FOR OTHER INSTITUTIONALIZED INDIVIDUALS

§ 1204. Repealed. Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section, Pub. L. 89–750, title III, § 326, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 306, authorized programs for corrections education and education for other institutionalized individuals. See section 9225 of this title.

A prior section 1204, Pub. L. 89–750, title III, § 305, Nov. 3, 1966, 80 Stat. 1217; Pub. L. 90–247, title V, § 501, Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title III, § 301,

Apr. 13, 1970, 84 Stat. 160; Pub. L. 91–600, §3(a), Dec. 30, 1970, 84 Stat. 1669; Pub. L. 93–380, title VIII, §843(c)(2), (3), Aug. 21, 1974, 88 Stat. 611; Pub. L. 95–561, title XIII, §1304(b), Nov. 1, 1978, 92 Stat. 2357; Pub. L. 98–511, title I, §§102(f)(1), 104, Oct. 19, 1984, 98 Stat. 2366, 2367, related to allotment of grant funds, prior to the general amendment of this chapter by Pub. L. 100–297.

PART C—STATE ADMINISTRATIVE RESPONSIBILITIES

§§ 1205, 1205a. Repealed. Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1205, Pub. L. 89–750, title III, §331, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 307; amended Pub. L. 102–73, title III, §301(c), July 25, 1991, 105 Stat. 346, related to State administration.

A prior section 1205, Pub. L. 89–750, title III, §306, Nov. 3, 1966, 80 Stat. 1218; Pub. L. 90–247, title V, §502(b), Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 161; Pub. L. 93–380, title VI, §§603, 607(a), Aug. 21, 1974, 88 Stat. 576, 578; Pub. L. 95–561, title XIII, §1305, Nov. 1, 1978, 92 Stat. 2357; Pub. L. 98–511, title I, §§102(f)(1), 105, Oct. 19, 1984, 98 Stat. 2366, 2367; Pub. L. 98–524, §4(d)(1), Oct. 19, 1984, 98 Stat. 2488; Pub. L. 100–77, title VII, §701(a), July 22, 1987, 101 Stat. 524, related to State plans, prior to the general amendment of this chapter by Pub. L. 100–297.

Section 1205a, Pub. L. 89–750, title III, §332, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 307; amended Pub. L. 102–73, title III, §301(d), July 25, 1991, 105 Stat. 346; Pub. L. 102–367, title VI, §601(b)(2), Sept. 7, 1992, 106 Stat. 1103, related to State advisory council on adult education and literacy.

PART D—PLANNING AND APPLICATIONS

§§ 1206 to 1206b. Repealed. Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1206, Pub. L. 89–750, title III, §341, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 309, related to submission of State plan and application.

A prior section 1206, Pub. L. 89–750, title III, §307, Nov. 3, 1966, 80 Stat. 1219; Pub. L. 90–247, title V, §503, Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 162; Pub. L. 94–482, title III, §323(a)(4), Oct. 12, 1976, 90 Stat. 2218; Pub. L. 95–561, title XIII, §1306, Nov. 1, 1978, 92 Stat. 2359; Pub. L. 98–511, title I, §§102(f)(1), 106, Oct. 19, 1984, 98 Stat. 2366, 2368, related to payments to States, prior to the general amendment of this chapter by Pub. L. 100–297.

Section 1206a, Pub. L. 89–750, title III, §342, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 309; amended Pub. L. 101–476, title IX, §901(a)(3), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 102–73, title III, §301(e), July 25, 1991, 105 Stat. 348; Pub. L. 103–382, title III, §§335(a), 394(a), Oct. 20, 1994, 108 Stat. 3966, 4027, related to formulation and components of State plan.

Section 1206b, Pub. L. 89–750, title III, §343, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 311, related to State application assurances.

PART E—EVALUATION AND STATE PLAN AMENDMENTS

§§ 1207, 1207a. Repealed. Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1207, Pub. L. 89–750, title III, §351, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 312, related to State plan amendments.

A prior section 1207, Pub. L. 89–750, title III, §308, Nov. 3, 1966, 80 Stat. 1219; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 162; Pub. L. 98–511, title I, §§102(f), 107, Oct. 19, 1984, 98 Stat. 2366, 2368, related to administration of State plans, prior to the general amendment of this chapter by Pub. L. 100–297.

Section 1207a, Pub. L. 89–750, title III, §352, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 312; amended Pub. L. 102–73, title III, §301(f), July 25, 1991, 105 Stat. 349, related to evaluation of grant recipients.

A prior section 1207a, Pub. L. 89–750, title III, §309, as added Pub. L. 95–561, title XIII, §1307(b), Nov. 1, 1978, 92 Stat. 2360; amended Pub. L. 98–511, title I, §§102(f)(1), 108, Oct. 19, 1984, 98 Stat. 2366, 2368; Pub. L. 100–77, title VII, §701(b), July 22, 1987, 101 Stat. 524, related to research, development, demonstration, dissemination, and evaluation activities, prior to the general amendment of this chapter by Pub. L. 100–297.

PART F—DEMONSTRATION PROJECTS

§ 1208. Repealed. Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section, Pub. L. 89–750, title III, §353, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 312; amended Pub. L. 102–73, title III, §301(g), July 25, 1991, 105 Stat. 349, related to special experimental demonstration projects and teacher training.

A prior section 1208, Pub. L. 89–750, title III, §310, formerly §309, Nov. 3, 1966, 80 Stat. 1220; Pub. L. 91–230, title III, §301, Apr. 13, 1970, 84 Stat. 163; Pub. L. 93–380, title VI, §§604, 607(b)(1), (2), Aug. 21, 1974, 88 Stat. 577–579; Pub. L. 94–482, title III, §329, Oct. 12, 1976, 90 Stat. 2221; renumbered §310, Pub. L. 95–561, title XIII, §1307(a)(1), Nov. 1, 1978, 92 Stat. 2359, related to use of funds for special experimental demonstration projects and teacher training, prior to the general amendment of this chapter by Pub. L. 100–297.

A prior section 1208–1, Pub. L. 89–750, title III, §309A, as added Pub. L. 93–380, title VI, §605, Aug. 21, 1974, 88 Stat. 577, provided for establishment and operation of a clearinghouse on adult education, prior to repeal by Pub. L. 95–561, title XIII, §1307(a)(2), Nov. 1, 1978, 92 Stat. 2359, eff. Oct. 1, 1978.

A prior section 1208a, Pub. L. 89–750, title III, §311, formerly §310, as added Pub. L. 93–29, title VIII, §804(a), May 3, 1973, 87 Stat. 60; amended Pub. L. 94–135, title II, §202, Nov. 28, 1975, 89 Stat. 726; Pub. L. 95–112, §3(a)(1), Sept. 24, 1977, 91 Stat. 912; renumbered §311, and amended Pub. L. 95–561, title XIII, §§1307(a)(3), 1308, Nov. 1, 1978, 92 Stat. 2360; Pub. L. 98–511, title I, §102(f)(1), Oct. 19, 1984, 98 Stat. 2366, authorized special projects for elderly, providing in: subsec. (a) for grants to public educational and public or private nonprofit agencies; subsec. (b) authorization of appropriations; and subsec. (c) for administrative coordination with programs for older Americans, prior to repeal by Pub. L. 98–511, title I, §109(a)(1), Oct. 19, 1984, 98 Stat. 2369, eff. July 1, 1985.

A prior section 1208b, Pub. L. 89–750, title III, §311, formerly §310A, as added Pub. L. 93–380, title VI, §606, Aug. 21, 1974, 88 Stat. 577; amended Pub. L. 94–482, title V, §501(g), Oct. 12, 1976, 90 Stat. 2237; renumbered §312, Pub. L. 95–561, title XIII, §1307(a)(3), Nov. 1, 1978, 92 Stat. 2360; renumbered §311 and amended Pub. L. 98–511, title I, §§102(f)(1), 109(a)(2), 110, Oct. 19, 1984, 98 Stat. 2366, 2369, related to State advisory councils, prior to the general amendment of this chapter by Pub. L. 100–297.

PART G—STATE LITERACY RESOURCE CENTERS

§ 1208aa. Repealed. Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section, Pub. L. 89–750, title III, §356, as added Pub. L. 102–73, title I, §103(2), July 25, 1991, 105 Stat. 338, related to State literacy resource centers.

PART H—FEDERAL SHARE; FEDERAL ADMINISTRATIVE RESPONSIBILITIES

§ 1209. Repealed. Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section, Pub. L. 89–750, title III, §361, as added Pub. L. 100–297, title II, §2102, Apr. 28, 1988, 102 Stat. 313; amended Pub. L. 102–73, title III, §301(h), title VIII,

§ 802(b)(2), July 25, 1991, 105 Stat. 350, 361, related to payment of Federal share and Federal administrative responsibilities.

A prior section 1209, Pub. L. 89–750, title III, § 312, formerly § 310, Nov. 3, 1966, 80 Stat. 1220; Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 163; renumbered § 311, Pub. L. 93–29, title VIII, § 804(a), May 3, 1973, 87 Stat. 59; Pub. L. 93–380, title VI, § 607(b)(3), title VIII, § 845(f), Aug. 21, 1974, 88 Stat. 579, 612; Pub. L. 94–273, § 3(10), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title V, § 501(a)(22), Oct. 12, 1976, 90 Stat. 2236; Pub. L. 95–112, § 3(a)(2), Sept. 24, 1977, 91 Stat. 912; renumbered § 313 and amended Pub. L. 95–561, title XIII, §§ 1307(a)(3), 1309, Nov. 1, 1978, 92 Stat. 2360, 2361; Pub. L. 96–88, title III, § 301(c), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered § 312 and amended Pub. L. 98–511, title I, §§ 102(f)(1), 109(a)(2), 111, Oct. 19, 1984, 98 Stat. 2367, 2369, related to the National Advisory Council on Adult Education, prior to the general amendment of this chapter by Pub. L. 100–297.

A prior section 1210, Pub. L. 89–750, title III, § 313, Nov. 3, 1966, 80 Stat. 1222; renumbered § 311, Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 164; renumbered § 312, Pub. L. 93–29, title VIII, § 804(a), May 3, 1973, 87 Stat. 59; renumbered § 314, Pub. L. 95–561, title XIII, § 1307(a)(3), Nov. 1, 1978, 92 Stat. 2360; renumbered § 313, Pub. L. 98–511, title I, § 109(a)(2), Oct. 19, 1984, 98 Stat. 2369, related to prohibition on grants for sectarian instruction, religious worship, or school or department of divinity, prior to the general amendment of this chapter by Pub. L. 100–297.

Another prior section 1210, Pub. L. 89–750, title III, § 311, Nov. 3, 1966, 80 Stat. 1221, provided for delegation of functions and utilization of Federal facilities, prior to the general amendment of this chapter by Pub. L. 91–230.

SUBCHAPTER III—WORKPLACE LITERACY AND ENGLISH LITERACY GRANTS

§§ 1211 to 1211b. Repealed. Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1211, Pub. L. 89–750, title III, § 371, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 314; amended Pub. L. 102–73, title II, § 202, title VIII, § 802(b)(1), July 25, 1991, 105 Stat. 342, 361, related to business, industry, labor, and education partnerships for workplace literacy.

A prior section 1211, Pub. L. 89–750, title III, § 314, Nov. 3, 1966, 80 Stat. 1222; Pub. L. 90–247, title V, § 504, Jan. 2, 1968, 81 Stat. 815; renumbered § 312 and amended Pub. L. 91–230, title III, § 301, Apr. 13, 1970, 84 Stat. 164; Pub. L. 91–600, § 3(b), Dec. 30, 1970, 84 Stat. 1669; renumbered § 313 and amended Pub. L. 93–29, title VIII, § 804, May 3, 1973, 87 Stat. 59; Pub. L. 93–380, title VI, § 608(a), Aug. 21, 1974, 88 Stat. 579; Pub. L. 95–112, § 3(b), Sept. 24, 1977, 91 Stat. 912; renumbered § 315 and amended Pub. L. 95–561, title XIII, §§ 1307(a)(3), 1310, Nov. 1, 1978, 92 Stat. 2360, 2361; renumbered § 314 and amended Pub. L. 98–511, title I, §§ 109(a)(2), 112, Oct. 19, 1984, 98 Stat. 2369, authorized appropriations, prior to the general amendment of this chapter by Pub. L. 100–297.

Another prior section 1211, Pub. L. 89–750, title III, § 312, Nov. 3, 1966, 80 Stat. 1221, provided for prohibition of Federal control of education (curriculum, program of instruction, administration, personnel, or selection of library resources), and for authorization of the National Advisory Committee on Adult Basic Education to encourage establishment of State and local education advisory committees, prior to the general amendment of this chapter by Pub. L. 91–230.

Section 1211–1, Pub. L. 102–73, title II, § 201, July 25, 1991, 105 Stat. 342, related to National Workforce Literacy Assistance Collaborative.

Section 1211–2, Pub. L. 102–73, title VI, § 601, July 25, 1991, 105 Stat. 356; Pub. L. 102–103, title III, § 313, Aug. 17, 1991, 105 Stat. 505; Pub. L. 103–322, title II, § 20408(b), Sept. 13, 1994, 108 Stat. 1827, related to functional literacy and life skills programs for State and local prisoners.

Section 1211a, Pub. L. 89–750, title III, § 372, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 316, related to English literacy grants.

A prior section 1211a, Pub. L. 89–750, title III, § 315, formerly § 314, as added Pub. L. 92–318, title IV, § 431, June 23, 1972, 86 Stat. 342; amended Pub. L. 93–380, title VI, § 608(b), Aug. 21, 1974, 88 Stat. 579; Pub. L. 95–112, § 3(c), Sept. 24, 1977, 91 Stat. 912; renumbered § 316 and amended Pub. L. 95–561, title XIII, §§ 1307(a)(3), 1311, Nov. 1, 1978, 92 Stat. 2360, 2361, as amended by Pub. L. 96–46, § 2(a)(6), Aug. 6, 1979, 93 Stat. 340; renumbered § 315 and amended Pub. L. 98–511, title I, §§ 102(f)(1), 109(a)(2), title V, § 513(d), Oct. 19, 1984, 98 Stat. 2366, 2369, 2400, related to grants for improvement of educational opportunities for adult Indians, prior to the general amendment of this chapter by section 2102 of Pub. L. 100–297. Section 5352(3) of Pub. L. 100–297, title V, Apr. 28, 1988, 102 Stat. 414, subsequently provided for the repeal of section 315 of Pub. L. 89–750.

Section 1211b, Pub. L. 89–750, title III, § 373, as added Pub. L. 102–26, § 7, Apr. 9, 1991, 105 Stat. 127, related to education programs for commercial drivers.

A prior section 1211b, Pub. L. 89–750, title III, § 317, formerly § 315, as added Pub. L. 94–405, title III, § 301, Sept. 10, 1976, 90 Stat. 1233; renumbered and amended Pub. L. 95–561, title XIII, §§ 1307(a)(3), 1312, Nov. 1, 1978, 92 Stat. 2360, 2361; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for operations for special adult education programs for Indochina refugees, prior to repeal by Pub. L. 97–35, title V, § 542(3), Aug. 13, 1981, 95 Stat. 459, eff. Oct. 1, 1981.

A prior section 1211c, Pub. L. 89–750, title III, § 318, as added Pub. L. 95–561, title XIII, § 1313, Nov. 1, 1978, 92 Stat. 2361; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 97–300, title I, § 183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–511, title I, § 102(f)(1), Oct. 19, 1984, 98 Stat. 2366; Pub. L. 98–524, § 4(d)(2), Oct. 19, 1984, 98 Stat. 2489, authorized adult education programs for adult immigrants, providing in subsec.: (a) for grant and contract authority; (b) for applications to State educational agencies; (c) for time, manner, and form of applications; (d) for payments by Secretary of application costs; (e) for contracts with private nonprofit groups; and (f) for authorization of appropriations for fiscal years 1979 through 1983, prior to repeal by Pub. L. 98–511, title I, § 109(a)(1), Oct. 19, 1984, 98 Stat. 2369, eff. July 1, 1985.

SUBCHAPTER IV—NATIONAL PROGRAMS

§§ 1213 to 1213d. Repealed. Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079

Section 1213, Pub. L. 89–750, title III, § 381, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 317, related to adult migrant farmworker and immigrant education.

Section 1213a, Pub. L. 89–750, title III, § 382, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 318, related to adult literacy volunteer training.

Section 1213b, Pub. L. 89–750, title III, § 383, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 318, related to State program analysis assistance and policy studies.

Section 1213c, Pub. L. 89–750, title III, § 384, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 319; amended Pub. L. 102–73, title I, § 102(c), July 25, 1991, 105 Stat. 334; Pub. L. 103–382, title III, § 335(b), Oct. 20, 1994, 108 Stat. 3966, related to national research activities and establishment of National Institute for Literacy. See section 9252 of this title.

Section 1213d, Pub. L. 89–750, title III, § 385, as added Pub. L. 100–297, title II, § 2102, Apr. 28, 1988, 102 Stat. 319, related to limitation on grants for sectarian instruction or religious worship or to a school or department of divinity.

PURPOSE AND FINDINGS REGARDING LITERACY AMENDMENTS AND NATIONAL INSTITUTE FOR LITERACY

Pub. L. 102–73, title I, § 102(a), (b), July 25, 1991, 105 Stat. 334, stated findings of Congress and purpose of

amendment by section 102 of Pub. L. 102–73 to former section 1213c of this title, prior to repeal by Pub. L. 105–220, title II, §251(a)(2), Aug. 7, 1998, 112 Stat. 1079.

FAMILY LITERACY PUBLIC BROADCASTING PROGRAM

Pub. L. 102–73, title III, §304, July 25, 1991, 105 Stat. 353, authorized Secretary to contract with the Corporation for Public Broadcasting to arrange for production and dissemination of family literacy programming and materials to assist parents in improving family literacy skills and language development, authorized appropriations, and required report to Congress, prior to repeal by Pub. L. 105–220, title II, §251(a)(2), Aug. 7, 1998, 112 Stat. 1079.

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1234i. Definitions.
SUBCHAPTER V—READY TO LEARN TELEVISION
1235 to 1235g. Repealed.

AMENDMENTS

1970—Pub. L. 91–230, title IV, § 401(a)(1), Apr. 13, 1970, 84 Stat. 164, substituted as chapter heading ''GENERAL PROVISIONS CONCERNING EDUCATION'' for ''LEADTIME AND PLANNING AND EVALUATION IN ELEMENTARY AND SECONDARY EDUCATION PROGRAMS''.

§ 1221. Short title; applicability; definitions

(a) Short title

This chapter may be cited as the ''General Education Provisions Act''.

(b) Applicability of chapter

(1) Except as otherwise provided, this chapter applies to each applicable program of the Department of Education.

(2) Except as otherwise provided, this chapter does not apply to any contract made by the Department of Education.

(c) Definitions

As used in this chapter, the following terms have the following meanings:

(1) The term ''applicable program'' means any program for which the Secretary or the Department has administrative responsibility as provided by law or by delegation of authority pursuant to law. The term includes each program for which the Secretary or the Department has administrative responsibility under the Department of Education Organization Act [20 U.S.C. 3401 et seq.] or under Federal law effective after the effective date of that Act.

(2) The term ''applicable statute'' means—

(A) the Act or the title, part, section, or any other subdivision of an Act, as the case may be, that authorizes the appropriation for an applicable program;

(B) this chapter; and

(C) any other statute that by its terms expressly controls the administration of an applicable program.

(3) The term ''Department'' means the Department of Education.

(4) The term ''Secretary'' means the Secretary of Education.

(d) Application of other laws unaffected

Nothing in this chapter shall be construed to affect the applicability of title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], title V of the Rehabilitation Act of 1973 [29 U.S.C. 790 et seq.], the Age Discrimination Act [42 U.S.C. 6101 et seq.], or other statutes prohibiting discrimination, to any applicable program.

(Pub. L. 90–247, title IV, § 400, formerly § 401, Jan. 2, 1968, 81 Stat. 814; Pub. L. 90–576, title III, § 301(a), Oct. 16, 1968, 82 Stat. 1094; Pub. L. 91–230, title IV, § 401(a)(2), Apr. 13, 1970, 84 Stat. 164; renumbered § 400, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; Pub. L. 93–380, title V, § 505(a)(1), Aug. 21, 1974, 88 Stat.

561; Pub. L. 103–382, title II, § 211, Oct. 20, 1994, 108 Stat. 3912.)

REFERENCES IN TEXT

The Department of Education Organization Act, referred to in subsec. (c)(1), is Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668, as amended, which is classified principally to chapter 48 (§ 3401 et seq.) of this title. For the effective date of the Act, see Effective Date note set out under section 3401 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (d), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Education Amendments of 1972, referred to in subsec. (d), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (d), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended. Title V of the Act is classified generally to subchapter V (§ 790 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Age Discrimination Act, referred to in subsec. (d), probably means the Age Discrimination Act of 1975, which is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, and which is classified generally to chapter 76 (§ 6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 42 and Tables.

AMENDMENTS

1994—Pub. L. 103–382 amended section generally, inserting provision that this chapter not apply to any contract made by the Department of Education, substituting definition of ''Department'' as meaning Department of Education for definition of ''Director'' as meaning Director of the National Institute of Education, striking out reference to the Civil Rights Act of 1964, adding references to title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, title V of the Rehabilitation Act of 1973, the Age Discrimination Act, and other statutes prohibiting discrimination, and striking out provision authorizing appropriations for any fiscal year of such sums as may be necessary to carry out the provisions of this chapter.

1974—Subsec. (a). Pub. L. 93–380 redesignated subsec. (d) as (a). Former subsec. (a) provisions ''The provisions of this chapter shall apply to any program for which the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute. Amendments to Acts authorizing such programs shall not affect the applicability of this chapter unless so specified by such amendments'' were incorporated in part in subsec. (b).

Subsec. (b). Pub. L. 93–380 incorporated subsec. (a) provisions in subsec. (b), inserting introductory text ''Except where otherwise specified,'', substituting ''an administrative head of an education agency has administrative responsibility as provided by law or by delegation of authority pursuant to law'' for ''the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute.'', deleting ''Amendments to Acts authorizing such programs shall not affect the applicability of this chapter unless so specified by such amendments.'' Former subsec. (b) definition provisions for ''Commissioner'', ''Secretary'', and ''applicable program'' incorporated in subsec. (c)(1).

Subsec. (c). Pub. L. 93–380 incorporated subsec. (b)(3), (1), (2) provisions in par. (1)(A), (D), (F), respectively; inserted in par. (1)(A) '', under the terms of subsection (b) of this section,''; and added pars. (1)(B), (C), (E), (2), and (3). Former subsec. (c) provisions ''There are hereby authorized to be appropriated for any fiscal year, as part of the appropriations for salaries and expenses for the Office of Education, such sums as the Congress may determine to be necessary to carry out the provisions of this chapter,'' incorporated in subsec. (d).

Subsec. (d). Pub. L. 93–380 incorporated subsec. (c) provisions in provisions designated as subsec. (d), inserting introductory text ''Except as otherwise limited in this chapter,'', and deleting '', as part of the appropriations for salaries and expenses for the Office of Education,'' after ''fiscal year''. Former subsec. (d) redesignated (a).

Subsec. (e). Pub. L. 93–380 added subsec. (e).

1970—Pub. L. 91–230, § 401(a)(2)(A), provided for definitions and authorization of appropriations in section catchline.

Subsecs. (b), (c). Pub. L. 91–230, § 401(a)(2)(B), added subsecs. (b) and (c).

1968—Pub. L. 90–576 substituted general reference to ''any program for which the Commissioner of Education has responsibility for administration, either as provided by statute or by delegation pursuant to statute'' for specific references to ''title I of the Elementary and Secondary Education Act of 1965 (title II of Pub. L. 81–874), titles II, III, V, VI, VII, and VIII of the Elementary and Secondary Education Act of 1965, and the Adult Education Act of 1966 (title III of the Elementary and Secondary Education Amendments of 1966), as now in effect or hereafter from time to time amended'' as the areas in which the provisions of this chapter shall apply and inserted provision that amendments to the programs covered shall not affect the applicability of this chapter unless so specified by such amendments.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 3(a)(2) of Pub. L. 103–382 provided that: ''Title II of this Act [§§ 211 to 272 of Pub. L. 103–382, see Tables for classification] and the amendments made by title II of this Act shall take effect on the date of enactment of this Act [Oct. 20, 1994], except that section 236 [enacting section 1228a of this title] (equity for students, teachers, and other program beneficiaries) of such title shall be effective—

''(A) July 1, 1995 for noncompetitive programs in which funds are allocated on the basis of a formula; and

''(B) for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years.''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 505(b) of Pub. L. 93–380 provided that: ''The amendments made by subsection (a) [amending this section and section 1221g of this title] shall be effective on the tenth day after the date of enactment of this Act [Aug. 21, 1974].''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–297, title III, § 3401, Apr. 28, 1988, 102 Stat. 344, provided that: ''This part [part C (§§ 3401–3403) of title III of Pub. L. 100–297, amending sections 1221e and 1221e–1 of this title and enacting provisions set out as a note under section 1221e–1 of this title] may be cited as the 'National Assessment of Educational Progress Improvement Act'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–561, title XII, § 1211, Nov. 1, 1978, 92 Stat. 2338, provided that: ''This part [enacting sections 1221–3 and 1231g of this title and amending section 1221e–1 of this title] may be cited as the 'Control of Paperwork Amendments of 1978'.''

SHORT TITLE OF 1974 AMENDMENT

Section 513(b)(2) of Pub. L. 93–380 provided that: ''This section [enacting section 1232g of this title and provisions set out as a note under section 1232g of this title] may be cited as the 'Family Educational Rights and Privacy Act of 1974'.''

EXECUTIVE ORDER NO. 11761

Ex. Ord. No. 11761, Jan. 17, 1974, 39 F.R. 2345, which provided for coordination of Federal educational programs and which continued Federal Interagency Committee on Education, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EXECUTIVE ORDER NO. 12687

Ex. Ord. No. 12687, Aug. 15, 1989, 54 F.R. 34127, as amended by Ex. Ord. No. 12741, Dec. 31, 1990, 56 F.R. 475; Ex. Ord. No. 12785, Dec. 26, 1991, 56 F.R. 67451, which established the President's Education Policy Advisory Committee to advise the President with respect to objectives and conduct of overall education policy of the United States, was revoked by Ex. Ord. No. 12869, §4(e), Sept. 30, 1993, 58 F.R. 51751, formerly set out under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

§ 1221–1. National policy with respect to equal educational opportunity

Recognizing that the Nation's economic, political, and social security require a well-educated citizenry, the Congress (1) reaffirms, as a matter of high priority, the Nation's goal of equal educational opportunity, and (2) declares it to be the policy of the United States of America that every citizen is entitled to an education to meet his or her full potential without financial barriers.

(Pub. L. 93–380, title VIII, §801, Aug. 21, 1974, 88 Stat. 597.)

CODIFICATION

Section was enacted as part of Education Amendments of 1974, and not as part of General Education Provisions Act which comprises this chapter.

EFFECTIVE DATE

Section 2(c) of Pub. L. 93–380 provided that:

''(1) Unless otherwise specified, each provision of this Act [see Tables for classification] and each amendment made by this Act shall be effective on and after the sixtieth day after the enactment of this Act [Aug. 21, 1974].

''(2) In any case where the effective date for an amendment made by this Act is expressly stated to be effective after June 30, 1973, or on July 1, 1973, such amendment shall be deemed to have been enacted on June 30, 1973.''

STUDY OF CIVILIAN AVIATION TRAINING PROGRAMS

Pub. L. 102–325, title XIV, §1410, July 23, 1992, 106 Stat. 821, directed Secretary of Education to enter into appropriate arrangements with National Academy of Sciences Commission on Behavioral and Social Sciences and Education to study civilian aviation training programs needed to satisfy workforce requirements of commercial aviation industry in year 2000 and beyond, directed Secretary to request that National Academy of Sciences Commission on Behavioral and Social Sciences and Education submit an interim report to Secretary and Congress within 1 year after July 23, 1992, and directed that the study be completed within 2 years of July 23, 1992, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

NATIONAL COMMISSION ON INDEPENDENT HIGHER EDUCATION

Pub. L. 102–325, title XIV, part B, July 23, 1992, 106 Stat. 824, as amended by Pub. L. 103–208, §2(k)(11), Dec. 20, 1993, 107 Stat. 2486, provided that part B could be cited as the ''National Independent Colleges and Universities Discovery Act'', provided for establishment, membership, etc., of National Commission on Independent Higher Education, which Commission was to develop factual base for understanding status of independent colleges and universities, their contributions to public priorities, and effects of national higher education policies on independent nonprofit sector, to review issuance of Federal regulations regarding independent colleges and universities, and suggest means by which independent colleges and universities can be held accountable for use of public resources without inappropriate intrusion into institutional autonomy, and to address the relationship between Federal and State policies in independent colleges and universities, particularly with respect to student access and choice, finance, institutional subsidies, and institutional accountability, and directed that the Commission terminate 3 years after July 23, 1992, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

NATIONAL COMMISSION ON COST OF HIGHER EDUCATION

Pub. L. 102–325, title XIV, part C, July 23, 1992, 106 Stat. 827, as amended by Pub. L. 103–208, §2(k)(12), Dec. 20, 1993, 107 Stat. 2486, provided for establishment, membership, etc., of National Commission on the Cost of Higher Education, which Commission was to make findings and specific recommendations regarding the increase in tuition costs compared with other commodities and services as well as methods of reducing increased tuition costs, administrative costs of colleges and universities and methods of reducing such costs, the extent to which Federal, State, and local regulations contribute to increased tuition costs and the increase in the cost of higher education, and extent to which the lack of student financial assistance programs contribute to increased tuition costs, and directed that the Commission cease to exist on the date that is 90 days after the Commission submits its final report, which report was to be submitted to the President and Congress not later than Sept. 1, 1994, prior to repeal by Pub. L. 105–332, §6(b)(2), Oct. 31, 1998, 112 Stat. 3128.

EDUCATION COUNCIL ACT OF 1991

Pub. L. 102–62, June 27, 1991, 105 Stat. 305, as amended by Pub. L. 102–359, §1, Aug. 26, 1992, 106 Stat. 962; Pub. L. 103–290, §1, Aug. 1, 1994, 108 Stat. 1456; Pub. L. 103–382, title III, §362, Oct. 20, 1994, 108 Stat. 3975, provided for establishment, membership, etc., of National Education Commission on Time and Learning, which Commission was to examine the quality and adequacy of the study and learning time of elementary and secondary students in the United States, including issues regarding the length of the school day and year, the extent and role of homework, how time is being used for academic subjects, year-round professional opportunities for teachers, and use of school facilities for extended learning programs, report to Congress and the Secretary on the results of the study not later than 2 years after the Commission concludes its first meeting, and terminate Sept. 30, 1994, and provided for establishment, membership, etc., of National Council on Education Standards and Testing, which Council was to advise the American people whether suitable specific education standards should be established for the knowledge and skills that students should possess and that schools should impart in order that American student leave grades 4, 8, and 12 demonstrating competency in challenging subject matters and whether an appropriate system of voluntary national tests or examinations should be established to provide prompt and accurate information on the progress made towards specific education standards by individual students, schools, school systems, States, and the Nation as a whole, sub-

mit a final report, as soon as possible, but not later than Dec. 31, 1991, to Congress, Secretary of Education, and National Education Goals Panel, and cease to exist 90 days after submitting its final report.

NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION

Pub. L. 99–498, title XIII, § 1321, Oct. 17, 1986, 100 Stat. 1584, as amended by Pub. L. 101–324, July 6, 1990, 104 Stat. 300; Pub. L. 102–170, title III, § 306, Nov. 26, 1991, 105 Stat. 1136, established as an independent agency in executive branch a commission to be known as National Commission on Responsibilities for Financing Postsecondary Education, directed Commission to study and investigate extent to which (1) there is a consistent and coherent Federal policy regarding the appropriate family role in financing costs of postsecondary education for family members, (2) current Federal laws and regulations promote stated Federal policy, and (3) extent to which State laws which remove parental responsibilities for children over 18 years of age conflict with Federal policy in this area, directed Commission to (A) summarize appropriate findings of National Commission on Student Financial Assistance, (B) recommend to Congress a comprehensive analysis on extent to which consensus exists regarding appropriate role of family in financing postsecondary education, and (C) recommend changes in current law required to achieve desired Federal policy, and provided that Commission would terminate 2 years after first meeting of its member, prior to repeal by Pub. L. 105–332, § 6(a), Oct. 31, 1998, 112 Stat. 3127.

STUDY OF CLASSROOM USE OF VOLUNTEERS

Pub. L. 99–498, title XIII, § 1341, Oct. 17, 1986, 100 Stat. 1587, as amended by Pub. L. 100–50, § 23(7), June 3, 1987, 101 Stat. 362, directed National Academy of Sciences to conduct a thorough study of how volunteers could best be used in the classroom with the study to (1) feasibility of using recipients of student loans as part of repayment of such loans, (2) use of older Americans as such volunteers, (3) use of business persons and other professionals as volunteers, and (4) place of incentives to encourage volunteerism, and with National Academy of Sciences to prepare and submit to Congress a report, together with a description of programs on use of volunteers and with such recommendations as deemed appropriate not later than one year after entering into a contract to conduct the study, prior to repeal by Pub. L. 105–332, § 6(a), Oct. 31, 1998, 112 Stat. 3127.

NATIVE HAWAIIAN EDUCATION STUDY

Pub. L. 96–374, title XIII, § 1331, Oct. 3, 1980, 94 Stat. 1499, established an Advisory Council on Native Hawaiian Education consisting of seven members appointed by Secretary of Education, after consultation with Governor of Hawaii, from among individuals who were professionals in various fields relating to human development, and who were familiar with educational problems of Native Hawaiians, to conduct a study to (A) evaluate effectiveness of State and federally assisted educational programs in serving Native Hawaiian children and extent to which such programs achieve their purposes with respect to such children, and (B) take into account special health, social, and psychological needs of Native Hawaiian children, and to submit a report to Secretary and to Congress not later than Jan. 31, 1983, containing findings and recommendations of the Council, with the Council to terminate 60 days after submission of its report.

APPROPRIATIONS NOT AUTHORIZED FOR NATIVE HAWAIIAN EDUCATION STUDY FOR FISCAL YEAR 1982, 1983, OR 1984

Pub. L. 97–35, title V, § 512(a), Aug. 13, 1981, 95 Stat. 444, provided that: ''No funds are authorized to be appropriated to carry out part D of title XIII of the Education Amendments of 1980 [section 1331 of Pub. L. 96–374, set out as a note above] for fiscal year 1982, 1983, or 1984.''

FINANCING OF ELEMENTARY AND SECONDARY EDUCATION; STUDIES AND SURVEYS; ADVISORY PANEL; REPORTS

Pub. L. 95–561, title XII, § 1203, Nov. 1, 1978, 92 Stat. 2335, as amended by Pub. L. 96–46, § 2(a)(4), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, § 301(a)(2), (b)(1), title V, § 501(a), 507, Oct. 17, 1979, 93 Stat. 677, 678, 689, 692, established a 15-member Advisory Panel on Financing Elementary and Secondary Education within Department of Education to provide for (1) availability of reliable and comparative data on status and trends in financing elementary and secondary education, (2) conduct of studies necessary to understand and analyze the trends and problems affecting financing of elementary and secondary education, both public and non-public, including prospects for adequate financing during the next ten years, and development of recommendations for Federal policies to assist in improving equity and efficiency of Federal and State systems for raising and distributing revenues to support elementary and secondary education, with views and recommendations of the Panel to be presented to 1980 White House Conference on Education.

WHITE HOUSE CONFERENCE ON EDUCATION: REPORT OF FINDINGS AND RECOMMENDATIONS; NATIONAL CONFERENCE COMMITTEE: ESTABLISHMENT, MEMBERSHIP, REPORT TO PRESIDENT AND CONGRESS, TRAVEL EXPENSES; APPORTIONMENT OF FUNDS; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 93–380, title VIII, § 804, Aug. 21, 1974, 88 Stat. 597, as amended by Pub. L. 95–272, title III, § 301, May 3, 1978, 92 Stat. 227; Pub. L. 95–561, title XII, § 1203(c)(8), Nov. 1, 1978, 92 Stat. 2335, directed President to call and conduct a White House Conference on Education in 1980, established a National Conference Committee to provide guidance and planning and to make a final report to President and Congress not later than Dec. 1, 1980, authorized making of grants to States to assist in meeting cost of that State's participation, and authorized appropriations.

§ 1221–2. National policy with respect to museums as educational institutions

The Congress, recognizing—

(1) that museums serve as sources for schools in providing education for children,

(2) that museums provide educational services of various kinds for educational agencies and institutions and institutions of higher education, and

(3) that the expense of the educational services provided by museums is seldom borne by the educational agencies and institutions taking advantage of the museums' resources,

declares that it is the sense of the Congress that museums be considered educational institutions and that the cost of their educational services be more frequently borne by educational agencies and institutions benefiting from those services.

(Pub. L. 93–380, title VIII, § 803, Aug. 21, 1974, 88 Stat. 597.)

CODIFICATION

Section was enacted as part of Education Amendments of 1974, and not as part of General Education Provisions Act which comprises this chapter.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 1221–1 of this title.

§ 1221–3. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 400A, as added Pub. L. 95–561, title XII, § 1212(b), Nov. 1, 1978, 92 Stat. 2338; amended Pub. L. 96–46, § 4(a), Aug. 6, 1979, 93 Stat. 342; Pub. L. 96–88, title III, § 301(b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 678, 692; Pub. L. 96–511, § 4(a), Dec. 11, 1980, 94 Stat. 2826, related to control of excessive paperwork.

SUBCHAPTER I—FUNCTIONS OF DEPARTMENT OF EDUCATION

AMENDMENTS

1994—Pub. L. 103–382, title II, § 221, Oct. 20, 1994, 108 Stat. 3913, amended subchapter heading generally.

§§ 1221a to 1221c. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section 1221a, Pub. L. 90–247, title IV, § 401, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, § 504(a), Aug. 21, 1974, 88 Stat. 561, established Education Division of the Department of Health, Education, and Welfare.

Section 1221b, Pub. L. 90–247, title IV, § 402, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 327; amended Pub. L. 93–380, title V, § 502(a)(2)(A), Aug. 21, 1974, 88 Stat. 560, established position of and provided for appointment and compensation of Assistant Secretary for Education in the Department of Health, Education, and Welfare.

Section 1221c, Pub. L. 90–247, title IV, § 403, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 327; amended Pub. L. 93–380, title V, § 503(a), Aug. 21, 1974, 88 Stat. 560; Pub. L. 94–482, title IV, § 409(a), Oct. 12, 1976, 90 Stat. 2233; Pub. L. 95–561, title XII, § 1241, Nov. 1, 1978, 92 Stat. 2351; Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692; Pub. L. 96–470, title I, § 106(d), Oct. 19, 1980, 94 Stat. 2238, related to nonpublic education.

§ 1221d. Repealed. Pub. L. 96–374, title X, § 1001(c), Oct. 3, 1980, 94 Stat. 1491

Section, Pub. L. 90–247, title IV. § 404, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 327; amended Pub. L. 94–482, title IV, § 402, Oct. 12, 1976, 90 Stat. 2226; Pub. L. 96–49, § 13, Aug. 13, 1979, 93 Stat. 354, related to grants and contracts for improvement of post-secondary education.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§ 1221e. Repealed. Pub. L. 103–227, title IX, § 911(a), Mar. 31, 1994, 108 Stat. 213

Section, Pub. L. 90–247, title IV, § 405, as added Pub. L. 92–318, title III, § 301(a)(2), June 23, 1972, 86 Stat. 328; amended Pub. L. 93–380, title V, § 502(a)(2)(B), Aug. 21, 1974, 88 Stat. 560; Pub. L. 94–482, title IV, § 403, Oct. 12, 1976, 90 Stat. 2227; Pub. L. 95–561, title XII, § 1242, Nov. 1, 1978, 92 Stat. 2352; Pub. L. 96–49, § 14, Aug. 13, 1979, 93 Stat. 354; Pub. L. 96–374, title XIII, §§ 1311–1314, Oct. 3, 1980, 94 Stat. 1498, 1499; Pub. L. 98–511, title VII, §§ 702(a), 703, 704(a), Oct. 19, 1984, 98 Stat. 2405, 2406; Pub. L. 99–498, title XIV, § 1401(a), Oct. 17, 1986, 100 Stat. 1589; Pub. L. 100–50, § 24(a), June 3, 1987, 101 Stat. 362; Pub. L. 100–297, title III, §§ 3001(p)(2), 3002, 3403(b), (c), Apr. 28, 1988, 102 Stat. 337, 349; Pub. L. 103–33, § 1(b), May 25, 1993, 107 Stat. 94, related to Office of Educational Research and Improvement.

SAVINGS PROVISION

Pub. L. 103–227, title IX, § 914, Mar. 31, 1994, 108 Stat. 223, which provided that contracts for regional educational laboratories, Educational Resources Information Center Clearinghouses and research and development centers and regional educational laboratories assisted under this section as in effect on Mar. 30, 1994, would remain in effect until the termination date of such contracts, was repealed by Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985.

EXISTING GRANTS AND CONTRACTS

Pub. L. 103–227, title IX, § 915, Mar. 31, 1994, 108 Stat. 223, which provided that grants and contracts for the research and development centers assisted under this section as in effect on Mar. 30, 1994, would remain in effect until the termination date of such grants or contracts, except if extended to implement the provisions of title IX of Pub. L. 103–227 [see section 6001 of this title], and authorized use of funds appropriated pursuant to former section 6011(m)(1) of this title to carry out these provisions, was repealed by Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985.

§§ 1221e–1 to 1221e–1c. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section 1221e–1, Pub. L. 90–247, title IV, § 406, as added Pub. L. 93–380, title V, § 501(a), Aug. 21, 1974, 88 Stat. 556; amended Pub. L. 94–273, § 12(1), Apr. 21, 1976, 90 Stat. 378; Pub. L. 94–482, title IV, §§ 401, 406, title V, § 501(q), Oct. 12, 1976, 90 Stat. 2226, 2231, 2238; Sen. Res. 4, Feb. 4, 1977; Pub. L. 95–561, title XII, §§ 1201, 1212(a), (c), 1243(a), Nov. 1, 1978, 92 Stat. 2333, 2338, 2341, 2353; S. Res. 30, Mar. 7, 1979; Pub. L. 98–511, title VII, §§ 702(b), 704(b), Oct. 19, 1984, 98 Stat. 2406; Pub. L. 99–498, title XIV, § 1402, Oct. 17, 1986, 100 Stat. 1597; Pub. L. 100–50, § 24(b), June 3, 1987, 101 Stat. 363; Pub. L. 100–297, title III, § 3001(a), (b)(1), (c)–(p)(1), (q), 3403(a), Apr. 28, 1988, 102 Stat. 331–337, 344; Pub. L. 101–589, title II, § 252, Nov. 16, 1990, 104 Stat. 2894; Pub. L. 102–325, title XV, § 1552, July 23, 1992, 106 Stat. 838; Pub. L. 103–33, § 1(a), May 25, 1993, 107 Stat. 93; Pub. L. 103–227, title VII, § 707, Mar. 31, 1994, 108 Stat. 209; Pub. L. 103–437, § 7(a)(1), Nov. 2, 1994, 108 Stat. 4587, related to National Center for Education Statistics. See section 9541 et seq. of this title.

Section 1221e–1a, Pub. L. 90–247, title IV, § 406A, formerly § 437, as added Pub. L. 93–380, title V, § 512(a), Aug. 21, 1974, 88 Stat. 571; amended Pub. L. 94–273, § 17, Apr. 21, 1976, 90 Stat. 379; Pub. L. 94–482, title V, § 501(f)(2), (3), Oct. 12, 1976, 90 Stat. 2237; S. Res. 4, Feb. 4, 1977; renumbered § 406A, Pub. L. 95–561, title XII, § 1231(a)(2), Nov. 1, 1978, 92 Stat. 2342; S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–211, § 18(b), Dec. 8, 1983, 97 Stat. 1417; Pub. L. 103–437, § 7(a)(1), Nov. 2, 1994, 108 Stat. 4587, related to responsibility of State to furnish information on uses of Federal funds in State. See section 1226b(a) and (f) of this title.

Section 1221e–1b, Pub. L. 90–247, title IV, § 406B, formerly § 406A, as added Pub. L. 96–374, title XIII, § 1303, Oct. 3, 1980, 94 Stat. 1497; renumbered § 406B, Pub. L. 99–159, title IV, § 401(1), Nov. 22, 1985, 99 Stat. 903, authorized appropriations for fiscal year 1981 for Pre-College Science Teacher Training Program and Minority Institutions Science Improvement program.

Section 1221e–1c, Pub. L. 90–247, title IV, § 406C, as added Pub. L. 99–159, title IV, § 401(2), Nov. 22, 1985, 99 Stat. 903, authorized appropriations for fiscal years 1985 and 1986 for Minority Institutions Science Improvement Program.

§ 1221e–1d. Use of Council staff and facilities

The National Advisory Council on Educational Research and Improvement, the Advisory Council on Education Statistics, and members of such councils may not use any staff, facilities, equipment, supplies, or franking privileges of the councils for activities unrelated to the purposes of the councils.

(Pub. L. 99–498, title XIV, § 1403, Oct. 17, 1986, 100 Stat. 1599.)

CODIFICATION

Section was enacted as part of the Higher Education Amendments of 1986, and not as part of the General Education Provisions Act which comprises this chapter.

§ 1221e–2. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 407, as added Pub. L. 93–380, title V, § 502(a)(1), Aug. 21, 1974, 88 Stat. 559; amended Pub. L. 96–88, title III, § 301(b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 678, 692, related to education officers of United States.

§ 1221e–3. General authority of Secretary

The Secretary, in order to carry out functions otherwise vested in the Secretary by law or by delegation of authority pursuant to law, and subject to limitations as may be otherwise imposed by law, is authorized to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of, and governing the applicable programs administered by, the Department.

(Pub. L. 90–247, title IV, § 410, formerly § 408, as added Pub. L. 93–380, title V, § 502(a)(1), Aug. 21, 1974, 88 Stat. 559; amended Pub. L. 95–561, title XII, §§ 1243(b), 1244, Nov. 1, 1978, 92 Stat. 2353; renumbered § 410 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 222, Oct. 20, 1994, 108 Stat. 3913, 3914.)

AMENDMENTS

1994—Pub. L. 103–382, § 222, amended section generally, substituting single par. relating to general authority of Secretary for former subsecs. (a) to (d) relating to general authority of administrative heads of education agencies.

1978—Subsec. (a). Pub. L. 95–561, § 1243(b), inserted ''or by delegation of authority pursuant to law'' after ''vested in him by law'' in provisions preceding par. (1) and, in par. (1), inserted '', and governing the applicable programs administered by'' after ''the manner of operation of''.

Subsecs. (b) to (d). Pub. L. 95–561, § 1244, added subsec. (b), redesignated former subsecs. (b) and (c) as (c) and (d), and in subsec. (d) as so redesignated substituted ''For the purposes of this chapter'' for ''For the purposes of this section''.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1530 of Pub. L. 95–561, as amended by Pub. L. 96–46, § 2(a)(10), Aug. 6, 1979, 93 Stat. 340, provided that:

''(a) Except as otherwise specifically provided in this Act, the provisions of this Act and the amendments and repeals made by this Act [see Tables for classification] shall take effect October 1, 1978.

''(b) The provisions of section 412(b)(2) [now 421(b)(2)] of the General Education Provisions Act [section 1225(b)(2) of this title], as added by section 1245 of this Act, shall not take effect with respect to the use of funds under section 421 of the Elementary and Secondary Education Act of 1965 [former section 3101 of this title] until October 1, 1980, except at the option of local educational agencies.''

EFFECTIVE DATE

Section 502(b) of Pub. L. 93–380 provided that: ''The amendments made by this section [enacting this section and section 1221e–2 and amending sections 1221b and 1221e of this title] shall be effective on the tenth day after the date of enactment of this Act [Aug. 21, 1974].''

§ 1221e–4. Educational impact statement

Notwithstanding any other provision of law, no regulation affecting any institution of higher education in the United States, promulgated on or after October 3, 1980, shall become effective unless such agency causes to be published in the Federal Register a copy of such proposed regulation together with an educational impact assessment statement which shall determine whether any information required to be transmitted under such regulation is already being gathered by or is available from any other agency or authority of the United States. Notwithstanding the exception provided under section 553(b) of title 5, such statement shall be based upon the record established under the provisions of section 553 of title 5, compiled during the rulemaking proceeding regarding such regulation.

(Pub. L. 90–247, title IV, § 411, formerly § 409, as added Pub. L. 96–374, title XIII, § 1306, Oct. 3, 1980, 94 Stat. 1498; renumbered § 411, Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

CODIFICATION

October 3, 1980, referred to in text, was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 96–374, which enacted this section, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 411 of Pub. L. 90–247 was renumbered section 420, and is classified to section 1223 of this title.

Another prior section 411 of Pub. L. 90–247 was classified to section 1222 of this title prior to repeal by Pub. L. 93–380.

Another prior section 411 of Pub. L. 90–247 was renumbered section 430, and is classified to section 1231 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as an Effective Date of 1980 Amendment note under section 1001 of this title.

§§ 1221f to 1221h. Repealed. Pub. L. 100–297, title V, § 5352(4), Apr. 28, 1988, 102 Stat. 414

Section 1221f, Pub. L. 92–318, title IV, § 441, June 23, 1972, 86 Stat. 343, established Office of Indian Education. See section 2641 of Title 25, Indians.

Section 1221g, Pub. L. 92–318, title IV, § 442, June 23, 1972, 86 Stat. 343; Pub. L. 93–380, title V, § 505(a)(2), title VIII, § 845(d), Aug. 21, 1974, 88 Stat. 562, 612; Pub. L. 94–273, §§ 3(11), 13(1), Apr. 21, 1976, 90 Stat. 376, 378; Pub. L. 95–561, title XI, § 1141(c)(3), Nov. 1, 1978, 92 Stat. 2329; Pub. L. 98–511, title V, § 513(b)(5), Oct. 19, 1984, 98 Stat. 2400, established National Advisory Council on Indian Education. See section 2642 of Title 25.

Section 1221h, Pub. L. 92–318, title IV, § 453, June 23, 1972, 86 Stat. 345; Pub. L. 95–561, title XI, §§ 1147, 1148, 1151, Nov. 1, 1978, 92 Stat. 2330, 2331, 2333; Pub. L. 96–46, § 7, Aug. 6, 1979, 93 Stat. 343, defined ''Indian'' for purposes of the Indian Education Act. See section 2651 of Title 25.

EFFECTIVE DATE OF REPEAL

For effective date and applicability of repeal, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

§ 1221i. Repealed. Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(d)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312

Section, Pub. L. 93–380, title V, § 519, Aug. 21, 1974, 88 Stat. 576; Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title

V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to Office of Libraries and Learning Resources.

§ 1221j. Television program assistance

(a) Granting and contracting authority

The Secretary of Education is authorized to make grants to and contracts with public and private agencies for the production, development, or distribution (or any combination thereof) of programs designed for television systems, whether broadcast or nonbroadcast.

(b) Administration and studies

The Secretary of Education shall be responsible for the administration of this section and shall also conduct surveys, research, and evaluation studies which may assist in decisions to support pilot programs for full scale production.

(Pub. L. 95–561, title XV, § 1527, Nov. 1, 1978, 92 Stat. 2379; Pub. L. 96–88, title III, § 301, title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

CODIFICATION

Section was enacted as part of Education Amendments of 1978, and not as part of General Education Provisions Act which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530 of Pub. L. 95–561, set out as an Effective Date of 1974 Amendment note under section 1221e–3 of this title.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Secretary'' in subsec. (a) and ''Assistant Secretary for Education'' in subsec. (b), pursuant to sections 301 and 507 of Pub. L. 96–88, which are classified to sections 3441 and 3507 of this title and which transferred functions (relating to education) of Secretary of Health, Education, and Welfare, and functions of Assistant Secretary for Education, to Secretary of Education.

SUBCHAPTER II—APPROPRIATIONS AND EVALUATIONS

AMENDMENTS

1972—Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, redesignated subchapter I as II. Former subchapter II redesignated III.

1970—Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166, added subchapter II heading.

PART 1—APPROPRIATIONS

AMENDMENTS

1974—Pub. L. 93–380, title V, § 506(a)(1)(A), Aug. 21, 1974, 88 Stat. 562, added part 1 heading.

§ 1222. Repealed. Pub. L. 93–380, title V, § 506(a)(1)(B), Aug. 21, 1974, 88 Stat. 562

Section, Pub. L. 90–247, title IV, § 411, formerly § 402, Jan. 2, 1968, 81 Stat. 814; amended Pub. L. 91–230, title IV, § 401(a)(3), Apr. 13, 1970, 84 Stat. 165; renumbered § 411, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, provided for program planning and evaluation and report to Congressional committees.

EFFECTIVE DATE OF REPEAL

Section repealed effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as an Effective Date of 1974 Amendment note under section 1225 of this title.

§ 1223. Forward funding

(a) To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing education activities and projects, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

(b) In order to effect a transition to the timing of appropriation action authorized by subsection (a) of this section, the application of this section may result in the enactment, in a fiscal year, of separate appropriations for an applicable program (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

(Pub. L. 90–247, title IV, § 420, formerly § 403, Jan. 2, 1968, 81 Stat. 814; Pub. L. 91–230, title IV, § 401(a)(4), Apr. 13, 1970, 84 Stat. 165; renumbered § 412, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 411, Pub. L. 93–380, title V, § 506(a)(1)(C), Aug. 21, 1974, 88 Stat. 562; renumbered § 420 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 231, Oct. 20, 1994, 108 Stat. 3913, 3914.)

PRIOR PROVISIONS

A prior section 420 of Pub. L. 90–247 was renumbered section 426, and is classified to section 1228 of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 231, amended section generally. Prior to amendment, section read as follows: ''To the end of affording the responsible State, local, and Federal officers concerned adequate notice of available Federal financial assistance for education, appropriations for grants, contracts, or other payments under any applicable program are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation. In order to effect a transition to this method of timing appropriation action, the preceding sentence shall apply notwithstanding that its initial application under such program will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.''

1970—Pub. L. 91–230 substituted ''applicable program'' and ''under such program'' for ''Act referred to in section 1221 of this title'' and ''under any such Act'', respectively.

NATIONAL POLICY WITH RESPECT TO ADVANCE FUNDING OF EDUCATION PROGRAMS

Section 802 of Pub. L. 93–380 provided that: ''The Congress declares it to be the policy of the United States to implement immediately and continually section 411 [now 420] of the General Education Provisions Act [this section], relating to advance funding for education programs, so as to afford responsible State, local, and Federal officers adequate notice of available Federal financial assistance for education authorized under this [Act, Pub. L. 93–380, see Short Title of 1974 Amendment note set out under section 6301 of this title] and other Acts of Congress.''

Provision effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as an Effective Date note under section 1221–1 of this title.

§ 1224. Repealed. Pub. L. 93–380, title V, § 506(a)(1)(B), Aug. 21, 1974, 88 Stat. 562

Section, Pub. L. 90–247, title IV, § 413, formerly § 404, Jan. 2, 1968, 81 Stat. 814; amended Pub. L. 91–230, title IV, § 401(a)(5), (6), Apr. 13, 1970, 84 Stat. 165; renumbered

§ 413, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, provided for annual evaluation reports to Congressional committees, penultimate fiscal year reports, and contingent extension of expiring appropriation authority.

EFFECTIVE DATE OF REPEAL

Repeal effective Aug. 21, 1974, see section 506(b) of Pub. L. 93–380, set out as an Effective Date of 1974 Amendment note under section 1225 of this title.

§ 1225. Availability of appropriations on academic or school-year basis; additional period for obligation of funds

(a) Academic or differing fiscal year

Appropriations for any fiscal year for grants, loans, contracts, or other payments under any applicable program may, in accordance with regulations of the Secretary, be made available for obligation by the recipient on the basis of an academic or school year differing from such fiscal year.

(b) Succeeding fiscal year

(1) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from appropriations to carry out any programs to which this chapter is applicable during any fiscal year, which are not obligated and expended by educational agencies or institutions prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure by such agencies and institutions during such succeeding fiscal year.

(2) Any funds under any applicable program which, pursuant to paragraph (1), are available for obligation and expenditure in the year succeeding the fiscal year for which they were appropriated shall be obligated and expended in accordance with—

(A) the Federal statutory and regulatory provisions relating to such program which are in effect for such succeeding fiscal year, and

(B) any program plan or application submitted by such educational agencies or institutions for such program for such succeeding fiscal year.

(c) Institution of judicial proceedings

If any funds appropriated to carry out any applicable program are not obligated pursuant to a spending plan submitted in accordance with section 1341(a) of title 31 and become available for obligation after the institution of a judicial proceeding seeking the release of such funds, then such funds shall be available for obligation and expenditure until the end of the fiscal year which begins after the termination of such judicial proceeding.

(Pub. L. 90–247, title IV, § 421, formerly § 405, Jan. 2, 1968, 81 Stat. 815; Pub. L. 91–230, title IV, § 401(a)(5), (7), (8), Apr. 13, 1970, 84 Stat. 165; renumbered § 414, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 412, and amended Pub. L. 93–380, title V, § 506(a)(1)(D), (E), Aug. 21, 1974, 88 Stat. 562; Pub. L. 94–273, § 3(12), Apr. 21, 1976, 90 Stat. 376; Pub. L. 95–112, § 5, Sept. 24, 1977, 91 Stat. 912; Pub. L. 95–561, title XII, § 1245, Nov. 1, 1978, 92 Stat. 2354; renumbered § 421 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 232, Oct. 20, 1994, 108 Stat. 3913, 3914.)

PRIOR PROVISIONS

A prior section 421 of Pub. L. 90–247 was classified to section 1230 of this title prior to repeal by Pub. L. 103–382.

Another prior section 421 of Pub. L. 90–247 was renumbered section 430, and is classified to section 1231 of this title.

Another prior section 421 of Pub. L. 90–247 was renumbered section 437, and is classified to section 1232 of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 232(a), amended section catchline generally.

Subsec. (a). Pub. L. 103–382, § 232(b)(1), struck out ''to educational agencies or institutions'' after ''other payments'' and substituted ''obligation'' for ''expenditure'' and ''recipient'' for ''agency or institution concerned''.

Subsec. (b). Pub. L. 103–382, § 232(b)(2), which directed the substitution in the original of ''(b)(1) Notwithstanding'' for ''(b) Notwithstanding'', could not be executed because the original already reads ''(b)(1) Notwithstanding''.

Subsec. (c). Pub. L. 103–382, § 232(b)(3), substituted reference to section 1341(a) of title 31 for reference to section 3679(d)(2) of the Revised Statutes.

1978—Subsec. (b). Pub. L. 95–561 struck out ''ending prior to October 1, 1979,'' after ''applicable during any fiscal year,'' in existing provisions, designated existing provisions as thus amended as par. (1), and added par. (2).

1977—Subsec. (b). Pub. L. 95–112 substituted ''October 1, 1979'' for ''October 1, 1978''.

1976—Subsec. (b). Pub. L. 94–273 substituted ''October'' for ''July''.

1974—Subsec. (b). Pub. L. 93–380, § 506(a)(1)(E), substituted ''1978'' for ''1973'' and inserted ''by educational agencies or institutions'' and ''by such agencies and institutions'' after ''obligated and expended'' and ''obligation and expenditure'', respectively.

Subsec. (c). Pub. L. 93–380, § 506(a)(1)(E), added subsec. (c).

1970—Pub. L. 91–230 substituted ''applicable program'' for ''Act referred to in section 1221 of this title'', inserted ''loans,'' after ''grants,'' designated existing provisions as thus amended as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, but the provisions of subsec. (b)(2) of this section not to take effect with respect to the use of funds under former section 3101 of this title until Oct. 1, 1980, except at the option of local educational agencies, see section 1530 of Pub. L. 95–561, as amended, set out as a note under section 1221e–3 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 506(b) of Pub. L. 93–380 provided that: ''The amendments made by subsection (a) of this section [enacting sections 1226a to 1226d of this title, amending this section and section 1227 of this title, and repealing sections 1222 and 1224 of this title] shall become effective on the date of enactment of this Act [Aug. 21, 1974].''

INDOCHINESE REFUGEE CHILDREN EDUCATION ASSISTANCE PROGRAMS; APPLICABILITY OF CONTINGENT EXTENSION PROVISIONS

Pub. L. 94–482, title III, § 327, Oct. 12, 1976, 90 Stat. 2220, provided that: ''The provisions of section 414 [now 422] of the General Education Provisions Act [section 1226a of this title], relating to the contingent extension of applicable programs, shall not apply to the Indo-

china Refugee Children Assistance Act of 1976 [former section 1211b of this title], or to any program of financial assistance for educational purposes for Indochinese refugee children.''

§ 1226. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 413, formerly § 406, as added Pub. L. 90–576, title III, § 301(b), Oct. 16, 1968, 82 Stat. 1094; amended Pub. L. 91–230, title IV, § 401(a)(9), Apr. 13, 1970, 84 Stat. 166; renumbered § 415, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 413, Pub. L. 93–380, title V, § 506(a)(2)(A), Aug. 21, 1974, 88 Stat. 563, related to availability of appropriations.

§ 1226a. Contingent extension of programs

(a) Automatic extension

The authorization of appropriations for, or duration of, an applicable program shall be automatically extended for one additional fiscal year unless Congress, in the regular session that ends prior to the beginning of the terminal fiscal year of such authorization or duration, has passed legislation that becomes law and extends or repeals the authorization or duration of such program.

(b) Amount of appropriation

The amount authorized to be appropriated for the period of automatic extension under subsection (a) of this section of an applicable program shall be the amount authorized to be appropriated for such program for the terminal fiscal year of the applicable program.

(c) Acts and determinations necessary for program continuation

If the Secretary is required, in the terminal fiscal year of an applicable program, to carry out certain acts or make certain determinations that are necessary for the continuation of such program, such acts or determinations shall be required to be carried out or made during the period of automatic extension under subsection (a) of this section.

(d) Application to commissions, councils, and committees required by law to terminate

This section shall not apply to the authorization of appropriations for a commission, council, or committee which is required by an applicable statute to terminate on a date certain.

(Pub. L. 90–247, title IV, § 422, formerly § 414, as added Pub. L. 93–380, title V, § 506(a)(2)(B), Aug. 21, 1974, 88 Stat. 563; amended Pub. L. 96–374, title XIII, § 1301, Oct. 3, 1980, 94 Stat. 1496; renumbered § 422 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 233, Oct. 20, 1994, 108 Stat. 3913, 3915.)

PRIOR PROVISIONS

A prior section 422 of Pub. L. 90–247 was renumbered section 431, and is classified to section 1231a of this title.

Another prior section 422 of Pub. L. 90–247 was renumbered section 438, and is classified to section 1232a of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 233, amended section generally, revising and restating former subsecs. (a) and (b) as subsecs. (a) to (c) and adding subsec. (d).

1980—Subsec. (a). Pub. L. 96–374 inserted provisions for the automatic extension of an authorization or duration of two additional fiscal years for any applicable program authorized to be included in the Appropriation Act for the fiscal year preceding the fiscal year for which appropriations are available for obligation.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of this title.

INDOCHINESE REFUGEE CHILDREN EDUCATION ASSISTANCE PROGRAMS; APPLICABILITY OF CONTINGENT EXTENSION PROVISIONS

Applicability of contingent extension provisions to any program of financial assistance for educational purposes for Indochinese refugee children, see section 327 of Pub. L. 94–482, set out as a note under section 1225 of this title.

LIMITATION ON EXTENSION OF PROGRAMS

Pub. L. 94–328, § 2(d), June 30, 1976, 90 Stat. 727, provided that: ''The amendments made by this section [amending sections 1070a, 1074, 1078 and 1078a of this title and enacting provisions set out as a note under section 2756 of Title 42, The Public Health and Welfare] shall not be deemed to authorize the automatic extension of the programs so amended, under section 414 [now 422] of the General Education Provisions Act [this section], beyond the date specified in such amendments.''

§ 1226a–1. Payments; installments, advances or reimbursement, and adjustments

Payments pursuant to grants or contracts under any applicable program may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(Pub. L. 90–247, title IV, § 423, formerly § 425, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 170; renumbered § 435, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 415, Pub. L. 95–561, title XII, § 1231(a)(1), Nov. 1, 1978, 92 Stat. 2342; renumbered § 423 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 261(a), Oct. 20, 1994, 108 Stat. 3913, 3927.)

CODIFICATION

Section was formerly classified to section 1232d of this title prior to its renumbering by Pub. L. 95–561.

PRIOR PROVISIONS

A prior section 423 of Pub. L. 90–247 was classified to section 1231b of this title prior to repeal by Pub. L. 103–382.

Another prior section 423 of Pub. L. 90–247 was renumbered section 439, and is classified to section 1232b of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 261(a), substituted ''Secretary'' for ''Commissioner''.

PART 2—PLANNING AND EVALUATION OF FEDERAL EDUCATION ACTIVITIES

AMENDMENTS

1974—Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 563, added part 2 heading.

§ 1226b. Responsibility of States to furnish information

(a) Biennial reports; contents

Each State educational agency shall submit to the Secretary a report on or before March 15 of every second year. Each such report shall include—

(1) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any applicable program under the jurisdiction of the State educational agency; and

(2) information with respect to the uses of Federal funds in such State in the two preceding fiscal years under any Federal program administered by the State that provided grants or contracts to a local educational agency in the State.

(b) Additional contents

Each report submitted under subsection (a) of this section shall—

(1) list, with respect to each program for which information is provided, all grants made to and contracts entered into with local educational agencies and other public and private agencies and institutions within the State during each fiscal year concerned;

(2) analyze the information included in the report by local educational agency and by program;

(3) include the total amount of funds available to the State under each such program for each fiscal year concerned; and

(4) be made readily available by the State to local educational agencies and institutions within the State and to the public.

(c) Delinquent or incomplete reports

If the Secretary does not receive a report by the date required under subsection (a) of this section, or receives an incomplete report, the Secretary, not later than 30 days after such report is required to be submitted, shall take all reasonable measures to obtain the delinquent or incomplete information from the State educational agency.

(d) Availability of information

When the Secretary receives a report required under subsection (a) of this section, the Secretary shall provide such information to the National Center for Education Statistics, and shall make such information available, at a reasonable cost, to any individual who requests such information.

(e) Congressional telecommunications network

The Secretary shall consult with the Speaker and Minority Leader of the House of Representatives and the Majority and Minority Leaders of the Senate regarding the costs and feasibility of making the information described in subsection (a) of this section available as part of a telecommunications network that is readily accessible to every member of Congress and other interested parties.

(f) Reports by Secretary

On or before August 15 of each year in which reports are submitted under subsection (a) of this section, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Such report shall include—

(1) an analysis of the content and data quality of such reports;

(2) a compilation of statistical data derived from such reports; and

(3) information obtained by the Secretary with respect to—

(A) direct grants made to local educational agencies by the Federal Government; and

(B) contracts entered into between such agencies and the Federal Government.

(Pub. L. 90–247, title IV, § 424, as added Pub. L. 103–382, title II, § 234, Oct. 20, 1994, 108 Stat. 3915.)

PRIOR PROVISIONS

Provisions similar to those in subsecs. (a), (b), and (f) of this section were contained in section 1221e–1a of this title prior to repeal by Pub. L. 103–382.

A prior section 1226b, Pub. L. 90–247, title IV, § 416, as added Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 563, related to program planning and evaluation, prior to repeal by Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913.

A prior section 424 of Pub. L. 90–247 was classified to section 1231b–1 of this title prior to repeal by Pub. L. 103–382.

Another prior section 424 of Pub. L. 90–247 was renumbered section 433, and is classified to section 1231c of this title.

Another prior section 424 of Pub. L. 90–247 was renumbered section 434, and was classified to section 1232c of this title prior to repeal by Pub. L. 95–561.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

§ 1226c. Biennial evaluation report

Not later than March 31, 1995, and every two years after such date, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate an evaluation report on the effectiveness of applicable programs in achieving such programs' legislated intent and purposes during the two preceding fiscal years. Such report shall—

(1) contain program profiles that include legislative citations, multiyear funding histories, and legislated purposes;

(2) contain recent information on the progress being made toward the achievement of program objectives, including listings of program performance indicators, data from performance measurement based on the indicators, and information on the costs and benefits of the applicable programs being evaluated;

(3) address significant program activities, such as initiatives for program improvement,

regulations, and program monitoring and evaluation;

(4) list the principal analyses and studies supporting the major conclusions in such report;

(5) be prepared in concise summary form with necessary detailed data and appendixes, including available data to indicate the effectiveness of the programs and projects by the race, sex, disability and age of beneficiaries of such programs and projects; and

(6) include the results of the program evaluations conducted in accordance with section 7941 of this title.

(Pub. L. 90–247, title IV, § 425, formerly § 417, as added Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 564; amended Pub. L. 95–561, title XII, § 1246(a), (b), Nov. 1, 1978, 92 Stat. 2354; Pub. L. 96–46, § 4(b), Aug. 6, 1979, 93 Stat. 342; Pub. L. 96–374, title XIII, § 1305, Oct. 3, 1980, 94 Stat. 1497; Pub. L. 98–511, title VII, § 705, Oct. 19, 1984, 98 Stat. 2406; renumbered § 425 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 235, Oct. 20, 1994, 108 Stat. 3913, 3916; Pub. L. 103–437, § 7(a)(2), Nov. 2, 1994, 108 Stat. 4587; Pub. L. 107–110, title X, § 1076(h), Jan. 8, 2002, 115 Stat. 2091.)

PRIOR PROVISIONS

A prior section 425 of Pub. L. 90–247 was renumbered section 432, and is classified to section 1231b–2 of this title.

Another prior section 425 of Pub. L. 90–247 was renumbered section 434, and is classified to section 1231d of this title.

Another prior section 425 of Pub. L. 90–247 was renumbered section 423, and is classified to section 1226a–1 of this title.

AMENDMENTS

2002—Par. (6). Pub. L. 107–110 substituted ''7941'' for ''8941''.

1994—Pub. L. 103–437, which directed that section 417(a) of Pub. L. 90–247 be amended by substituting ''Labor and Human Resources'' for ''Human Resources'', could not be executed because this section, which was section 417 of Pub. L. 90–247, was renumbered section 425 and amended generally by Pub. L. 103–382.

Pub. L. 103–382, § 235, amended section generally, substituting single undesignated par. relating to biennial evaluation reports for former subsecs. (a) and (b) relating to annual evaluation reports and including requirement for information on contracts and grants for evaluations of programs.

1984—Subsec. (a). Pub. L. 98–511 substituted ''December 31'' for ''November 1''.

1980—Subsec. (a)(F). Pub. L. 96–374 inserted '', including tabulations of available data to indicate the effectiveness of the programs and projects by the sex, race, and age of its beneficiaries'' after ''detailed data and appendices''.

1979—Subsec. (a). Pub. L. 96–46 substituted ''(a) Not later than'' for ''(a)(1) Not later than'' and struck out par. (2) which provided that, in the case of programs and projects assisted under title I of the Elementary and Secondary Education Act of 1965, the report include a survey of how many children counted under section 103(c) of such Act do or do not participate in such programs and projects and how many disadvantaged children do or do not participate in such programs and projects.

1978—Subsec. (a)(1). Pub. L. 95–561 inserted ''(including compliance with provisions of law requiring the maintenance of non-Federal expenditures for the purposes of such applicable programs)'' after ''effectiveness of applicable programs'' and substituted ''Committee on Human Resources'' for ''Committee on Labor and Public Welfare'' in provisions preceding subpar. (A).

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 711 of Pub. L. 98–511 provided that:

''(a) Except as provided in subsection (b), this Act and the amendments made by this Act [see Tables for classification] shall take effect on the date of enactment of this Act [Oct. 19, 1984] or October 1, 1984, whichever occurs later.

''(b) The amendments made by title I of this Act [see Tables for classification] shall take effect on July 1, 1985.''

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–46 effective Oct. 1, 1978, see section 8 of Pub. L. 96–46, set out as a note under section 930 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

§ 1226c–1. Availability of education reports, etc., to Congressional committees

Any evaluation report or data or information collected in preparation of such report, which is paid for with appropriated funds, shall be made available, upon request, within 4 days to the chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives and of the Committee on Labor and Human Resources of the Senate.

(Pub. L. 95–561, title XV, § 1523, Nov. 1, 1978, 92 Stat. 2378; Pub. L. 103–437, § 7(b), Nov. 2, 1994, 108 Stat. 4587.)

CODIFICATION

Section was enacted as part of Education Amendments of 1978, and not as part of General Education Provisions Act which comprises this chapter.

AMENDMENTS

1994—Pub. L. 103–437 substituted ''Labor and Human Resources'' for ''Human Resources''.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor,

and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§ 1226d. Repealed. Pub. L. 96–470, title I, § 106(a), Oct. 19, 1980, 94 Stat. 2238

Section, Pub. L. 90–247, title IV, § 418, as added Pub. L. 93–380, title V, § 506(a)(3)(C), Aug. 21, 1974, 88 Stat. 564; amended S. Res. 4, Feb. 4, 1977; Pub. L. 95–561, title XII, § 1246(c), Nov. 1, 1978, 92 Stat. 2354; S. Res. 30, Mar. 7, 1979, directed Assistant Secretary to submit to Committee on Education and Labor of the House of Representatives and Committee on Labor and Human Resources of the Senate comprehensive renewal evaluation reports for applicable programs.

§ 1227. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 419, formerly § 417, as added Pub. L. 92–318, title III, § 304, June 23, 1972, 86 Stat. 333; renumbered § 419 and amended Pub. L. 93–380, title V, § 506(a)(3)(A), (B), Aug. 21, 1974, 88 Stat. 563, related to education program evaluations by Comptroller General.

§ 1228. Prohibition against use of appropriated funds for busing

No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except for funds appropriated pursuant to title VIII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.], but not including any portion of such funds as are attributable to children counted under section 8003(d) of such Act [20 U.S.C. 7703(d)] or residing on property described in section 8013(10) of such Act [20 U.S.C. 7713(10)].

(Pub. L. 90–247, title IV, § 426, formerly § 420, as added Pub. L. 93–380, title II, § 252, Aug. 21, 1974, 88 Stat. 519; renumbered § 426 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 261(b), Oct. 20, 1994, 108 Stat. 3913, 3927; Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1808(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–382.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Title VIII of the Act is classified generally to subchapter VIII (§ 7701 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 426 of Pub. L. 90–247 was renumbered section 433, and is classified to section 1231c of this title.

Another prior section 426 of Pub. L. 90–247 was renumbered section 435, and is classified to section 1231e of this title.

Another prior section 426 of Pub. L. 90–247 was renumbered section 436, and was classified to section 1232e of this title prior to repeal by Pub. L. 95–561.

AMENDMENTS

2000—Pub. L. 106–398 substituted ''section 8003(d) of such Act'' for ''subsections (d) and (g) of section 8003 of such Act''.

1994—Pub. L. 103–382, § 261(b), substituted ''title VIII of the Elementary and Secondary Education Act of 1965'' for ''subchapter I of chapter 13 of this title'' and ''subsections (d) and (g) of section 8003 of such Act or residing on property described in section 8013(10) of such Act'' for ''subparagraph (C) of section 238(d)(2) of this title or section 244(1)(C) of this title''.

EFFECTIVE DATE

Section effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 1221–1 of this title.

§ 1228a. Equity for students, teachers, and other program beneficiaries

(a) Purpose

The purpose of this section is to assist the Department in implementing the Department's mission to ensure equal access to education and to promote educational excellence throughout the Nation, by—

(1) ensuring equal opportunities to participate for all eligible students, teachers, and other program beneficiaries in any project or activity carried out under an applicable program; and

(2) promoting the ability of such students, teachers, and beneficiaries to meet high standards.

(b) Requirement to develop steps to ensure equity

The Secretary shall require each applicant for assistance under an applicable program (other than an individual) to develop and describe in such applicant's application the steps such applicant proposes to take to ensure equitable access to, and equitable participation in, the project or activity to be conducted with such assistance, by addressing the special needs of students, teachers, and other program beneficiaries in order to overcome barriers to equitable participation, including barriers based on gender, race, color, national origin, disability, and age.

(c) Establishment of criteria

The Secretary may establish criteria and provide technical assistance for meeting the requirements of this section.

(d) Effect on other laws

Nothing in this section shall be construed to alter in any way the rights or responsibilities established under the laws cited in section 1221(d) of this title.

(Pub. L. 90–247, title IV, § 427, as added Pub. L. 103–382, title II, § 236, Oct. 20, 1994, 108 Stat. 3917.)

PRIOR PROVISIONS

A prior section 427 of Pub. L. 90–247 was renumbered section 434, and is classified to section 1231d of this title.

Another prior section 427 of Pub. L. 90–247 was renumbered section 429, and was classified to section 1231f of this title prior to repeal by Pub. L. 103–382.

EFFECTIVE DATE

Section effective July 1, 1995, for noncompetitive programs in which funds are allocated on the basis of a formula and for programs that are conducted on a competitive basis, with respect to appropriations for use under such programs in fiscal year 1995 and in subsequent fiscal years, see section 3(a)(2) of Pub. L. 103–382, set out as an Effective Date of 1994 Amendment note under section 1221 of this title.

§ 1228b. Coordination

The National Assessment Governing Board, the Advisory Council on Education Statistics, the National Education Goals Panel, and any other board established to analyze, address, or approve education content or student performance standards and assessments shall coordinate and interact with one another in order to ensure that each such entity does not duplicate activities to assist the States in reforming their educational systems.

(Pub. L. 90–247, title IV, § 428, as added Pub. L. 103–382, title II, § 237, Oct. 20, 1994, 108 Stat. 3917; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(c)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

PRIOR PROVISIONS

A prior section 428 of Pub. L. 90–247 was renumbered section 435, and is classified to section 1231e of this title.

AMENDMENTS

1996—Pub. L. 104–134 struck out ''the National Education Standards and Improvement Council,'' before ''and any other board''.

§ 1228c. Disclosure requirements

(a) In general

Each educational organization, prior to enrolling a minor and prior to accepting funds for the cost of a minor's participation in an educational program operated by such organization, shall disclose the following information in written form to the minor or the minor's parent.

(1) Method of solicitation and selection

The method of solicitation and selection of participants in the educational program, including—

(A) the origin of any mailing list used for such solicitation and selection;

(B) any recruitment through a local school official, teacher, or school personnel, including any compensation or other benefit offered to such official, teacher, or personnel for the recommendation of a minor for participation in the educational program;

(C) any open enrollment activity, including the method of outreach; and

(D) any cooperation with, or sponsorship by, a membership organization, including a description of the cooperation or sponsorship and the name of each such organization.

(2) Cost and fees

Information regarding the cost of the educational program and information regarding the distribution of any enrollment fee, including—

(A) the amount paid for, and the percentage of the total educational program cost of, each feature of the educational program, including—

(i) food;

(ii) lodging;

(iii) transportation;

(iv) program staffing;

(v) textbooks, syllabi, or other scholastic educational program materials;

(vi) speaker fees; and

(vii) administrative expenses, including expenses related to—

(I) the preparation of nonscholastic educational program materials;

(II) the provision of financial assistance;

(III) mailing list rental or other recruitment activity; and

(IV) administrative salaries and consulting fees;

(B) the identity of the organization or business providing each of the features described in clauses (i) through (vii) of subparagraph (A); and

(C) the nature of any relationship of any board member, officer, or employee of the educational organization to any organization or business described in subparagraph (B), including the salary or other compensation paid by such organization or business to such board member, officer, or employee.

(b) Nondiscriminatory enrollment and service policy

(1) In general

Each educational organization shall include a verifiable statement in all enrollment or recruitment material that the educational organization does not—

(A) fail or refuse to hire, or discharge, any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment; or

(B) exclude any student from participation in an educational program, discriminate against any student in providing the benefits associated with such program (including any scholarship or financial assistance, and use of any facility), or subject the student to discrimination under such program, on the basis of race, disability, or residence in a low-income area.

(2) Construction

Nothing in this subsection shall be construed to entitle a student to—

(A) participation in an educational program or any benefit associated with such program; or

(B) a waiver of any fee charged for such participation or benefit.

(c) Enforcement

The Secretary shall—

(1)(A) widely disseminate information about the requirements of this section to State and local school officials and parents; and

(B) require educational organizations to submit appropriate information or assurances regarding such organizations' compliance with this section; and

(2) take whatever other steps the Secretary determines are appropriate to enforce this section, including—

(A) promulgating regulations;

(B) establishing a complaint process;

(C) referring complaints to the relevant Federal, State, or local authorities for appropriate action;

(D) alerting educational agencies, schools, and parents to the practices of educational organizations that violate the provisions of this section; and

(E) imposing civil fines (not to exceed $1,000 per violation) on educational organizations that knowingly violate this section.

(d) Definitions

As used in this section:

(1) Disability

The term ''disability'' has the same meaning given to such term by section 12102(2) of title 42.

(2) Educational organization

(A) Except as provided in subparagraphs (B) and (C), the term ''educational organization'' means any organization or entity that—

(i) provides an educational program for a fee; and

(ii) recruits students through means such as commercial media, direct mailings, school recruitment programs, school administrators, teachers or staff, or current or former participants in an educational program offered by such organization or entity.

(B) The definition in subparagraph (A) shall not include—

(i) a local educational agency, State educational agency, a State department of education, or an elementary or secondary school as defined by the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(ii) an institution of higher education as defined by section 1001 of this title; or

(iii) a local organization sponsored by an elementary or secondary school, a recreational organization, an entertainment organization, a local sports activity group, or a social club.

(C) For the purpose of subsection (a) of this section only, such term does not include an organization or entity that provides an educational program if such organization or entity—

(i) recruits, for participation in such program, solely through a local school official; and

(ii) does not offer a local school official, teacher, or other school personnel compensation (other than compensation for actual expenses incurred in performing chaperon activities or for participating in separate, professionally-staffed teacher training and technical assistance seminars and workshops related to such program) or any other benefit for such recruitment.

(3) Educational program

(A) Except as provided in subparagraph (B), the term ''educational program'' means a special honors program, seminar, citizenship experience, government study program, educational vacation, student exchange program, or other educational experience or honor—

(i) that is generally directed toward minors or secondary school students;

(ii) for which a tuition or enrollment fee is charged;

(iii) that is offered away from a student's regular place of school attendance;

(iv) that includes not less than one supervised night away from home; and

(v) that is intended to enhance a student's regular course of study.

(B) Such term does not include a recreational program,[1] or a social or religious activity.

(4) Local school official

The term ''local school official'' means the highest administrative official serving a school district, or such individual's designee.

(5) Minor

The term ''minor'' means an individual who has not attained the age of 18 years.

(6) Membership organization

The term ''membership organization'' includes any organization that maintains a membership list or collects dues or membership fees from its members.

(7) Recreational organization

The term ''recreational organization'' includes any organization or entity that has as its primary function pleasure, amusement, or sports activities.

(8) Recreational program

The term ''recreational program'' includes any activity or service that is intended as an entertainment pastime.

(Pub. L. 90–247, title IV, § 429, as added Pub. L. 103–382, title II, § 238, Oct. 20, 1994, 108 Stat. 3918; amended Pub. L. 105–244, title I, § 102(a)(6)(C), Oct. 7, 1998, 112 Stat. 1618.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(2)(B)(i), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 429 of Pub. L. 90–247 was classified to section 1231f of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1998—Subsec. (d)(2)(B)(ii). Pub. L. 105–244 substituted ''section 1001'' for ''section 1141(a)''.

[1] So in original. The comma probably should not appear.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

SUBCHAPTER III—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS: GENERAL AUTHORITY OF SECRETARY

AMENDMENTS

1994—Pub. L. 103–382, title II, § 261(c), Oct. 20, 1994, 108 Stat. 3927, substituted ''SECRETARY'' for ''COMMISSIONER OF EDUCATION''.

1972—Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, redesignated former subchapter II as III. Former subchapter III redesignated IV.

§ 1230. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 421, as added Pub. L. 93–380, title V, § 507(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 94–482, title IV, § 404(a), Oct. 12, 1976, 90 Stat. 2230; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, specified programs subject to provisions of this subchapter.

PART 1—GENERAL AUTHORITY

§ 1231. Joint funding of programs

(a) Joint projects; transfers of appropriations; contracts or grants; criteria

(1) The Secretary is authorized to enter into arrangements with other Federal agencies to jointly carry out projects of common interest, to transfer to such agencies funds appropriated under any applicable program, and to receive and use funds from such agencies, for projects of common interest.

(2) Funds transferred or received pursuant to paragraph (1) shall be used only in accordance with the statutes authorizing the appropriation of such funds, and shall be made available by contract or grant only to recipients eligible to receive such funds under such statutes.

(3) If the Secretary enters into an agreement under this subsection for the administration of a project, the agency administering the project shall use such agency's procedures to award contracts or grants and to administer such awards, unless the parties to the agreement specify the use of procedures of another agency that is a party to the agreement.

(4) If the Secretary has entered into an agreement authorized under this subsection and the Secretary and the heads of the other agencies participating in the agreement determine that joint funding is necessary to address a special need consistent with the purposes and authorized activities of each program that provides funding under the joint project, the Secretary and the heads of the other participating agencies may develop a single set of criteria for the jointly funded project and require each applicant for such project to submit a single application for review by the participating agencies.

(b) Joint applications

The Secretary may develop the criteria for, and require the submission of, joint applications under two or more applicable programs under which funds are awarded on a competitive basis, and may jointly review and approve such applications separately from other applications under such programs, when the Secretary determines that such joint awards are necessary to address a special need consistent with the purposes and authorized activities of each such program. Any applicant for such a joint award shall meet the eligibility requirements of each such program.

(c) Limitations on joint funding

The Secretary may not construe the provisions of this section to take precedence over a limitation on joint funding contained in an applicable statute.

(d) Congressional notice

(1) The Secretary shall provide notice to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate of each joint funding agreement made with other Federal agencies not later than 60 days after the making of such agreements.

(2) Such notice shall include—

(A) a description of the purpose and objectives of the joint funding arrangement;

(B) the amounts and sources, by program, of the funds dedicated to such arrangement; and

(C) the criteria developed to govern the award of contracts and grants.

(Pub. L. 90–247, title IV, § 430, formerly § 411, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166; renumbered § 421 and amended Pub. L. 92–318, title III, §§ 301(a)(1), 302(a), June 23, 1972, 86 Stat. 326, 332; renumbered § 421A, Pub. L. 93–380, title V, § 507(a), Aug. 21, 1974, 88 Stat. 565; renumbered § 430 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 241, Oct. 20, 1994, 108 Stat. 3913, 3921.)

PRIOR PROVISIONS

A prior section 430 of Pub. L. 90–247 was renumbered section 436, and is classified to section 1231g of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 241, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to administration of education programs, delegations of authority, utilization of services and facilities of other agencies, and consolidation of programs.

1972—Subsec. (c). Pub. L. 92–318, § 302(a), added subsec. (c).

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1972 AMENDMENT; INCONSISTENT PROVISIONS INEFFECTIVE

Section 302(c) of Pub. L. 92–318 provided that: ''The provisions of section 421(c) [now 430(c)] of the General Education Provisions Act [subsec. (c) of this section] shall be effective upon the date of enactment of this Act [June 23, 1972]. No provision of any law which is inconsistent with such section 421(c) shall be effective nor shall any such provision control to the extent of such inconsistency, unless such a law is enacted after the date of enactment of this Act.''

§ 1231a. Collection and dissemination of information

The Secretary shall—

(1) prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs, and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs;

(2) inform the public regarding federally supported education programs; and

(3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving the intended purposes of such programs.

(Pub. L. 90–247, title IV, § 431, formerly § 412, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 166; renumbered § 422 and amended Pub. L. 92–318, title III, § 301(a)(1), (b)(2)(B), June 23, 1972, 86 Stat. 326, 332; Pub. L. 94–482, title IV, § 409(b), Oct. 12, 1976, 90 Stat. 2233; renumbered § 431, renumbered § 422, and amended Pub. L. 103–382, title II, §§ 212(b)(1), 242, Oct. 20, 1994, 108 Stat. 3913, 3922; renumbered § 431, Pub. L. 107–110, title X, § 1062(1), Jan. 8, 2002, 115 Stat. 2087.)

PRIOR PROVISIONS

A prior section 431 of Pub. L. 90–247 was renumbered section 437, and is classified to section 1232 of this title.

Another prior section 431 of Pub. L. 90–247 was renumbered section 441, and was classified to section 1233 of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, § 242, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) relating to duty to collect and disseminate information about applicable programs and to submit an annual report to Congress and authorizing use of contract to carry out this section.

1976—Subsec. (b). Pub. L. 94–482 substituted ''June 30'' for ''March 31''.

1972—Subsec. (a)(4). Pub. L. 92–318, § 301(b)(2)(B), substituted ''(as set forth in section 1221c(a) of this title)'' for ''(as set forth in section 1 of this title)''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 301(b)(2)(B) of Pub. L. 92–318 provided that the amendment made by Pub. L. 92–318 is effective July 1, 1972.

EVALUATION PRACTICES AND PROCEDURES AT NATIONAL, STATE, AND LOCAL LEVELS FOR FEDERALLY FUNDED ELEMENTARY AND SECONDARY EDUCATIONAL PROGRAMS; REPORT TO CONGRESS

Pub. L. 95–561, title XV, § 1526, Nov. 1, 1978, 92 Stat. 2379, as amended by Pub. L. 96–46, § 2(a)(9), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, directed Secretary of Education to conduct a study of evaluation practices and procedures at the national, State, and local levels with respect to federally funded elementary and secondary educational programs and include in the first annual report to Congress submitted more than eighteen months after Nov. 1, 1978, proposals and recommendations for the revision or modification of any part or all of such practices and procedures.

§§ 1231b, 1231b–1. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section 1231b, Pub. L. 90–247, title IV, § 423, formerly § 413, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 167; renumbered § 423, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to catalog of Federal education assistance programs.

Section 1231b–1, Pub. L. 90–247, title IV, § 424, as added Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to compilation of assisted innovative projects.

§ 1231b–2. Review of applications

(a) Persons aggrieved; final State educational agency actions; hearing; ruling and reasons for ruling; rescission of final actions

In the case of any applicable program under which financial assistance is provided to (or through) a State educational agency to be expended in accordance with a State plan approved by the Secretary, any applicant or recipient aggrieved by the final action of the State educational agency, and alleging a violation of State or Federal law, rules, regulations, or guidelines governing the applicable program, in (1) disapproving or failing to approve its application or program in whole or part, (2) failing to provide funds in amounts in accord with the requirements of laws and regulations, (3) ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, or (4) terminating further assistance for an approved program, may within thirty days request a hearing. Within thirty days after it receives such a request, the State educational agency shall hold a hearing on the record and shall review such final action. No later than ten days after the hearing, the State educational agency shall issue its written ruling, including reasons therefor. If it determines such final action was contrary to Federal or State law, or the rules, regulations, and guidelines governing such applicable program, it shall rescind such final action.

(b) Appeals to Secretary; persons aggrieved; notice; orders prescribing appropriate agency actions; finality of agency fact findings; interim orders pending appeal or review

Any applicant or recipient aggrieved by the failure of a State educational agency to rescind its final action after a review under subsection (a) of this section may appeal such action to the Secretary. An appeal under this subsection may be taken only if notice of such appeal is filed with the Secretary within twenty days after the applicant or recipient has been notified by the State educational agency of the results of its review under subsection (a) of this section. If, on such appeal, the Secretary determines the final action of the State educational agency was contrary to Federal law, or the rules, regulations, and guidelines governing the applicable program, he shall issue an order to the State educational agency prescribing appropriate action to be taken by such agency. On such appeal, findings of fact of the State educational agency, if supported by substantial evidence, shall be final. The Secretary may also issue such interim orders to State educational agencies as he may deem necessary and appropriate pending appeal or review.

(c) Records; availability

Each State educational agency shall make available at reasonable times and places to each applicant or recipient under a program to which this section applies all records of such agency pertaining to any review or appeal such applicant or recipient is conducting under this section, including records of other applicants.

(d) Termination of assistance for noncompliance with provisions or orders

If any State educational agency fails or refuses to comply with any provision of this section, or with any order of the Secretary under subsection (b) of this section, the Secretary shall forthwith terminate all assistance to the State educational agency under the applicable program affected or issue such other orders as the Secretary may deem appropriate to achieve such compliance.

(Pub. L. 90–247, title IV, § 432, formerly § 425, as added Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 566; amended Pub. L. 95–561, title XII, § 1247, Nov. 1, 1978, 92 Stat. 2354; renumbered § 432 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 243, Oct. 20, 1994, 108 Stat. 3913, 3922.)

PRIOR PROVISIONS

A prior section 432 of Pub. L. 90–247 was renumbered section 438, and is classified to section 1232a of this title.

Another prior section 432 of Pub. L. 90–247 was renumbered section 442, and was classified to section 1233a of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, § 243(1)(C), (D), inserted comma after ''the hearing'' in third sentence and substituted ''guidelines governing such applicable program, it'' for ''guidelines, governing such applicable program it'' in fourth sentence.

Pub. L. 103–382, § 243(1)(A), (B), substituted ''Secretary, any applicant'' for ''Commissioner, and in the case of the program provided for in title I of the Elementary and Secondary Education Act of 1965, any applicant''.

Subsec. (b). Pub. L. 103–382, § 243(2), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Subsec. (d). Pub. L. 103–382, § 243(3), substituted ''Secretary under'' for ''Commissioner under'' and ''Secretary shall'' for ''Commissioner shall'' and inserted before period at end ''or issue such other orders as the Secretary may deem appropriate to achieve such compliance''.

1978—Subsec. (a). Pub. L. 95–561 added cl. (3) relating to the ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, and redesignated former cl. (3) as (4).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

EFFECTIVE DATE

Section 508(b) of Pub. L. 93–380 provided that: ''The amendments made by subsection (a) [enacting this section and section 1231b–1 of this title] shall be effective on the date of enactment of this Act [Aug. 21, 1974].''

§ 1231c. Advice, counsel, and technical assistance

(a) State educational agencies, institutions of higher education

For the purpose of carrying out more effectively Federal education programs, the Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to State educational agencies, institutions of higher education, and, with the approval of the appropriate State educational agency, elementary and secondary schools—

(1) in determining benefits available to them under Federal law;

(2) in preparing applications for, and meeting requirements of, applicable programs;

(3) in order to enhance the quality, increase the depth, or broaden the scope of activities under applicable programs; and

(4) in order to encourage simplification of applications, reports, evaluations, and other administrative procedures.

(b) Cost allocation, collection, etc., by local educational agencies

The Secretary shall permit local educational agencies to use organized and systematic approaches in determining cost allocation, collection, measurement, and reporting under any applicable program, if he determines (1) that the use of such approaches will not in any manner lessen the effectiveness and impact of such program in achieving purposes for which it is intended, (2) that the agency will use such procedures as will insure adequate evaluation of each of the programs involved, and (3) that such approaches are consistent with criteria prescribed by the Comptroller General of the United States for the purposes of audit. For the purpose of this subsection a cost is allocable to a particular cost objective to the extent of relative benefits received by such objective.

(c) Dissemination

In awarding contracts and grants for the development of curricula or instructional materials, the Secretary and the Director of the National Institute of Education shall—

(1) encourage applicants to assure that such curricula or instructional materials will be developed in a manner conducive to dissemination through continuing consultations with publishers, personnel of State and local educational agencies, teachers, administrators, community representatives, and other individuals experienced in such dissemination;

(2) permit applicants to include provision for reasonable consultation fees or planning costs; and

(3) insure that grants to public agencies and nonprofit private organizations and contracts with public agencies and private organizations for publication and dissemination of curricula or instructional materials, or both, are awarded competitively to such agencies and organizations which provide assurances that the curricula and instructional materials will reach the target populations for which they were developed.

(d) Annual report by Secretary

The Secretary's annual report shall contain a statement of the Secretary's activities under this section.

(Pub. L. 90–247, title IV, § 433, formerly § 414, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 167; renumbered § 424, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 426, Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565; amended Pub. L. 95–561, title XII, § 1248, Nov. 1, 1978, 92 Stat. 2354; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered § 433, Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

PRIOR PROVISIONS

A prior section 433 of Pub. L. 90–247 was renumbered section 439, and is classified to section 1232b of this title.

Another prior section 433 of Pub. L. 90–247 was renumbered section 443, and was classified to section 1233b of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1978—Subsecs. (c), (d). Pub. L. 95–561 added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

TRANSFER OF FUNCTIONS

''Secretary'' and ''Secretary's'', meaning the Secretary of Education, substituted for ''Commissioner'' and ''Commissioner's'', respectively, in subsecs. (a) to (d) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

NATIONAL INSTITUTE OF EDUCATION

The National Institute of Education consisting of a National Council on Educational Research and a Director of the Institute was established by section 1221e of this title which, as amended generally by Pub. L. 99–498, title XIV, § 1401(a), Oct. 17, 1986, 100 Stat. 1589, provided objectives and duties for the Office of Educational Research and Improvement and established the National Advisory Council on Educational Research and Improvement, and section 1401(b) of Pub. L. 99–498 transferred the property and records of the National Institute of Education to the Office of Educational Research and Improvement.

§ 1231c–1. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 426A, as added Pub. L. 95–561, title XII, § 1202, Nov. 1, 1978, 92 Stat. 2334; amended Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to equalization assistance.

§ 1231d. Parental involvement and dissemination

In the case of any applicable program in which the Secretary determines that parental participation at the State or local level would increase the effectiveness of the program in achieving its purposes, the Secretary shall promulgate regulations with respect to such program setting forth criteria designed to encourage such participation. If the program for which such determination is made provides for payments to local educational agencies, applications for such payments shall—

(1) set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with, and with the involvement of, parents of the children to be served by such programs and projects;

(2) be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

(3) set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public.

(Pub. L. 90–247, title IV, § 434, formerly § 415, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered § 425, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 427, Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565; renumbered § 434 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 244, Oct. 20, 1994, 108 Stat. 3913, 3922.)

PRIOR PROVISIONS

A prior section 434 of Pub. L. 90–247 was renumbered section 440, and is classified to section 1232c of this title.

Another prior section 434 of Pub. L. 90–247 was renumbered section 444, and was classified to section 1233c of this title prior to repeal by Pub. L. 103–382.

Another prior section 434 of Pub. L. 90–247 was classified to section 1232c of this title prior to repeal by Pub. L. 95–561.

AMENDMENTS

1994—Pub. L. 103–382, § 244, substituted ''Secretary determines'' for ''Commissioner determines'' and ''the Secretary shall'' for ''he shall'' and inserted ''is made'' after ''such determination''.

§ 1231e. Use of funds withheld

(a) At any time that the Secretary makes an allotment or reallotment to any State under any applicable program, the Secretary shall reduce such allotment or reallotment by such amount as the Secretary determines such allotment or reallotment would have been reduced, had the data on which such allotment or reallot-

ment is based excluded all data relating to local educational agencies of the State that, on the date of the Secretary's action, are ineligible to receive the Federal financial assistance involved because of failure to comply with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 794 of title 29, or the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.].

(b) The Secretary may use any funds withheld under subsection (a) of this section—

(1) to increase the allotments or reallotments of local educational agencies within the State that are not described in subsection (a) of this section, or the allotments or reallotment of all States, in accordance with the Federal law governing the program; or

(2) for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964 [42 U.S.C. 2000c–4], or for any other program administered by the Department that is designed to enhance equity in education or redress discrimination on the basis of race, color, national origin, sex, age, or disability.

(Pub. L. 90–247, title IV, § 435, formerly § 416, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered § 426, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 428, Pub. L. 93–380, title V, § 508(a), Aug. 21, 1974, 88 Stat. 565; renumbered § 435 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 245, Oct. 20, 1994, 108 Stat. 3913, 3922.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (a), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Education Amendments of 1972, referred to in subsec. (a), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

The Age Discrimination Act of 1975, referred to in subsec. (a), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this Title 42 and Tables.

PRIOR PROVISIONS

A prior section 435 of Pub. L. 90–247 was renumbered section 441, and is classified to section 1232d of this title.

Another prior section 435 of Pub. L. 90–247 was renumbered section 423, and is classified to section 1226a–1 of this title.

Another prior section 435 of Pub. L. 90–247 was renumbered section 445, and is classified to section 1233d of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, § 245, amended section generally. Prior to amendment, section consisted of single par. relating to use of funds withheld for failure to comply with title VI of the Civil Rights Act of 1964.

§ 1231f. Repealed. Pub. L. 103–382, title II, § 212(a)(1), Oct. 20, 1994, 108 Stat. 3913

Section, Pub. L. 90–247, title IV, § 429, formerly § 417, as added Pub. L. 91–230, title IV § 401(a)(10), Apr. 13, 1970, 84 Stat. 168; renumbered § 427, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 429 and amended Pub. L. 93–380, title V, §§ 501(b)(2), 508(a), Aug. 21, 1974, 88 Stat. 558, 565; Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, authorized transfer of information.

PART 2—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

§ 1231g. Applications

(a) Submission and amendments of applications

Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this section, the Secretary is authorized to provide for the submission of applications for assistance effective for more than one fiscal year under any applicable program with whatever amendments to such applications being required as the Secretary determines essential.

(b) Uniform dates

The Secretary shall, insofar as is practicable, establish uniform dates during the year for the submission of applications under all applicable programs and for the approval of such applications.

(c) Development of common applications

The Secretary shall, insofar as is practicable, develop and require the use of—

(1) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies pursuant to some objective formula, and such application shall be used as the single application for as many of these programs as is practicable;

(2) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies on a competitive or discretionary basis, and such application shall be used as the single application for as many of such programs as is practicable; and

(3) a common application for grants to local educational agencies in applicable programs which are directly administered by the Secretary, and such application shall be used as the single application for as many of these programs as is practicable.

(Pub. L. 90–247, title IV, § 436, formerly § 430, as added Pub. L. 95–561, title XII, § 1213, Nov. 1, 1978, 92 Stat. 2342; renumbered § 436 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 246, Oct. 20, 1994, 108 Stat. 3913, 3923.)

PRIOR PROVISIONS

A prior section 436 of Pub. L. 90–247 was renumbered section 442, and is classified to section 1232e of this title.

Another prior section 436 of Pub. L. 90–247 was classified to section 1232e of this title prior to repeal by Pub. L. 95–561.

Another prior section 436 of Pub. L. 90–247 was renumbered section 446, and was classified to section 1233e of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–382, § 246(2), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Subsec. (a). Pub. L. 103–382, § 246(1), substituted ''for more than one fiscal year'' for ''for three fiscal years''.

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

§ 1232. Regulations

(a) "Regulation" defined

For the purpose of this section, the term ''regulation'' means any generally applicable rule, regulation, guideline, interpretation, or other requirement that—

(1) is prescribed by the Secretary or the Department; and

(2) has legally binding effect in connection with, or affecting, the provision of financial assistance under any applicable program.

(b) Citation of authority

Regulations shall contain, immediately following each substantive provision of such regulations, citations to the particular section or sections of statutory law or other legal authority on which such provision is based.

(c) Uniform application

All regulations shall be uniformly applied and enforced throughout the 50 States.

(d) Application of exemption

The exemption for public property, loans, grants and benefits in section 553(a)(2) of title 5 shall apply only to regulations—

(1) that govern the first grant competition under a new or substantially revised program authority as determined by the Secretary; or

(2) where the Secretary determines that the requirements of this subsection will cause extreme hardship to the intended beneficiaries of the program affected by such regulations.

(e) Schedule for promulgation of final regulations

Not later than 60 days after the date of enactment of any Act, or any portion of any Act, affecting the administration of any applicable program, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a schedule in accordance with which the Secretary plans to promulgate final regulations that the Secretary determines are necessary to implement such Act or portion of such Act. Such schedule shall provide that all such final regulations shall be promulgated within 360 days after the date of enactment of such Act or portion of such Act.

(f) Transmittal of final regulations

Concurrently with the publication of any final regulations, the Secretary shall transmit a copy of such final regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(Pub. L. 90–247, title IV, § 437, formerly § 421, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 431, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, § 509(a), Aug. 21, 1974, 88 Stat. 566; Pub. L. 94–142, § 7, Nov. 29, 1975, 89 Stat. 796; Pub. L. 94–482, title IV, § 405, Oct. 12, 1976, 90 Stat. 2231; Pub. L. 96–374, title XIII, § 1302, Oct. 3, 1980, 94 Stat. 1497; Pub. L. 97–35, title V, § 533(a)(3), Aug. 13, 1981, 95 Stat. 453; renumbered § 437 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 247, Oct. 20, 1994, 108 Stat. 3913, 3923; Pub. L. 103–437, § 7(a)(1), Nov. 2, 1994, 108 Stat. 4587.)

PRIOR PROVISIONS

A prior section 437 of Pub. L. 90–247 was renumbered section 443, and is classified to section 1232f of this title.

Another prior section 437 of Pub. L. 90–247 was renumbered section 406A, and was classified to section 1221e–1a of this title prior to repeal by Pub. L. 103–382.

Another prior section 437 of Pub. L. 90–247 was renumbered section 447, and was classified to section 1233f of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Pub. L. 103–437, which directed that section 431(b)(2)(B), (d)(2), and (g) of Pub. L. 90–247 be amended by substituting ''Labor and Human Resources'' for ''Labor and Public Welfare'', could not be executed because this section, which was section 431 of Pub. L. 90–247, was renumbered section 437 and amended generally by Pub. L. 103–382.

Pub. L. 103–382, § 247, amended section generally. Prior to amendment, section consisted of subsecs. (a) to (g) relating to promulgation of regulations by Secretary, and their publication, application, disapproval by Congress, and modification subsequent to disapproval.

1981—Subsec. (d)(1). Pub. L. 97–35 substituted ''final regulation (except expected family contribution schedules and any amendments thereto promulgated pursuant to sections 1078(a)(2)(D) and (E) and 1089(a)(1) of this title) as required'' for ''final regulation as required''.

1980—Subsec. (d)(1). Pub. L. 96–374 inserted '', in whole or in part'' after ''disapprove such final regulation''.

1976—Subsec. (a). Pub. L. 94–482, § 405(a), added par. (1), designated existing provisions which constituted entire subsec. (a) as par. (2) and, as so redesignated, struck out applicability to rules, guidelines, interpretations, or orders.

Subsec. (b)(1). Pub. L. 94–482, § 405(b)(1), substituted ''proposed regulation'' for ''standard, rule, regulation, or requirement of general applicability''.

Subsec. (b)(2)(A). Pub. L. 94–482, § 405(b)(2), substituted ''regulation'' for ''standard, rule, regulation, or general requirement'' in two places.

Subsec. (c). Pub. L. 94–482, § 405(c), struck out applicability to rules, guidelines, interpretations, or orders.

Subsec. (d)(1). Pub. L. 94–482, § 405(d)(1), (2), struck out applicability to standards, rules, requirements, or requirements of general applicability.

Subsec. (d)(2). Pub. L. 94–482, § 405(d)(3), substituted ''regulation'' for ''standard, rule, regulation, or requirement'' wherever appearing.

Subsec. (e). Pub. L. 94–482, § 405(e), substituted ''regulation'' for ''standard, rule, regulation, or requirement'' wherever appearing and ''final regulation'' for ''proposed standard, rule, regulation, or requirement of general applicability''.

Subsec. (g). Pub. L. 94–482, § 405(f), substituted ''final regulations'' for ''rules, regulations, and guidelines'' wherever appearing.

1975—Subsec. (d)(1). Pub. L. 94–142, § 7(a)(1), (b), inserted ''final'' before ''standard'' wherever appearing in existing provisions and inserted provisions covering the effect of the failure of Congress to adopt the concurrent resolution with respect to any final standard, rule, regulation, or requirement.

Subsec. (d)(2). Pub. L. 94–142, § 7(a)(2), (3), substituted ''objection to the final standard'' for ''objection to the proposed standard'', ''effective date of the final standard'' for ''effective date of the standard'', and ''In no event shall the final standard'' for ''In no event shall the standard''.

1974—Subsec. (b). Pub. L. 93–380, § 509(a)(1), designated existing provisions as par. (1) and added par. (2).

Subsecs. (d) to (g). Pub. L. 93–380, § 509(a)(2), added subsecs. (d) to (g).

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 540(a) of Pub. L. 97–35 provided that the amendment made by Pub. L. 97–35 is effective Oct. 1, 1981.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96–374, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 8 of Pub. L. 94–142 provided that:

''(a) Notwithstanding any other provision of law, the amendments made by sections 2(a), 2(b), and 2(c) [amending sections 1411 and 1412 of this title as in effect through Sept. 30, 1977, and amending provisions set out as notes under sections 1411 to 1413 of this title] shall take effect on July 1, 1975.

''(b) The amendments made by sections 2(d), 2(e), 3, 6, and 7 [enacting sections 1405 and 1406 of this title, amending this section and sections 1412 and 1453 of this title, enacting provisions set out as a note under section 1411 of this title, and amending provisions set out as a note under section 1401 of this title] shall take effect on the date of the enactment of this Act [Nov. 29, 1975].

''(c) The amendments made by sections 4 and 5(a) [enacting sections 1415 to 1420 of this title and amending sections 1401, 1411, 1412, 1413, and 1414 of this title] shall take effect on October 1, 1977, except that the provisions of clauses (A), (C), (D), and (E) of paragraph (2) of section 612 of the Act [section 1412 of this title], as amended by this Act, section 617(a)(1)(D) of the Act [section 1417(a)(1)(D) of this title], as amended by this Act, section 617(b) of the Act [section 1417(b) of this title], as amended by this Act, and section 618(a) of the Act [section 1418(a) of this title], as amended by this Act, shall take effect on the date of the enactment of this Act [Nov. 29, 1975].

''(d) The provisions of section 5(b) [amending section 1411 of this title and enacting provisions set out as notes under section 1411 of this title] shall take effect on the date of the enactment of this Act [Nov. 29, 1975].''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 509(b) of Pub. L. 93–380 provided that: ''The amendment made by paragraph (2) of subsection (a) [amending this section] shall be effective on the date of enactment of this [Aug. 21, 1974] and shall be effective with respect to the provisions of this Act [see Short Title note set out under section 821 of this title].''

STUDY AND REPORT ON RULES AND REGULATIONS

Pub. L. 92–318, title V, § 503, June 23, 1972, 86 Stat. 346, provided for a study by the Commissioner of all rules, regulations, etc., in connection with the administration of any program to which the General Education Provisions Act [this chapter] applies, with a report to be submitted to Congress not later than one year after June 23, 1972. Such section further mandated the publication of all rules, regulations, etc., in the Federal Register not later than 60 days after submission of such report, followed by a public hearing on such matters within the 60 day period following such publication. Such section then required a subsequent report to the relevant Congressional Committees on such hearings, and a republication of all rules and regulations in the Federal Register, such republished rules, etc., to supercede all preceding rules and regulations.

§ 1232–1. Repealed. Pub. L. 98–511, title I, § 109(b), Oct. 19, 1984, 98 Stat. 2369

Section, Pub. L. 90–247, title IV, § 431A, as added Pub. L. 94–482, title III, § 323(b), Oct. 12, 1976, 90 Stat. 2218; amended Pub. L. 95–561, title XII, § 1249, Nov. 1, 1978, 92 Stat. 2355; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, provided for maintenance of effort determinations, providing in subsection: (a) for promulgation of regulations and determination of amount expended, (b) for waiver of requirements, (c) for objective criteria in carrying out waiver authority, and (d) for duration of effectiveness of requirements.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1985, see section 711(b) of Pub. L. 98–511, set out as an Effective Date of 1984 Amendment note under section 1226c of this title.

§ 1232a. Prohibition against Federal control of education

No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(Pub. L. 90–247, title IV, § 438, formerly § 422, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 432 and amended Pub. L. 92–318, title III, § 301(a)(1), title VII, § 717(b), June 23, 1972, 86 Stat. 326, 369; Pub. L. 94–482, title IV, § 404(b), Oct. 12, 1976, 90 Stat. 2230; renumbered § 438, Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913.)

PRIOR PROVISIONS

A prior section 438 of Pub. L. 90–247 was renumbered section 444, and is classified to section 1232g of this title.

Another prior section 438 of Pub. L. 90–247 was renumbered section 448, and was classified to section 1233g of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1976—Pub. L. 94–482 substituted provisions prohibiting any applicable program from exercising Federal control of education, for provisions prohibiting such specific Federal laws as the Act of Sept. 30, 1950, National Defense Education Act of 1958, Act of Sept. 23, 1950, Higher Education Facilities Act of 1963, Elementary and Secondary Education Act of 1965, Higher Education Act of 1965, International Education Act of 1966, Emergency School Aid Act, and the Vocational Education Act of 1963 from exercising such Federal control.

1972—Pub. L. 92–318, § 717(b), inserted ''the Emergency School Aid Act;'' after ''the International Education Act of 1966;''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

§ 1232b. Labor standards

All laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under any applicable program shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 3145 of title 40.

(Pub. L. 90–247, title IV, § 439, formerly § 423, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 433, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326; renumbered § 439 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 261(d), Oct. 20, 1994, 108 Stat. 3913, 3927.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

''Sections 3141–3144, 3146, and 3147 of title 40'' substituted for ''the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5)'' and ''section 3145 of title 40'' substituted for ''section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

A prior section 439 of Pub. L. 90–247 was renumbered section 445, and is classified to section 1232h of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 261(d), substituted ''All laborers'' for ''Except for emergency relief under section 241–1 of this title, all laborers''.

PART 3—ADMINISTRATION OF EDUCATION PROGRAMS AND PROJECTS BY STATES AND LOCAL EDUCATIONAL AGENCIES

§ 1232c. State agency monitoring and enforcement

(a) State plan

In the case of any applicable program in which Federal funds are made available to local agencies in a State through or under the supervision of a State board or agency, the Secretary may require the State to submit a plan for monitoring compliance by local agencies with Federal requirements under such program and for enforcement by the State of such requirements. The Secretary may require such plan to provide—

(1) for periodic visits by State personnel of programs administered by local agencies to determine whether such programs are being conducted in accordance with such requirements;

(2) for periodic audits of expenditures under such programs by auditors of the State or other auditors not under the control, direction, or supervision of the local educational agency; and

(3) that the State investigate and resolve all complaints received by the State, or referred to the State by the Secretary, relating to the administration of such programs.

(b) State enforcement of Federal requirements

In order to enforce the Federal requirements under any applicable program the State may—

(1) withhold approval, in whole or in part, of the application of a local agency for funds under the program until the State is satisfied that such requirements will be met; except that the State shall not finally disapprove such an application unless the State provides the local agency an opportunity for a hearing before an impartial hearing officer and such officer determines that there has been a substantial failure by the local agency to comply with any of such requirements;

(2) suspend payments to any local agency, in whole or in part, under the program if the State has reason to believe that the local agency has failed substantially to comply with any of such requirements, except that (A) the State shall not suspend such payments until fifteen days after the State provides the local agency an opportunity to show cause why such action should not be taken and (B) no such suspension shall continue in effect longer than sixty days unless the State within such period provides the notice for a hearing required under paragraph (3) of this subsection;

(3) withhold payments, in whole or in part, under any such program if the State finds, after reasonable notice and opportunity for a hearing before an impartial hearing officer, that the local agency has failed substantially to comply with any of such requirements.

(c) Withholding of payments

Any withholding of payments under subsection (b)(3) of this subsection[1] shall continue

[1] So in original. Probably should be ''section''.

until the State is satisfied that there is no longer a failure to comply substantially with any of such requirements.

(Pub. L. 90–247, title IV, § 440, formerly § 434, as added Pub. L. 95–561, title XII, § 1231(a)(3), Nov. 1, 1978, 92 Stat. 2342; renumbered § 440 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 261(e), Oct. 20, 1994, 108 Stat. 3913, 3927.)

PRIOR PROVISIONS

A prior section 1232c, Pub. L. 90–247, title IV, § 434, formerly § 424, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 169; renumbered § 434 and amended Pub. L. 92–318, title III, § 301(a)(1), title V, § 501, June 23, 1972, 86 Stat. 326, 345; Pub. L. 93–380, title V, §§ 510, 511(a), Aug. 21, 1974, 88 Stat. 568, 569; Pub. L. 94–482, title V, § 501(f)(1), Oct. 12, 1976, 90 Stat. 2237, related to administration of education programs and projects, prior to repeal by section 1231(a)(3) of Pub. L. 95–561.

A prior section 440 of Pub. L. 90–247 was renumbered section 446, and is classified to section 1232i of this title.

AMENDMENTS

1994—Pub. L. 103–382, § 261(e)(1), struck out ''educational'' after ''State'' in section catchline.

Subsec. (a). Pub. L. 103–382, § 261(e)(2)(A), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Subsecs. (b), (c). Pub. L. 103–382, § 261(e)(2)(B), (C), redesignated provision following par. (3) of subsec. (b) as subsec. (c) and substituted ''subsection (b)(3)'' for ''paragraph (3)''.

EFFECTIVE DATE

Section 1261 of Pub. L. 95–561 provided that: ''The amendments made by section 1231 [enacting this section and sections 1232d, 1232e, and 1232f of this title and amending section 1088f–1 of this title] shall take effect with respect to appropriations for fiscal year 1980 and subsequent fiscal years. The amendments made by section 1232 [enacting sections 1234, 1234a, 1234b, 1234c, 1234d, and 1234e of this title] shall take effect 120 days after the enactment of this Act [Nov. 1, 1978].''

APPLICABILITY OF ADMINISTRATIVE PROCEDURE TO OFFICE OF EDUCATION OR ACTIONS BY COMMISSIONER UNAFFECTED BY SUBSECTIONS (b) TO (e)

Pub. L. 93–380, title V, § 511(b)(2), Aug. 21, 1974, 88 Stat. 571, provided that nothing in the amendment made by subsec. (a) of section 511 of Pub. L. 93–380, which enacted prior subsecs. (b) to (e) and deleted former subsec. (b) of this section, would be construed to affect the applicability of chapter 5 of Title 5, Government Organization and Employees, to the Office of Education or actions by the Commissioner.

§ 1232d. Single State application

(a) Submission of general application; approval by State supervisory authority

In the case of any State which applies, contracts, or submits a plan for participation in any applicable program in which Federal funds are made available for assistance to local educational agencies through, or under the supervision of, the State educational agency of that State, such State shall submit (subject to the provisions of part C of title V of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7231 et seq.]) to the Secretary a general application containing the assurances set forth in subsection (b) of this section. Such application may be submitted jointly for all programs covered by the application, or it may be submitted separately for each such program or for groups of programs. Each application submitted under this section must be approved by each official, agency, board, or other entity within the State which, under State law, is primarily responsible for supervision of the activities conducted under each program covered by the application.

(b) Assurances

An application submitted under subsection (a) of this section shall set forth assurances, satisfactory to the Secretary—

(1) that each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided under each program and title to property acquired with program funds will be in a public agency, or in a nonprofit private agency, institution, or organization if the statute authorizing the program provides for grants to such entities, and that the public agency or nonprofit private agency, institution, or organization will administer such funds and property;

(3) that the State will adopt and use proper methods of administering each applicable program, including—

(A) monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law,

(B) providing technical assistance, where necessary, to such agencies, institutions, and organizations,

(C) encouraging the adoption of promising or innovative educational techniques by such agencies, institutions, and organizations,

(D) the dissemination throughout the State of information on program requirements and successful practices, and

(E) the correction of deficiencies in program operations that are identified through monitoring or evaluation;

(4) that the State will evaluate the effectiveness of covered programs in meeting their statutory objectives, at such intervals (not less often than once every three years) and in accordance with such procedures as the Secretary may prescribe by regulation, and that the State will cooperate in carrying out any evaluation of each program conducted by or for the Secretary or other Federal official;

(5) that the State will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each program;

(6) that the State will make reports to the Secretary (including reports on the results of evaluations required under paragraph (4)) as may reasonably be necessary to enable the Secretary to perform his duties under each program, and that the State will maintain such records, in accordance with the requirements of section 1232f of this title, and afford access to the records as the Secretary may find necessary to carry out his duties;

(7) that the State will provide reasonable opportunities for the participation by local agen-

cies, representatives of the class of individuals affected by each program and other interested institutions, organizations, and individuals in the planning for and operation of each program, including the following:

(A) the State will consult with relevant advisory committees, local agencies, interest groups, and experienced professionals in the development of program plans required by statute;

(B) the State will publish each proposed plan, in a manner that will ensure circulation throughout the State, at least sixty days prior to the date on which the plan is submitted to the Secretary or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plan to be accepted for at least thirty days;

(C) the State will hold public hearings on the proposed plans if required by the Secretary by regulation; and

(D) the State will provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations; and

(8) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.

(c) Effective term of general application

Each general application submitted under this section shall remain in effect for the duration of any program it covers. The Secretary shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant changes in the circumstances affecting an assurance in that application.

(Pub. L. 90–247, title IV, § 441, formerly § 435, as added Pub. L. 95–561, title XII, § 1231(a)(3), Nov. 1, 1978, 92 Stat. 2343; amended Pub. L. 98–511, title VII, § 706(a), Oct. 19, 1984, 98 Stat. 2406; Pub. L. 100–297, title III, § 3501(c), Apr. 28, 1988, 102 Stat. 357; renumbered § 441 and amended Pub. L. 103–382, title II, §§ 212(b)(1), (3)(A), 261(f), Oct. 20, 1994, 108 Stat. 3913, 3928; Pub. L. 107–110, title X, § 1062(2), Jan. 8, 2002, 115 Stat. 2087.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Part C of title V of the Act is classified generally to part C (§ 7231 et seq.) of subchapter V of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

CODIFICATION

A prior section 1232d was renumbered by Pub. L. 95–561, § 1231(a)(1), and was transferred to section 1226a–1 of this title.

PRIOR PROVISIONS

Another prior section 441 of Pub. L. 90–247 was classified to section 1233 of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–110 made technical correction to directory language of Pub. L. 100–297. See 1988 Amendment note below.

1994—Pub. L. 103–382, § 261(f)(1), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Subsec. (a). Pub. L. 103–382, § 261(f)(2)(C), substituted ''part C of title V of the Elementary and Secondary Education Act of 1965'' for ''title V of such Act''.

Pub. L. 103–382, § 261(f)(2)(B), which directed amendment of first sentence of subsec. (a) by striking '', in the case of programs under chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965,'', was executed by striking '', in the case of programs under chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965),'' after ''(subject'' to reflect the probable intent of Congress.

Pub. L. 103–382, § 261(f)(2)(A), struck out the comma after ''submits a plan''.

Subsec. (b)(6). Pub. L. 103–382, § 212(b)(3), made technical amendment to reference to section 1232f of this title to reflect renumbering of corresponding section of original act.

1988—Subsec. (a). Pub. L. 100–297, as amended by Pub. L. 107–110, substituted ''chapter 1 and chapter 2 of title I of the Elementary and Secondary Education Act of 1965)'' for ''titles I and IV of the Elementary and Secondary Education Act of 1965''.

1984—Subsec. (b)(8). Pub. L. 98–511 added par. (8).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–110, title X, § 1062(2), Jan. 8, 2002, 115 Stat. 2087, provided that the amendment made by section 1062(2) is effective as of the date of enactment of Pub. L. 100–297, which was approved Apr. 28, 1988.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–511 effective Oct. 19, 1984, see section 711(a) of Pub. L. 98–511, set out as a note under section 1226c of this title.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

§ 1232e. Single local educational agency application

(a) General application to State agency or board

Each local educational agency which participates in an applicable program under which Federal funds are made available to such agency through a State agency or board shall submit to such agency or board a general application containing the assurances set forth in subsection (b) of this section. That application shall cover the participation by that local educational agency in all such programs.

(b) Assurances

The general application submitted by a local educational agency under subsection (a) of this section shall set forth assurances—

(1) that the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;

(2) that the control of funds provided to the local educational agency under each program, and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;

(3) that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to that agency under each program;

(4) that the local educational agency will make reports to the State agency or board and to the Secretary as may reasonably be necessary to enable the State agency or board and the Secretary to perform their duties and that the local educational agency will maintain such records, including the records required under section 1232f of this title, and provide access to those records, as the State agency or board or the Secretary deem necessary to perform their duties;

(5) that the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program;

(6) that any application, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;

(7) that in the case of any project involving construction—

(A) the project is not inconsistent with overall State plans for the construction of school facilities, and

(B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 794 of title 29 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by individuals with disabilities;

(8) that the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects; and

(9) that none of the funds expended under any applicable program will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization.

(c) Effective term of general application

A general application submitted under this section shall remain in effect for the duration of the programs it covers. The State agencies or boards administering the programs covered by the application shall not require the submission or amendment of such application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in such application.

(Pub. L. 90–247, title IV, § 442, formerly § 436, as added Pub. L. 95–561, title XII, § 1231(a)(3), Nov. 1, 1978, 92 Stat. 2345; amended Pub. L. 98–511, title VII, § 706(b), Oct. 19, 1984, 98 Stat. 2407; renumbered § 442 and amended Pub. L. 103–382, title II, §§ 212(b)(1), (3)(B), 261(g), Oct. 20, 1994, 108 Stat. 3913, 3928.)

PRIOR PROVISIONS

A prior section 1232e, Pub. L. 90–247, title IV, § 436, formerly § 426, as added Pub. L. 91–230, title IV, § 401(a)(10), Apr. 13, 1970, 84 Stat. 170; renumbered § 436, Pub. L. 92–318, title III, § 301(a)(1), June 23, 1972, 86 Stat. 326, related to authority of Commissioner to vest title in equipment, prior to repeal by section 1231(a)(3) of Pub. L. 95–561.

A prior section 442 of Pub. L. 90–247 was classified to section 1233a of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, § 261(g)(1), substituted ''that local educational agency'' for ''that local education agency''.

Subsec. (b)(2). Pub. L. 103–382, § 261(g)(2)(A), inserted comma after ''program''.

Subsec. (b)(4). Pub. L. 103–382, § 261(g)(2)(B), substituted ''Secretary'' for ''Commissioner'' wherever appearing.

Pub. L. 103–382, § 212(b)(3)(B), made technical amendment to reference to section 1232f of this title to reflect renumbering of corresponding section of original act.

Subsec. (b)(7)(B). Pub. L. 103–382, § 261(g)(2)(C), substituted ''individuals with disabilities'' for ''handicapped individuals''.

1984—Subsec. (b)(9). Pub. L. 98–511 added par. (9).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–511 effective Oct. 19, 1984, see section 711(a) of Pub. L. 98–511, set out as a note under section 1226c of this title.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

PART 4—RECORDS; PRIVACY; LIMITATION ON WITHHOLDING FEDERAL FUNDS

§ 1232f. Records

(a) Records kept by recipient; full disclosure; maintenance period

Each recipient of Federal funds under any applicable program through any grant, subgrant, cooperative agreement, loan, or other arrangement shall keep records which fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from other sources, and such other records as will facilitate an effective financial or programmatic audit. The recipient shall maintain such records for three years after the completion of the activity for which the funds are used.

(b) Audit examination

The Secretary and the Comptroller General of the United States, or any of their duly author-

ized representatives, shall have access, for the purpose of audit examination, to any records maintained by a recipient that may be related, or pertinent to, grants, subgrants, cooperative agreements, loans, or other arrangements to which reference is made in subsection (a) of this section, or which may relate to the compliance of the recipient with any requirement of an applicable program.

(Pub. L. 90–247, title IV, § 443, formerly § 437, as added Pub. L. 95–561, title XII, § 1231(c), Nov. 1, 1978, 92 Stat. 2346; renumbered § 443 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 248, Oct. 20, 1994, 108 Stat. 3913, 3924.)

PRIOR PROVISIONS

A prior section 443 of Pub. L. 90–247 was classified to section 1233b of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, § 248(1), substituted ''grant, subgrant, cooperative agreement, loan, or other arrangement'' for ''grant, subgrant, contract, subcontract, loan, or other arrangement (other than procurement contracts awarded by an administrative head of an educational agency)'', inserted ''financial or programmatic'' before ''audit.'', and substituted ''three years'' for ''five years''.

Subsec. (b). Pub. L. 103–382, § 248(2), substituted ''to any records maintained by a recipient that may be related, or pertinent to, grants, subgrants, cooperative agreements, loans, or other arrangements'' for ''to any records of a recipient which may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements''.

EFFECTIVE DATE

Section effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

§ 1232g. Family educational and privacy rights

(a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions

(1)(A) No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.

(C) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

(i) financial records of the parents of the student or any information contained therein;

(ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;

(iii) if the student has signed a waiver of the student's right of access under this subsection in accordance with subparagraph (D), confidential recommendations—

(I) respecting admission to any educational agency or institution,

(II) respecting an application for employment, and

(III) respecting the receipt of an honor or honorary recognition.

(D) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (C), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student's education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the content of such records.

(3) For the purposes of this section the term ''educational agency or institution'' means any public or private agency or institution which is the recipient of funds under any applicable program.

(4)(A) For the purposes of this section, the term ''education records'' means, except as may

be provided otherwise in subparagraph (B), those records, files, documents, and other materials which—

(i) contain information directly related to a student; and

(ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

(B) The term ''education records'' does not include—

(i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5)(A) For the purposes of this section the term ''directory information'' relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term ''student'' includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of federally-supported education programs; recordkeeping

(1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following—

(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required;

(B) officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C)(i) authorized representatives of (I) the Comptroller General of the United States, (II) the Secretary, or (III) State educational authorities, under the conditions set forth in paragraph (3), or (ii) authorized representatives of the Attorney General for law enforcement purposes under the same conditions as apply to the Secretary under paragraph (3);

(D) in connection with a student's application for, or receipt of, financial aid;

(E) State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute adopted—

(i) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released, or

(ii) after November 19, 1974, if—

(I) the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve, prior to adjudication, the student whose records are released; and

(II) the officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student.[1]

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in

[1] So in original. The period probably should be a semicolon.

such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents, as defined in section 152 of title 26;

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons; and

(J)(i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and

(ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena.

Nothing in subparagraph (E) of this paragraph shall prevent a State from further limiting the number or type of State or local officials who will continue to have access thereunder.

(2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection, unless—

(A) there is written consent from the student's parents specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parents and the student if desired by the parents, or

(B) except as provided in paragraph (1)(J), such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

(3) Nothing contained in this section shall preclude authorized representatives of (A) the Comptroller General of the United States, (B) the Secretary, or (C) State educational authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of Federally-supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to such programs: *Provided*, That except when collection of personally identifiable information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements.

(4)(A) Each educational agency or institution shall maintain a record, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph (1)(A) of this subsection), agencies, or organizations which have requested or obtained access to a student's education records maintained by such educational agency or institution, and which will indicate specifically the legitimate interest that each such person, agency, or organization has in obtaining this information. Such record of access shall be available only to parents, to the school official and his assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (A) and (C) of paragraph (1) as a means of auditing the operation of the system.

(B) With respect to this subsection, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student. If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years.

(5) Nothing in this section shall be construed to prohibit State and local educational officials from having access to student or other records which may be necessary in connection with the audit and evaluation of any federally or State supported education program or in connection with the enforcement of the Federal legal requirements which relate to any such program, subject to the conditions specified in the proviso in paragraph (3).

(6)(A) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 16 of title 18), or a nonforcible sex offense, the final results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime or offense with respect to such crime or offense.

(B) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing the final results of any disciplinary proceeding conducted by such institution against a student who is an alleged perpetrator of any crime of violence (as that term is defined in section 16 of title 18), or a nonforcible sex offense, if the institution determines as a re-

sult of that disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense.

(C) For the purpose of this paragraph, the final results of any disciplinary proceeding—

(i) shall include only the name of the student, the violation committed, and any sanction imposed by the institution on that student; and

(ii) may include the name of any other student, such as a victim or witness, only with the written consent of that other student.

(7)(A) Nothing in this section may be construed to prohibit an educational institution from disclosing information provided to the institution under section 14071 of title 42 concerning registered sex offenders who are required to register under such section.

(B) The Secretary shall take appropriate steps to notify educational institutions that disclosure of information described in subparagraph (A) is permitted.

(c) Surveys or data-gathering activities; regulations

Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(d) Students' rather than parents' permission or consent

For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) Informing parents or students of rights under this section

No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution effectively informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of postsecondary education, of the rights accorded them by this section.

(f) Enforcement; termination of assistance

The Secretary shall take appropriate actions to enforce this section and to deal with violations of this section, in accordance with this chapter, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with this section, and he has determined that compliance cannot be secured by voluntary means.

(g) Office and review board; creation; functions

The Secretary shall establish or designate an office and review board within the Department for the purpose of investigating, processing, reviewing, and adjudicating violations of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

(h) Disciplinary records; disclosure

Nothing in this section shall prohibit an educational agency or institution from—

(1) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or

(2) disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.

(i) Drug and alcohol violation disclosures

(1) In general

Nothing in this Act or the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.] shall be construed to prohibit an institution of higher education from disclosing, to a parent or legal guardian of a student, information regarding any violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, regardless of whether that information is contained in the student's education records, if—

(A) the student is under the age of 21; and

(B) the institution determines that the student has committed a disciplinary violation with respect to such use or possession.

(2) State law regarding disclosure

Nothing in paragraph (1) shall be construed to supersede any provision of State law that prohibits an institution of higher education from making the disclosure described in subsection (a) of this section.

(j) Investigation and prosecution of terrorism

(1) In general

Notwithstanding subsections (a) through (i) of this section or any provision of State law, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring an educational agency or institution to permit the Attorney General (or his designee) to—

(A) collect education records in the possession of the educational agency or institution that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18, or an act of domestic or international terrorism as defined in section 2331 of that title; and

(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such records, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

(2) Application and approval

(A) IN GENERAL.—An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the education records are likely to contain information described in paragraph (1)(A).

(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

(3) Protection of educational agency or institution

An educational agency or institution that, in good faith, produces education records in accordance with an order issued under this subsection shall not be liable to any person for that production.

(4) Record-keeping

Subsection (b)(4) of this section does not apply to education records subject to a court order under this subsection.

(Pub. L. 90–247, title IV, § 444, formerly § 438, as added Pub. L. 93–380, title V, § 513(a), Aug. 21, 1974, 88 Stat. 571; amended Pub. L. 93–568, § 2(a), Dec. 31, 1974, 88 Stat. 1858; Pub. L. 96–46, § 4(c), Aug. 6, 1979, 93 Stat. 342; Pub. L. 101–542, title II, § 203, Nov. 8, 1990, 104 Stat. 2385; Pub. L. 102–325, title XV, § 1555(a), July 23, 1992, 106 Stat. 840; renumbered § 444 and amended Pub. L. 103–382, title II, §§ 212(b)(1), 249, 261(h), Oct. 20, 1994, 108 Stat. 3913, 3924, 3928; Pub. L. 105–244, title IX, §§ 951, 952, Oct. 7, 1998, 112 Stat. 1835, 1836; Pub. L. 106–386, div. B, title VI, § 1601(d), Oct. 28, 2000, 114 Stat. 1538; Pub. L. 107–56, title V, § 507, Oct. 26, 2001, 115 Stat. 367; Pub. L. 107–110, title X, § 1062(3), Jan. 8, 2002, 115 Stat. 2088.)

REFERENCES IN TEXT

This Act, referred to in subsec. (i)(1), is Pub. L. 90–247, Jan. 2, 1968, 80 Stat. 783, as amended, known as the Elementary and Secondary Education Amendments of 1967. Title IV of the Act, known as the General Education Provisions Act, is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (i)(1), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 444 of Pub. L. 90–247 was classified to section 1233c of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

2002—Subsec. (a)(1)(B). Pub. L. 107–110, § 1062(3)(A), realigned margins.

Subsec. (b)(1). Pub. L. 107–110, § 1062(3)(C), substituted ''subparagraph (E)'' for ''clause (E)'' in concluding provisions.

Subsec. (b)(1)(J). Pub. L. 107–110, § 1062(3)(B), realigned margins.

Subsec. (b)(7). Pub. L. 107–110, § 1062(3)(D), realigned margins.

2001—Subsec. (j). Pub. L. 107–56 added subsec. (j).

2000—Subsec. (b)(7). Pub. L. 106–386 added par. (7).

1998—Subsec. (b)(1)(C). Pub. L. 105–244, § 951(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, or (iii) State educational authorities, under the conditions set forth in paragraph (3) of this subsection;''.

Subsec. (b)(6). Pub. L. 105–244, § 951(2), designated existing provisions as subpar. (A), substituted ''or a nonforcible sex offense, the final results'' for ''the results'', substituted ''such crime or offense'' for ''such crime'' in two places, and added subpars. (B) and (C).

Subsec. (i). Pub. L. 105–244, § 952, added subsec. (i).

1994—Subsec. (a)(1)(B). Pub. L. 103–382, § 249(1)(A)(ii), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (a)(1)(C). Pub. L. 103–382, § 249(1)(A)(i), (iii), redesignated subpar. (B) as (C) and substituted ''subparagraph (D)'' for ''subparagraph (C)'' in cl. (iii). Former subpar. (C) redesignated (D).

Subsec. (a)(1)(D). Pub. L. 103–382, § 249(1)(A)(i), (iv), redesignated subpar. (C) as (D) and substituted ''subparagraph (C)'' for ''subparagraph (B)''.

Subsec. (a)(2). Pub. L. 103–382, § 249(1)(B), substituted ''privacy rights'' for ''privacy or other rights''.

Subsec. (a)(4)(B)(ii). Pub. L. 103–382, § 261(h)(1), substituted semicolon for period at end.

Subsec. (b)(1)(A). Pub. L. 103–382, § 249(2)(A)(i), inserted before semicolon '', including the educational interests of the child for whom consent would otherwise be required''.

Subsec. (b)(1)(C). Pub. L. 103–382, § 261(h)(2)(A), substituted ''or (iii)'' for ''(iii) an administrative head of an education agency (as defined in section 1221e–3(c) of this title), or (iv)''.

Subsec. (b)(1)(E). Pub. L. 103–382, § 249(2)(A)(ii), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''State and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974;''.

Subsec. (b)(1)(H). Pub. L. 103–382, § 261(h)(2)(B), substituted ''the Internal Revenue Code of 1986'' for ''the Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

Subsec. (b)(1)(J). Pub. L. 103–382, § 249(2)(A)(iii)–(v), added subpar. (J).

Subsec. (b)(2). Pub. L. 103–382, § 249(2)(B)(i), which directed amendment of matter preceding subpar. (A) by substituting '', unless—'' for the period, was executed by substituting a comma for the period before ''unless—'' to reflect the probable intent of Congress.

Subsec. (b)(2)(B). Pub. L. 103–382, § 249(2)(B)(ii), inserted ''except as provided in paragraph (1)(J),'' before ''such information''.

Subsec. (b)(3). Pub. L. 103–382, § 261(h)(2)(C), substituted ''or (C)'' for ''(C) an administrative head of an education agency or (D)'' and ''education programs'' for ''education program''.

Subsec. (b)(4). Pub. L. 103–382, § 249(2)(C), inserted at end ''If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in violation of paragraph (1)(F), the educational agency or institution shall be prohibited from permitting access to information from education records to that third party for a period of not less than five years.''

Subsec. (c). Pub. L. 103–382, § 249(3), substituted ''Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which'' for ''The Secretary shall adopt appropriate regulations to''.

Subsec. (d). Pub. L. 103–382, § 261(h)(3), inserted a comma after ''education''.

Subsec. (e). Pub. L. 103–382, §249(4), inserted ''effectively'' before ''informs''.

Subsec. (f). Pub. L. 103–382, §261(h)(4), struck out '', or an administrative head of an education agency,'' after ''The Secretary'' and substituted ''enforce this section'' for ''enforce provisions of this section'', ''in accordance with'' for ''according to the provisions of'', and ''comply with this section'' for ''comply with the provisions of this section''.

Subsec. (g). Pub. L. 103–382, §261(h)(5), struck out ''of Health, Education, and Welfare'' after ''the Department'' and ''the provisions of'' after ''adjudicating violations of''.

Subsec. (h). Pub. L. 103–382, §249(5), added subsec. (h).

1992—Subsec. (a)(4)(B)(ii). Pub. L. 102–325 amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''if the personnel of a law enforcement unit do not have access to education records under subsection (b)(1) of this section, the records and documents of such law enforcement unit which (I) are kept apart from records described in subparagraph (A), (II) are maintained solely for law enforcement purposes, and (III) are not made available to persons other than law enforcement officials of the same jurisdiction;''.

1990—Subsec. (b)(6). Pub. L. 101–542 added par. (6).

1979—Subsec. (b)(5). Pub. L. 96–46 added par. (5).

1974—Subsec. (a)(1). Pub. L. 93–568, §2(a)(1)(A)–(C), (2)(A)–(C), (3), designated existing par. (1) as subpar. (A), substituted reference to educational agencies and institutions for reference to state or local educational agencies, institutions of higher education, community colleges, schools, agencies offering preschool programs, and other educational institutions, substituted the generic term education records for the enumeration of such records, and extended the right to inspect and review such records to parents of children who have been in attendance, and added subpars. (B) and (C).

Subsec. (a)(2). Pub. L. 93–568, §2(a)(4), substituted provisions making the availability of funds to educational agencies and institutions conditional on the granting of an opportunity for a hearing to parents of students who are or have been in attendance at such institution or agency to challenge the contents of the student's education records for provisions granting the parents an opportunity for such hearing, and inserted provisions authorizing insertion into the records a written explanation of the parents respecting the content of such records.

Subsec. (a)(3) to (6). Pub. L. 93–568, §2(a)(1)(G), (2)(F), (5), added pars. (3) to (6).

Subsec. (b)(1). Pub. L. 93–568, §2(a)(1)(D), (2)(D), (6), (8)(A)–(C), (10)(A), in provisions preceding subpar. (A), substituted ''educational agency or institution which has a policy of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section)'' for ''state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of permitting the release of personally identifiable records or files (or personal information contained therein)'', in subpar. (A), substituted ''educational agency, who have been determined by such agency or institution to have'' for ''educational agency who have'', in subpar. (B), substituted ''the student seeks or intends to'' for ''the student intends to'', in subpar. (C), substituted reference to ''section 408(c)'' for reference to ''section 409 of this Act'' which for purposes of codification has been translated as ''section 1221e–3(c) of this title'', and added subpars. (E) to (I).

Subsec. (b)(2). Pub. L. 93–568, §2(a)(1)(E), (2)(E), substituted ''educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection'' for ''state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of furnishing, in any form, any personally identifiable information contained in personal school records, to any persons other than those listed in subsection (b)(1) of this section''.

Subsec. (b)(3). Pub. L. 93–568, §2(a)(8)(D), substituted ''information is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements'' for ''data is specifically authorized by Federal law, any data collected by such officials with respect to individual students shall not include information (including social security numbers) which would permit the personal identification of such students or their parents after the data so obtained has been collected''.

Subsec. (b)(4). Pub. L. 93–568, §2(a)(9), substituted provisions that each educational agency or institution maintain a record, kept with the education records of each student, indicating individuals, agencies, or organizations who obtained access to the student's record and the legitimate interest in obtaining such information, that such record of access shall be available only to parents, school officials, and their assistants having responsibility for the custody of such records, and as a means of auditing the operation of the system, for provisions that with respect to subsecs. (c)(1), (c)(2), and (c)(3) of this section, all persons, agencies, or organizations desiring access to the records of a student shall be required to sign forms to be kept with the records of the student, but only for inspection by the parents or the student, indicating specifically the legitimate educational or other interest of the person seeking such information, and that the form shall be available to parents and school officials having responsibility for record maintenance as a means of auditing the operation of the system.

Subsec. (e). Pub. L. 93–568, §2(a)(1)(F), substituted ''to any educational agency or institution unless such agency or institution'' for ''unless the recipient of such funds''.

Subsec. (g). Pub. L. 93–568, §2(a)(7), (10)(B), struck out reference to sections 1232c and 1232f of this title and inserted provisions that except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1555(b) of Pub. L. 102–325 provided that: ''The amendment made by this section [amending this section] shall take effect on the date of enactment of this Act [July 23, 1992].''

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–46 effective Oct. 1, 1978, see section 8 of Pub. L. 96–46, set out as a note under section 930 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 2(b) of Pub. L. 93–568 provided that: ''The amendments made by subsection (a) [amending this

section] shall be effective, and retroactive to, November 19, 1974.''

EFFECTIVE DATE

Section 513(b)(1) of Pub. L. 93–380 provided that: ''The provisions of this section [enacting this section and provisions set out as a note under section 1221 of this title] shall become effective ninety days after the date of enactment [Aug. 21, 1974] of section 438 [now 444] of the General Education Provisions Act [this section].''

§ 1232h. Protection of pupil rights

(a) Inspection of instructional materials by parents or guardians

All instructional materials, including teacher's manuals, films, tapes, or other supplementary material which will be used in connection with any survey, analysis, or evaluation as part of any applicable program shall be available for inspection by the parents or guardians of the children.

(b) Limits on survey, analysis, or evaluations

No student shall be required, as part of any applicable program, to submit to a survey, analysis, or evaluation that reveals information concerning—

(1) political affiliations or beliefs of the student or the student's parent;

(2) mental or psychological problems of the student or the student's family;

(3) sex behavior or attitudes;

(4) illegal, anti-social, self-incriminating, or demeaning behavior;

(5) critical appraisals of other individuals with whom respondents have close family relationships;

(6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;

(7) religious practices, affiliations, or beliefs of the student or student's parent; or

(8) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),

without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of an unemancipated minor, without the prior written consent of the parent.

(c) Development of local policies concerning student privacy, parental access to information, and administration of certain physical examinations to minors

(1) Development and adoption of local policies

Except as provided in subsections (a) and (b) of this section, a local educational agency that receives funds under any applicable program shall develop and adopt policies, in consultation with parents, regarding the following:

(A)(i) The right of a parent of a student to inspect, upon the request of the parent, a survey created by a third party before the survey is administered or distributed by a school to a student; and

(ii) any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received.

(B) Arrangements to protect student privacy that are provided by the agency in the event of the administration or distribution of a survey to a student containing one or more of the following items (including the right of a parent of a student to inspect, upon the request of the parent, any survey containing one or more of such items):

(i) Political affiliations or beliefs of the student or the student's parent.

(ii) Mental or psychological problems of the student or the student's family.

(iii) Sex behavior or attitudes.

(iv) Illegal, anti-social, self-incriminating, or demeaning behavior.

(v) Critical appraisals of other individuals with whom respondents have close family relationships.

(vi) Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.

(vii) Religious practices, affiliations, or beliefs of the student or the student's parent.

(viii) Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

(C)(i) The right of a parent of a student to inspect, upon the request of the parent, any instructional material used as part of the educational curriculum for the student; and

(ii) any applicable procedures for granting a request by a parent for reasonable access to instructional material within a reasonable period of time after the request is received.

(D) The administration of physical examinations or screenings that the school or agency may administer to a student.

(E) The collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing that information to others for that purpose), including arrangements to protect student privacy that are provided by the agency in the event of such collection, disclosure, or use.

(F)(i) The right of a parent of a student to inspect, upon the request of the parent, any instrument used in the collection of personal information under subparagraph (E) before the instrument is administered or distributed to a student; and

(ii) any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.

(2) Parental notification

(A) Notification of policies

The policies developed by a local educational agency under paragraph (1) shall provide for reasonable notice of the adoption or continued use of such policies directly to the parents of students enrolled in schools served by that agency. At a minimum, the agency shall—

(i) provide such notice at least annually, at the beginning of the school year, and

within a reasonable period of time after any substantive change in such policies; and

(ii) offer an opportunity for the parent (and for purposes of an activity described in subparagraph (C)(i), in the case of a student of an appropriate age, the student) to opt the student out of participation in an activity described in subparagraph (C).

(B) Notification of specific events

The local educational agency shall directly notify the parent of a student, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities described in subparagraph (C) are scheduled, or expected to be scheduled.

(C) Activities requiring notification

The following activities require notification under this paragraph:

(i) Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing that information to others for that purpose).

(ii) The administration of any survey containing one or more items described in clauses (i) through (viii) of paragraph (1)(B).

(iii) Any nonemergency, invasive physical examination or screening that is—

(I) required as a condition of attendance;

(II) administered by the school and scheduled by the school in advance; and

(III) not necessary to protect the immediate health and safety of the student, or of other students.

(3) Existing policies

A local educational agency need not develop and adopt new policies if the State educational agency or local educational agency has in place, on January 8, 2002, policies covering the requirements of paragraph (1). The agency shall provide reasonable notice of such existing policies to parents and guardians of students, in accordance with paragraph (2).

(4) Exceptions

(A) Educational products or services

Paragraph (1)(E) does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as the following:

(i) College or other postsecondary education recruitment, or military recruitment.

(ii) Book clubs, magazines, and programs providing access to low-cost literary products.

(iii) Curriculum and instructional materials used by elementary schools and secondary schools.

(iv) Tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments.

(v) The sale by students of products or services to raise funds for school-related or education-related activities.

(vi) Student recognition programs.

(B) State law exception

The provisions of this subsection—

(i) shall not be construed to preempt applicable provisions of State law that require parental notification; and

(ii) do not apply to any physical examination or screening that is permitted or required by an applicable State law, including physical examinations or screenings that are permitted without parental notification.

(5) General provisions

(A) Rules of construction

(i) This section does not supersede section 1232g of this title.

(ii) Paragraph (1)(D) does not apply to a survey administered to a student in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(B) Student rights

The rights provided to parents under this section transfer to the student when the student turns 18 years old, or is an emancipated minor (under an applicable State law) at any age.

(C) Information activities

The Secretary shall annually inform each State educational agency and each local educational agency of the educational agency's obligations under this section and section 1232g of this title.

(D) Funding

A State educational agency or local educational agency may use funds provided under part A of title V of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7201 et seq.] to enhance parental involvement in areas affecting the in-school privacy of students.

(6) Definitions

As used in this subsection:

(A) Instructional material

The term ''instructional material'' means instructional content that is provided to a student, regardless of its format, including printed or representational materials, audiovisual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments.

(B) Invasive physical examination

The term ''invasive physical examination'' means any medical examination that in-

volves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

(C) Local educational agency

The term ''local educational agency'' means an elementary school, secondary school, school district, or local board of education that is the recipient of funds under an applicable program, but does not include a postsecondary institution.

(D) Parent

The term ''parent'' includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the welfare of the child).

(E) Personal information

The term ''personal information'' means individually identifiable information including—

(i) a student or parent's first and last name;

(ii) a home or other physical address (including street name and the name of the city or town);

(iii) a telephone number; or

(iv) a Social Security identification number.

(F) Student

The term ''student'' means any elementary school or secondary school student.

(G) Survey

The term ''survey'' includes an evaluation.

(d) Notice

Educational agencies and institutions shall give parents and students effective notice of their rights under this section.

(e) Enforcement

The Secretary shall take such action as the Secretary determines appropriate to enforce this section, except that action to terminate assistance provided under an applicable program shall be taken only if the Secretary determines that—

(1) there has been a failure to comply with such section; and

(2) compliance with such section cannot be secured by voluntary means.

(f) Office and review board

The Secretary shall establish or designate an office and review board within the Department of Education to investigate, process, review, and adjudicate violations of the rights established under this section.

(Pub. L. 90–247, title IV, § 445, formerly § 439, as added Pub. L. 93–380, title V, § 514(a), Aug. 21, 1974, 88 Stat. 574; amended Pub. L. 95–561, title XII, § 1250, Nov. 1, 1978, 92 Stat. 2355; Pub. L. 103–227, title X, § 1017, Mar. 31, 1994, 108 Stat. 268; renumbered § 445, Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913; amended Pub. L. 107–110, title X, § 1061, Jan. 8, 2002, 115 Stat. 2083.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c)(5)(A)(ii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(5)(D), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Part A of title V of the Act is classified generally to part A (§ 7201 et seq.) of subchapter V of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 445 of Pub. L. 90–247 was classified to section 1233d of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

2002—Subsec. (b)(1) to (8). Pub. L. 107–110, § 1061(1), added pars. (1) to (8) and struck out former pars. (1) to (7) which read as follows:

''(1) political affiliations;

''(2) mental and psychological problems potentially embarrassing to the student or his family;

''(3) sex behavior and attitudes;

''(4) illegal, anti-social, self-incriminating and demeaning behavior;

''(5) critical appraisals of other individuals with whom respondents have close family relationships;

''(6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or

''(7) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),''.

Subsec. (c) to (f). Pub. L. 107–110, § 1061(2), (3), added subsec. (c) and redesignated former subsecs. (c) to (e) as (d) to (f), respectively.

1994—Pub. L. 103–227 amended section generally, substituting in subsec. (a), provisions relating to inspection of instructional materials by parents or guardians for similar provisions, in subsec. (b), provisions relating to limits on survey, analysis, or evaluations for provisions relating to psychiatric or psychological examinations, testing, or treatment, and adding subsecs. (c) to (e).

1978—Pub. L. 95–561 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

EFFECTIVE DATE

Section 514(b) of Pub. L. 93–380 provided that: ''The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974].''

§ 1232i. Limitations on withholding of Federal assistance

(a) Refusal to supply personal data on students or families

Except as provided in section 1232g(b)(1)(D) of this title, the refusal of a State or local edu-

cational agency or institution of higher education, community college, school, agency offering a preschool program, or other educational institution to provide personally identifiable data on students or their families, as a part of any applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students or their parents, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Such a refusal shall also not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of, funding for such a recipient in succeeding fiscal years. In the case of any dispute arising under this section, reasonable notice and opportunity for a hearing shall be afforded the applicant.

(b) Noncompliance with nondiscrimination provisions of Federal law

The extension of Federal financial assistance to a local educational agency may not be limited, deferred, or terminated by the Secretary on the ground of noncompliance with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] or any other nondiscrimination provision of Federal law unless such agency is accorded the right of due process of law, which shall include—

(1) at least 30 days prior written notice of deferral to the agency, setting forth the particular program or programs which the Secretary finds to be operated in noncompliance with a specific provision of Federal law;

(2) the opportunity for a hearing on the record before a duly appointed administrative law judge within a 60-day period (unless such period is extended by mutual consent of the Secretary and such agency) from the commencement of any deferral;

(3) the conclusion of such hearing and the rendering of a decision on the merits by the administrative law judge within a period not to exceed 90 days from the commencement of such hearing, unless the judge finds by a decision that such hearing cannot be concluded or such decision cannot be rendered within such period, in which case such judge may extend such period for not to exceed 60 additional days;

(4) the limitation of any deferral of Federal financial assistance which may be imposed by the Secretary to a period not to exceed 15 days after the rendering of such decision unless there has been an express finding on such record that such agency has failed to comply with any such nondiscrimination provision of Federal law; and

(5) procedures, which shall be established by the Secretary, to ensure the availability of sufficient funds, without regard to any fiscal year limitations, to comply with the decision of such judge.

(c) Failure to comply with imposition of quotas

It shall be unlawful for the Secretary to defer or limit any Federal financial assistance on the basis of any failure to comply with the imposition of quotas (or any other numerical requirements which have the effect of imposing quotas) on the student admission practices of an institution of higher education or community college receiving Federal financial assistance.

(Pub. L. 90–247, title IV, § 446, formerly § 440, as added Pub. L. 93–380, title V, § 515(a), Aug. 21, 1974, 88 Stat. 574; amended Pub. L. 94–482, title IV, §§ 407, 408, Oct. 12, 1976, 90 Stat. 2232, 2233; renumbered § 446 and amended Pub. L. 103–382, title II, § 212(b)(1), (3)(C), Oct. 20, 1994, 108 Stat. 3913.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

PRIOR PROVISIONS

A prior section 446 of Pub. L. 90–247 was classified to section 1233e of this title prior to repeal by Pub. L. 103–382.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382, § 212(b)(3)(C), made technical amendment to reference to section 1232g(b)(1)(D) of this title to reflect renumbering of corresponding section of original act.

1976—Pub. L. 94–482 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–482 effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, for those amendments providing for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section 515(b) of Pub. L. 93–380 provided that: ''The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974].''

§ 1232j. Prohibition on federally sponsored testing

(a) General prohibition

Notwithstanding any other provision of Federal law and except as provided in subsection (b) of this section, no funds provided to the Department of Education or to an applicable program, may be used to pilot test, field test, implement, administer or distribute in any way any federally sponsored national test in reading, mathematics, or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law.

(b) Exceptions

Subsection (a) of this section shall not apply to the Third International Mathematics and Science Study or other international comparative assessments developed under the authority of section 9543(a)(6) of this title and administered to only a representative sample of pupils in the United States and in foreign nations.

(Pub. L. 90–247, title IV, § 447, as added Pub. L. 105–277, div. A, § 101(f) [title III, § 305(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–374; amended Pub. L. 107–110, title X, § 1062(4), Jan. 8, 2002, 115 Stat.

2088; Pub. L. 107–279, title IV, §404(c), Nov. 5, 2002, 116 Stat. 1985.)

PRIOR PROVISIONS

A prior section 447 of Pub. L. 90–247 was classified to section 1233f of this title prior to repeal by Pub. L. 103–382.

Prior sections 1233 to 1233h comprising a former subchapter IV of this chapter were repealed by Pub. L. 103–382, title II, §212(a)(2), Oct. 20, 1994, 108 Stat. 3913.

Section 1233, Pub. L. 90–247, title IV, §441, formerly §431, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 170; renumbered §441, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, defined terms for purposes of former subchapter IV of this chapter.

Section 1233a, Pub. L. 90–247, title IV, §442, formerly §432, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §442, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, authorized Secretary to establish necessary advisory councils.

Section 1233b, Pub. L. 90–247, title IV, §443, formerly §433, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §443, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, §516(a), Aug. 21, 1974, 88 Stat. 575; Pub. L. 94–482, title IV, §411, title V, §501(a)(10), Oct. 12, 1976, 90 Stat. 2234, 2235; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to statutory advisory councils.

Section 1233c, Pub. L. 90–247, title IV, §444, formerly §434, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §444, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to compensation and travel expenses of members of advisory councils.

Section 1233d, Pub. L. 90–247, title IV, §445, formerly §435, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 171; renumbered §445, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, §517(a), Aug. 21, 1974, 88 Stat. 575; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to professional, technical, and clerical staff of advisory councils.

Section 1233e, Pub. L. 90–247, title IV, §446, formerly §436, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 172; renumbered §446, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to advisory council meetings.

Section 1233f, Pub. L. 90–247, title IV, §447, formerly §437, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 172; renumbered §447, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended Pub. L. 93–380, title V, §517(b), Aug. 21, 1974, 88 Stat. 575; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to auditing and review of advisory council activities.

Section 1233g, Pub. L. 90–247, title IV, §448, formerly §438, as added Pub. L. 91–230, title IV, §401(a)(10), Apr. 13, 1970, 84 Stat. 172; renumbered §448, Pub. L. 92–318, title III, §301(a)(1), June 23, 1972, 86 Stat. 326; amended S. Res. 4, Feb. 4, 1977; Pub. L. 95–43, §1(d), June 15, 1977, 91 Stat. 219; S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 103–437, §7(a)(1), Nov. 2, 1994, 108 Stat. 4587, related to reports by Secretary.

Section 1233h, Pub. L. 90–247, title IV, §449, as added Pub. L. 93–380, title V, §518(a), Aug. 21, 1974, 88 Stat. 575, related to application of other laws to advisory councils under former subchapter IV of this chapter.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–279 substituted ''section 9543(a)(6) of this title'' for ''section 9003(a)(6) of this title''.

Pub. L. 107–110 made technical amendment to reference in original act which appears in text as reference to section 9003(a)(6) of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SUBCHAPTER IV—ENFORCEMENT

PRIOR PROVISIONS

A prior subchapter IV, consisting of sections 1233 to 1233h, was repealed by Pub. L. 103–382, title II, §212(a)(2), Oct. 20, 1994, 108 Stat. 3913. See note set out under section 1232j of this title.

AMENDMENTS

1994—Pub. L. 103–382, title II, §212(b)(2), Oct. 20, 1994, 108 Stat. 3913, redesignated subchapter V of this chapter as this subchapter.

§ 1234. Office of Administrative Law Judges

(a) Establishment; duties

The Secretary shall establish in the Department of Education an Office of Administrative Law Judges (hereinafter in this subchapter referred to as the ''Office'') which shall conduct—

(1) recovery of funds hearings pursuant to section 1234a of this title,

(2) withholding hearings pursuant to section 1234d of this title,

(3) cease and desist hearings pursuant to section 1234e of this title, and

(4) other proceedings designated by the Secretary.

(b) Appointment

The administrative law judges (hereinafter ''judges'') of the Office shall be appointed by the Secretary in accordance with section 3105 of title 5.

(c) Employment requirements; chief judge

The judges shall be officers or employees of the Department. The judges shall meet the requirements imposed for administrative law judges pursuant to section 3105 of title 5. In choosing among equally qualified candidates for such positions the Secretary shall give favorable consideration to the candidates' experience in State or local educational agencies and their knowledge of the workings of Federal education programs in such agencies. The Secretary shall designate one of the judges of the Office to be the chief judge.

(d) Assignment of judges

For the purposes of conducting hearings described in subsection (a) of this section, the chief judge shall assign a judge to each case or class of cases. A judge shall be disqualified in any case in which the judge has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or the party's attorney as to make it improper for the judge to be assigned to the case.

(e) Review and evidentiary functions

The judge shall review and may require that evidence be taken on the sufficiency of the pre-

liminary departmental determination as set forth in section 1234a of this title.

(f) Conduct of proceedings; costs and fees of parties

(1) The proceedings of the Office shall be conducted according to such rules as the Secretary shall prescribe by regulation in conformance with the rules relating to hearings in title 5, sections 554, 556, and 557.

(2) The provisions of title 5, section 504, relating to costs and fees of parties, shall apply to the proceedings before the Department.

(g) Discovery; scope, time, etc.; issue and enforcement of subpoenas

(1) In order to secure a fair, expeditious, and economical resolution of cases and where the judge determines that the discovered information is likely to elicit relevant information with respect to an issue in the case, is not sought primarily for the purposes of delay or harassment, and would serve the ends of justice, the judge may order a party to—

(A) produce relevant documents;

(B) answer written interrogatories that inquire into relevant matters; and

(C) have depositions taken.

The judge shall set a time limit of 90 days on the discovery period. The judge may extend this period for good cause shown. At the request of any party, the judge may establish a specific schedule for the conduct of discovery.

(2) In order to carry out the provisions of subsections (f)(1) and (g)(1) of this section, the judge is authorized to issue subpoenas and apply to the appropriate court of the United States for enforcement of a subpoena. The court may enforce the subpoena as if it pertained to a proceeding before that court.

(h) Mediation of disputes

The Secretary shall establish a process for the voluntary mediation of disputes pending before the Office. The mediator shall be agreed to by all parties involved in mediation and shall be independent of the parties to the dispute. In the mediation of disputes the Secretary shall consider mitigating circumstances and proportion of harm pursuant to section 1234b of this title. In accordance with rule 408 of the Federal Rules of Evidence, evidence of conduct or statements made in compromise negotiations shall not be admissible in proceedings before the Office. Mediation shall be limited to 120 days, except that the mediator may grant extensions of such period.

(i) Professional personnel; employment, assignment, or transfer

The Secretary shall employ, assign, or transfer sufficient professional personnel, including judges of the Office, to ensure that all matters brought before the Office may be dealt with in a timely manner.

(Pub. L. 90–247, title IV, § 451, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2346; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 349.)

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (h), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to Office of Administrative Law Judges for provisions relating to Education Appeal Board.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 3501(b) of Pub. L. 100–297 provided that:

''(1) Except as provided in paragraph (2), the amendments made by this section [enacting sections 1234f to 1234i of this title and amending this section and sections 1232d and 1234a to 1234e of this title] shall be effective 180 days after the date of enactment of this Act [Apr. 28, 1988].

''(2) The amendments made by this part [part D (§ 3501) of title III of Pub. L. 100–297, enacting sections 1234f to 1234i of this title and amending this section and sections 1232d and 1234a to 1234e of this title] shall not apply to any case in which the recipient, prior to the effective date of this part, received a written notice that such recipient must return funds to the Department.''

EFFECTIVE DATE

Subchapter effective 120 days after Nov. 1, 1978, see section 1261 of Pub. L. 95–561, set out as a note under section 1232c of this title.

§ 1234a. Recovery of funds

(a) Preliminary departmental decision; grounds of determination; notice requirements; prima facie case; amount of funds recoverable

(1) Whenever the Secretary determines that a recipient of a grant or cooperative agreement under an applicable program must return funds because the recipient has made an expenditure of funds that is not allowable under that grant or cooperative agreement, or has otherwise failed to discharge its obligation to account properly for funds under the grant or cooperative agreement, the Secretary shall give the recipient written notice of a preliminary departmental decision and notify the recipient of its right to have that decision reviewed by the Office and of its right to request mediation.

(2) In a preliminary departmental decision, the Secretary shall have the burden of establishing a prima facie case for the recovery of funds, including an analysis reflecting the value of the program services actually obtained in a determination of harm to the Federal interest. The facts to serve as the basis of the preliminary departmental decision may come from an audit report, an investigative report, a monitoring report, or other evidence. The amount of funds to be recovered shall be determined on the basis of section 1234b of this title.

(3) For the purpose of paragraph (2), failure by a recipient to maintain records required by law, or to allow the Secretary access to such records, shall constitute a prima facie case.

(b) Review of preliminary departmental decision; form and contents of application for review; inadequate preliminary decisions; duties of recipient to subrecipients after preliminary decision; burden of proof

(1) A recipient that has received written notice of a preliminary departmental decision and that desires to have such decision reviewed by the Office shall submit to the Office an application for review not later than 60 days after receipt of notice of the preliminary departmental

decision. The application shall be in the form and contain the information specified by the Office. As expeditiously as possible, the Office shall return to the Secretary for such action as the Secretary considers appropriate any preliminary departmental decision which the Office determines does not meet the requirements of subsection (a)(2) of this section.

(2) In cases where the preliminary departmental decision requests a recovery of funds from a State recipient, that State recipient may not recover funds from an affected local educational agency unless that State recipient has—

(A) transmitted a copy of the preliminary departmental decision to any affected subrecipient within 10 days of the date that the State recipient in a State administered program received such written notice; and

(B) consulted with each affected subrecipient to determine whether the State recipient should submit an application for review under paragraph (1).

(3) In any proceeding before the Office under this section, the burden shall be upon the recipient to demonstrate that it should not be required to return the amount of funds for which recovery is sought in the preliminary departmental decision under subsection (a) of this section.

(c) Time for hearing

A hearing shall be set 90 days after receipt of a request for review of a preliminary departmental decision by the Office, except that such 90-day requirement may be waived at the discretion of the judge for good cause.

(d) Review of findings of fact in preliminary decision; conclusiveness; remand; new or modified findings

(1) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(2) During the conduct of such review, there shall not be any ex parte contact between the Secretary and individuals representing the Department or the recipient.

(e) Time for filing petition for review of preliminary decision

Parties to the proceeding shall have 30 days to file a petition for review of a decision of the administrative law judges with the Office of the Secretary.

(f) Stay of collection or other adverse action by Secretary against recipient

(1) If a recipient submits a timely application for review of a preliminary departmental decision, the Secretary shall take no collection action until the decision of the Office upholding the preliminary Department decision in whole or in part becomes final agency action under subsection (g) of this section.

(2) If a recipient files a timely petition for judicial review under section 1234g of this title, the Secretary shall take no collection action until judicial review is completed.

(3) The filing of an application for review under paragraph (1) or a petition for judicial review under paragraph (2) shall not affect the authority of the Secretary to take any other adverse action under this subchapter against the recipient.

(g) Preliminary decision as final agency action

A decision of the Office regarding the review of a preliminary departmental decision shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action, or

(2) remands the decision to the Office.

(h) Publication of decisions as final agency actions

The Secretary shall publish decisions that have become final agency action under subsection (g) of this section in the Federal Register or in another appropriate publication within 60 days.

(i) Collection amounts and procedures

The amount of a preliminary departmental decision under subsection (a) of this section for which review has not been requested in accordance with subsection (b) of this section, and the amount sustained by a decision of the Office or the Secretary which becomes final agency action under subsection (g) of this section, may be collected by the Secretary in accordance with chapter 37 of title 31.

(j) Compromise of preliminary departmental decisions; preconditions; notice requirements

(1) Notwithstanding any other provision of law, the Secretary may, subject to the notice requirements of paragraph (2), compromise any preliminary departmental decision under this section which does not exceed the amount agreed to be returned by more than $200,000, if the Secretary determines that (A) the collection of any or all or the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the preliminary departmental decision has been corrected and will not recur.

(2) Not less than 45 days prior to the exercise of the authority to compromise a preliminary departmental decision pursuant to paragraph (1), the Secretary shall publish in the Federal Register a notice of intention to do so. The notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

(k) Limitation period respecting return of funds

No recipient under an applicable program shall be liable to return funds which were expended in a manner not authorized by law more than 5 years before the recipient received written notice of a preliminary departmental decision.

(*l*) Foregoing of interest during period of administrative review

No interest shall be charged arising from a claim during the administrative review of the preliminary departmental decision.

(Pub. L. 90–247, title IV, § 452, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2347; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 350; Pub. L. 103–382, title II, § 250(a), Oct. 20, 1994, 108 Stat. 3926.)

AMENDMENTS

1994—Subsec. (a)(2). Pub. L. 103–382, § 250(a)(1), substituted ''establishing a prima facie case for the recovery of funds, including an analysis reflecting the value of the program services actually obtained in a determination of harm to the Federal interest.'' for ''stating a prima facie case for the recovery of funds.''

Subsec. (b)(1). Pub. L. 103–382, § 250(a)(2), substituted ''60 days'' for ''30 days''.

Subsec. (d). Pub. L. 103–382, § 250(a)(3), designated existing provisions as par. (1) and added par. (2).

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to recovery of funds for provisions relating to audit determinations.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

§ 1234b. Measure of recovery

(a) Amount returned proportionate to extent of harm violation caused to an identifiable Federal interest; reduction; determination of identifiable Federal interest

(1) A recipient determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, shall be required to return funds in an amount that is proportionate to the extent of the harm its violation caused to an identifiable Federal interest associated with the program under which the recipient received the award. Such amount shall be reduced in whole or in part by an amount that is proportionate to the extent the mitigating circumstances caused the violation.

(2) For the purpose of paragraph (1), an identifiable Federal interest includes, but is not limited to, serving only eligible beneficiaries; providing only authorized services or benefits; complying with expenditure requirements and conditions (such as set-aside, excess cost, maintenance of effort, comparability, supplement-not-supplant, and matching requirements); preserving the integrity of planning, application, recordkeeping, and reporting requirements; and maintaining accountability for the use of funds.

(b) Reduction or waiver of amount based on mitigating circumstances; burden of proof; determination of mitigating circumstances; weight, etc., of written request for guidance

(1) When a State or local educational agency is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, and mitigating circumstances exist, as described in paragraph (2), the judge shall reduce such amount by an amount that is proportionate to the extent the mitigating circumstances caused the violation. Furthermore, the judge is authorized to determine that no recovery is justified when mitigating circumstances warrant. The burden of demonstrating the existence of mitigating circumstances shall be upon the State or local educational agency.

(2) For the purpose of paragraph (1), mitigating circumstances exist only when it would be unjust to compel the recovery of funds because the State or local educational agency—

(A) actually and reasonably relied upon erroneous written guidance provided by the Department;

(B) made an expenditure or engaged in a practice after—

(i) the State or local educational agency submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

(ii) a Department official did not respond within 90 days of receipt by the Department of such request; or

(C) actually and reasonably relied upon a judicial decree issued to the recipient.

(3) A written request for guidance as described in paragraph (2) sent by certified mail (return receipt requested) shall be conclusive proof of receipt by the Department.

(4) If the Secretary responds to a written request for guidance described in paragraph (2)(B) more than 90 days after its receipt, the State or local educational agency that submitted the request shall comply with the guidance received at the earliest practicable time.

(5) In order to demonstrate the existence of the mitigating circumstances described in paragraph (2)(B), the State or local educational agency shall demonstrate that—

(A) the written request for guidance accurately described the proposed expenditure or practice and included the facts necessary for a determination of its legality; and

(B) the written request for guidance contained a certification by the chief legal officer of the State educational agency that such officer had examined the proposed expenditure or practice and believed the proposed expenditure or practice was permissible under then applicable State and Federal law; and

(C) the State or local educational agency reasonably believed that the proposed expenditure or practice was permissible under then applicable State and Federal law.

(6) The Secretary shall disseminate to State educational agencies responses to written requests for guidance, described in paragraph (5), that reflect significant interpretations of applicable law or policy.

(c) Review of written requests for guidance on periodic basis

The Secretary shall periodically review the written requests for guidance submitted under this section to determine the need for new or supplementary regulatory or other guidance under applicable programs.

(Pub. L. 90–247, title IV, § 453, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2349;

amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 353.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to measure of recovery for provisions relating to withholdings. See section 1234d of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

§ 1234c. Remedies for existing violations

(a) Whenever the Secretary has reason to believe that any recipient of funds under any applicable program is failing to comply substantially with any requirement of law applicable to such funds, the Secretary may—

(1) withhold further payments under that program, as authorized by section 1234d of this title;

(2) issue a complaint to compel compliance through a cease and desist order of the Office, as authorized by section 1234e of this title;

(3) enter into a compliance agreement with a recipient to bring it into compliance, as authorized by section 1234f of this title; or

(4) take any other action authorized by law with respect to the recipient.

(b) Any action, or failure to take action, by the Secretary under this section shall not preclude the Secretary from seeking a recovery of funds under section 1234a of this title.

(Pub. L. 90–247, title IV, § 454, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2349; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 354.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to remedies for existing violations for provisions relating to cease and desist orders. See section 1234e of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

§ 1234d. Withholding

(a) Discretionary authority over further payments under applicable program

In accordance with section 1234c of this title, the Secretary may withhold from a recipient, in whole or in part, further payments (including payments for administrative costs) under an applicable program.

(b) Notice requirements

Before withholding payments, the Secretary shall notify the recipient, in writing, of—

(1) the intent to withhold payments;

(2) the factual and legal basis for the Secretary's belief that the recipient has failed to comply substantially with a requirement of law; and

(3) an opportunity for a hearing to be held on a date at least 30 days after the notification has been sent to the recipient.

(c) Hearing

The hearing shall be held before the Office and shall be conducted in accordance with the rules prescribed pursuant to subsections (f) and (g) of section 1234 of this title.

(d) Suspension of payments, authorities, etc.

Pending the outcome of any hearing under this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

(e) Findings of fact

Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(f) Final agency action

The decision of the Office in any hearing under this section shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action; or

(2) remands the decision of the Office.

(Pub. L. 90–247, title IV, § 455, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2350; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 354.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to withholding for provisions relating to judicial review. See section 1234g of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

§ 1234e. Cease and desist orders

(a) Issuance and contents of complaint

In accordance with section 1234c of this title, the Secretary may issue to a recipient under an applicable program a complaint which—

(1) describes the factual and legal basis for the Secretary's belief that the recipient is failing to comply substantially with a requirement of law; and

(2) contains a notice of a hearing to be held before the Office on a date at least 30 days after the service of the complaint.

(b) Appearance contesting order

The recipient upon which a complaint has been served shall have the right to appear before the Office on the date specified and to show cause why an order should not be entered by the Office requiring the recipient to cease and desist from the violation of law charged in the complaint.

(c) Report; issuance of cease and desist order

The testimony in any hearing held under this section shall be reduced to writing and filed with the Office. If upon that hearing the Office is of the opinion that the recipient is in violation of any requirement of law as charged in the complaint, the Office shall—

(1) make a report in writing stating its findings of fact; and

(2) issue to the recipient an order requiring the recipient to cease and desist from the practice, policy, or procedure which resulted in the violation.

(d) Report and order as final agency action

The report and order of the Office under this section shall become the final agency action when the recipient receives the report and order.

(e) Enforcement of final order

The Secretary may enforce a final order of the Office under this section which becomes final agency action by—

(1) withholding from the recipient any portion of the amount payable to it, including the amount payable for administrative costs, under the applicable program; or

(2) certifying the facts to the Attorney General who shall cause an appropriate proceeding to be brought for the enforcement of the order.

(Pub. L. 90–247, title IV, § 456, as added Pub. L. 95–561, title XII, § 1232, Nov. 1, 1978, 92 Stat. 2351; amended Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 355.)

AMENDMENTS

1988—Pub. L. 100–297 amended section generally, substituting provisions relating to cease and desist orders for provisions relating to use of recovered funds. See section 1234h of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–297 effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as a note under section 1234 of this title.

§ 1234f. Compliance agreements

(a) Discretionary authority; purposes of agreement

In accordance with section 1234c of this title, the Secretary may enter into a compliance agreement with a recipient under an applicable program. The purpose of any compliance agreement under this section shall be to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.

(b) Procedures applicable

(1) Before entering into a compliance agreement with a recipient, the Secretary shall hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. The recipient shall have the burden of persuading the Secretary that full compliance with the applicable requirements of law is not feasible until a future date.

(2) If the Secretary determines, on the basis of all the evidence presented, that full compliance is genuinely not feasible until a future date, the Secretary shall make written findings to that effect and shall publish those findings, along with the substance of any compliance agreement, in the Federal Register.

(c) Contents

A compliance agreement under this section shall contain—

(1) an expiration date not later than 3 years from the date of the written findings under subsection (b)(2) of this section, by which the recipient shall be in full compliance with the applicable requirements of law, and

(2) those terms and conditions with which the recipient must comply until it is in full compliance.

(d) Failure of recipient to comply with terms and conditions

If a recipient fails to comply with the terms and conditions of a compliance agreement under this section, the Secretary may consider that compliance agreement to be no longer in effect, and the Secretary may take any action authorized by law with respect to the recipient.

(Pub. L. 90–247, title IV, § 457, as added Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 355.)

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

§ 1234g. Judicial review

(a) Recipients entitled to review; stay of action by Secretary

Any recipient of funds under an applicable program that would be adversely affected by a final agency action under section 1234a, 1234d, or 1234e of this title, and any State entitled to receive funds under a program described in section 1232d(a) of this title whose application has been disapproved by the Secretary, shall be entitled to judicial review of such action in accordance with the provisions of this section. The Secretary may not take any action on the basis of a final agency action until judicial review is completed.

(b) Petition for review; filing of record

A recipient that desires judicial review of an action described in subsection (a) of this section shall, within 60 days of that action, file with the United States Court of Appeals for the circuit in which that recipient is located, a petition for review of such action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court

the record of the proceedings on which the action was based, as provided in section 2112 of title 28.

(c) Findings of fact

The findings of fact by the Office, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Office to take further evidence, and the Office may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(d) Scope of review; review by Supreme Court

The court shall have jurisdiction to affirm the action of the Office or the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 90–247, title IV, § 458, as added Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 356; amended Pub. L. 103–382, title II, § 212(b)(3)(D), Oct. 20, 1994, 108 Stat. 3913.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–382 made technical amendment to reference to section 1232d(a) of this title to reflect renumbering of corresponding section of original act.

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

§ 1234h. Use of recovered funds

(a) Repayment to recipient; factors considered

Whenever the Secretary recovers funds paid to a recipient under a grant or cooperative agreement made under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds if the Secretary determines that—

(1) the practices or procedures of the recipient that resulted in the violation of law have been corrected, and that the recipient is in all other respects in compliance with the requirements of that program, provided that the recipient was notified of any noncompliance with such requirements and given a reasonable period of time to remedy such noncompliance;

(2) the recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

(b) Terms and conditions of repayment

Any payments by the Secretary under this section shall be subject to such other terms and conditions as the Secretary considers necessary to accomplish the purposes of the affected programs, including—

(1) the submission of periodic reports on the use of funds provided under this section; and

(2) consultation by the recipient with students, parents, or representatives of the population that will benefit from the payments.

(c) Availability of funds

Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than three fiscal years following the later of—

(1) the fiscal year in which final agency action under section 1234a(e) of this title is taken; or

(2) if such recipient files a petition for judicial review, the fiscal year in which final judicial action under section 1234g of this title is taken.

(d) Publication in Federal Register of notice of intent to enter into repayment arrangement

At least 30 days prior to entering into an arrangement under this section, the Secretary shall publish in the Federal Register a notice of intent to enter into such an arrangement and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least 30 days to submit comments to the Secretary regarding the proposed arrangement.

(Pub. L. 90–247, title IV, § 459, as added Pub. L. 100–297, title III, § 3501(a), Apr. 28, 1988, 102 Stat. 356; amended Pub. L. 103–382, title II, § 250(b), Oct. 20, 1994, 108 Stat. 3927.)

AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103–382, § 250(b)(1), inserted before semicolon '', provided that the recipient was notified of any noncompliance with such requirements and given a reasonable period of time to remedy such noncompliance''.

Subsec. (c). Pub. L. 103–382, § 250(b)(2), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than 3 fiscal years following the fiscal year in which final agency action under section 1234a(e) of this title is taken.''

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

§ 1234i. Definitions

For purposes of this subchapter:

(1) The term ''recipient'' means a recipient of a grant or cooperative agreement under an applicable program.

(2) The term ''applicable program'' excludes programs authorized by the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.] and assistance programs provided under the Act of September 30, 1950[1] (Public Law 874, 81st Congress), and the Act of September 23, 1950[1] (Public Law 815, 81st Congress).

(Pub. L. 90–247, title IV, §460, as added Pub. L. 100–297, title III, §3501(a), Apr. 28, 1988, 102 Stat. 357.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in par. (2), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Act of September 30, 1950 (Public Law 874, 81st Congress), referred to in par. (2), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§236 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

Act of September 23, 1950 (Public Law 815, 81st Congress), referred to in par. (2), is act Sept. 23, 1950, ch. 995, as amended generally by act Aug. 12, 1958, Pub. L. 85–620, title I, 72 Stat. 548, which was classified generally to chapter 19 (§631 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, §331(a), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

EFFECTIVE DATE

Section effective 180 days after Apr. 28, 1988, but not applicable to recipients receiving written notice to return funds prior to that date, see section 3501(b) of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1234 of this title.

SUBCHAPTER V—READY TO LEARN TELEVISION

CODIFICATION

This subchapter was classified to part G (§3161 et seq.) of subchapter IV of chapter 47 of this title prior to its renumbering by Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649.

PRIOR PROVISIONS

A prior subchapter V, consisting of sections 1234 to 1234i, was renumbered subchapter IV by Pub. L. 103–382, title II, §212(b)(2), Oct. 20, 1994, 108 Stat. 3913.

§§ 1235 to 1235g. Repealed. Pub. L. 107–110, title X, § 1011(3), Jan. 8, 2002, 115 Stat. 1986

Section 1235, Pub. L. 90–247, title IV, §471, formerly Pub. L. 89–10, title IV, §4701, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3586; renumbered §471 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, §121(a)(1), (2)(A), May 18, 1994, 108 Stat. 649, authorized contracts, cooperative agreements, and grants to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents.

Section 1235a, Pub. L. 90–247, title IV, §472, formerly Pub. L. 89–10, title IV, §4702, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3586; renumbered §472 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, §121(a)(1), (b), May 18, 1994, 108 Stat. 649, related to development and dissemination of educational programming.

Section 1235b, Pub. L. 90–247, title IV, §473, formerly Pub. L. 89–10, title IV, §4703, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3587; renumbered §473 of Pub. L. 90–247, Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, set forth duties of Secretary of Education.

Section 1235c, Pub. L. 90–247, title IV, §474, formerly Pub. L. 89–10, title IV, §4704, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3588; renumbered §474 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, §121(a)(1), (2)(B), May 18, 1994, 108 Stat. 649, related to submission of applications.

Section 1235d, Pub. L. 90–247, title IV, §475, formerly Pub. L. 89–10, title IV, §4705, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3588; renumbered §475 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, §121(a)(1), (2)(C), May 18, 1994, 108 Stat. 649; Pub. L. 107–110, title X, §1062(5), Jan. 8, 2002, 115 Stat. 2088, required annual report to Secretary by any entity receiving funds and biannual report to Congress by Secretary.

Section 1235e, Pub. L. 90–247, title IV, §476, formerly Pub. L. 89–10, title IV, §4706, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3589; renumbered §476 of Pub. L. 90–247 and amended Pub. L. 103–252, title I, §121(a)(1), (2)(D), (c), May 18, 1994, 108 Stat. 649, authorized appropriations.

Section 1235f, Pub. L. 90–247, title IV, §477, formerly Pub. L. 89–10, title IV, §4707, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3589; renumbered §477 of Pub. L. 90–247, Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649; Pub. L. 107–110, title X, §1062(6), Jan. 8, 2002, 115 Stat. 2088, related to administrative costs.

Section 1235g, Pub. L. 90–247, title IV, §478, formerly Pub. L. 89–10, title IV, §4708, as added Pub. L. 102–545, §3, Oct. 27, 1992, 106 Stat. 3589; renumbered §478 of Pub. L. 90–247, Pub. L. 103–252, title I, §121(a)(1), May 18, 1994, 108 Stat. 649, defined ''distance learning'' for purposes of this subchapter.

See section 6775 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

CHAPTER 32—VOCATIONAL EDUCATION

CODIFICATION

The Vocational Education Act of 1963, Pub. L. 88–210, title I, as added Pub. L. 90–576, title I, Oct. 16, 1968, 82 Stat. 1064, formerly classified to this chapter, was completely amended and reorganized by the Education Amendments of 1976, Pub. L. 94–482, title II, §202(a), Oct. 12, 1976, 90 Stat. 2169, and was classified to section 2301 et seq. of this title. For subsequent revisions of Pub. L. 88–210 and redesignation as the Carl D. Perkins Vocational and Technical Education Act of 1998, see note set out preceding section 2301 of this title.

§§ 1241 to 1244. Omitted

CODIFICATION

Section 1241, Pub. L. 88–210, title I, §101, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1064, set forth Congressional declaration of purpose for vocational education assistance by Federal government.

Section 1242, Pub. L. 88–210, title I, §102, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1064; amended Pub. L. 91–230, title VII, §701, Apr. 13, 1970, 84 Stat. 188; Pub. L. 92–318, title II, §201, June 23, 1972, 86 Stat. 325; Pub. L. 93–380, title VIII, §841(a)(1), Aug. 21, 1974, 88 Stat. 606; Pub. L. 94–482, title II, §201(a)–(c), Oct. 12, 1976, 90 Stat. 2168, authorized appropriations for vocational education assistance programs, etc.

Section 1243, Pub. L. 88–210, title I, §103, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1065; amended Pub. L. 91–230, title VII, §702, Apr. 13, 1970, 84 Stat. 189; Pub. L. 94–273, §9(3), Apr. 21, 1976, 90 Stat. 378; Pub. L. 94–482, title II, §201(d), Oct. 12, 1976, 90 Stat. 2168, set forth provisions relating to allotments among States of vocational education assistance.

[1] See References in Text note below.

Section 1244, Pub. L. 88–210, title I, §104, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1066; amended Pub. L. 91–230, title IV, §401(h)(6), title VII, §703, Apr. 13, 1970, 84 Stat. 174, 189; Pub. L. 92–318, title II, §209, title V, §509(b), June 23, 1972, 86 Stat. 326, 353; Pub. L. 93–380, title VIII, §§841(a)(1)–(3), 845(g), Aug. 21, 1974, 88 Stat. 606, 607, 612; Pub. L. 93–567, title I, §108, Dec. 31, 1974, 88 Stat. 1849; Pub. L. 94–273, §3(13), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94–482, title II, §201(e), (f), Oct. 12, 1976, 90 Stat. 2168, authorized establishment of National and State Advisory Councils on Vocational Education and set forth provisions relating to membership, functions, etc., of such councils.

§§ 1245, 1246. Repealed. Pub. L. 91–230, title IV, § 401(f)(8), (g)(6), Apr. 13, 1970, 84 Stat. 174

Sections 1245, 1246, Pub. L. 88–210, title I, §§105, 106, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1069, prohibited Federal control of education (curriculum, program of instruction, administration, or personnel of any educational institution or school system), and related to labor standards requirement (prevailing wage rates), and were superseded by sections 1232a and 1232b of this title, respectively.

§§ 1247 to 1393f. Omitted

CODIFICATION

Section 1247, Pub. L. 88–210, title I, §107, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1069, set forth limitations on payments for vocational education assistance.

Section 1248, Pub. L. 88–210, title I, §108, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1069; amended Pub. L. 92–318, title II, §202, June 23, 1972, 86 Stat. 325; Pub. L. 93–380, title VIII, §841(a)(4), Aug. 21, 1974, 88 Stat. 607, defined ''vocational education'', ''area vocational education school'', ''school facilities'', ''construction''. ''Commissioner'', ''handicapped'', ''State'', ''State board'', ''local educational agency'', ''high school'', ''private vocational training institution'', ''Vocational Education Act of 1946'', ''supplementary vocational education Acts'', ''vocational training'', and ''postsecondary educational institution''.

Section 1261, Pub. L. 88–210, title I, §121, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1072, authorized grants for State vocational education programs.

Section 1262, Pub. L. 88–210, title I, §122, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1072; amended Pub. L. 93–380, title VIII, §841(a)(1), (5), Aug. 21, 1974, 88 Stat. 606, 607, set forth authorized purposes for use of Federal grants for State vocational education programs.

Section 1263, Pub. L. 88–210, title I, §123, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1073, set forth requirements for and procedures applicable to State plans.

Section 1264, Pub. L. 88–210, title I, §124, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1078, set forth procedures applicable to payments to States for covered State vocational education programs.

Section 1281, Pub. L. 88–210, title I, §131, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1078, authorized grants and contracts for research and training in vocational education.

Section 1282, Pub. L. 88–210, title I, §132, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1079, set forth authorized purposes for use of Federal funds in grants and contracts for research and training in vocational education.

Section 1283, Pub. L. 88–210, title I, §133, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1079, set forth requirements for applications for grants and contracts for research and training in vocational education.

Section 1284, Pub. L. 88–210, title I, §134, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1080, authorized payments for amounts expended by applicants for grants and contracts for research and training in vocational education.

Section 1301, Pub. L. 88–210, title I, §141, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1080, set forth Congressional findings and declaration of purpose of exemplary programs and projects in vocational education.

Section 1302, Pub. L. 88–210, title I, §142, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1080; amended Pub. L. 92–318, title II, §203, June 23, 1972, 86 Stat. 325; Pub. L. 94–482, title II, §201(g), Oct. 12, 1976, 90 Stat. 2168, set forth funding provisions for exemplary programs and projects in vocational education.

Section 1303, Pub. L. 88–210, title I, §143, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1081, set forth authorized purposes for uses of funds for grants and contracts for exemplary programs and projects in vocational education.

Section 1304, Pub. L. 88–210, title I, §144, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1082, authorized payments for amounts expended by applicants for grants and contracts for exemplary programs and projects in vocational education.

Section 1305, Pub. L. 88–210, title I, §145, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1082, limited duration of assistance for exemplary programs and projects in vocational education.

Section 1321, Pub. L. 88–210, title I, §151, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1082; amended Pub. L. 92–318, title II, §204(a), June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(h), Oct. 12, 1976, 90 Stat. 2168, authorized establishment of demonstration schools for residential vocational education programs.

Section 1322, Pub. L. 88–210, title I, §152, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1083; amended Pub. L. 91–230, title VII, §704(a), Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §204(b), June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(i), Oct. 12, 1976, 90 Stat. 2168, set forth funding provisions for State programs for residential vocational education facilities.

Section 1323, Pub. L. 88–210, title I, §153, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1084; amended Pub. L. 91–230, title VII, §704(b), Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §204(c), June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(j), Oct. 12, 1976, 90 Stat. 2168, authorized grants for the reduction of borrowing costs for construction of schools and dormitories for residential vocational education programs.

Section 1341, Pub. L. 88–210, title I, §161, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1085; amended Pub. L. 91–230, title VII, §705, Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §205, June 23, 1972, 86 Stat. 326; Pub. L. 94–135, title II, §204, Nov. 28, 1975, 89 Stat. 727; Pub. L. 94–482, title II, §201(k), (*l*), Oct. 12, 1976, 90 Stat. 2168, set forth authorization and funding provisions for consumer and homemaking education programs.

Section 1351, Pub. L. 88–210, title I, §171, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1086, set forth Congressional findings and declaration of purpose for cooperative vocational education programs.

Section 1352, Pub. L. 88–210, title I, §172, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1086; amended Pub. L. 92–318, title II, §206, June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(m), Oct. 12, 1976, 90 Stat. 2169, set forth funding provisions for cooperative vocational education programs.

Section 1353, Pub. L. 88–210, title I, §173, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1087, set forth requirements of State plan for participation in cooperative vocational education program funding.

Section 1354, Pub. L. 88–210, title I, §174, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1087, limited use of funds for cooperative vocational education programs.

Section 1355, Pub. L. 88–210, title I, §175, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1087, defined ''cooperative work-study program''.

Section 1371, Pub. L. 88–210, title I, §181, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1088; amended Pub. L. 91–230, title VII, §706(a), Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §207, June 23, 1972, 86 Stat. 326; Pub. L. 94–482, title II, §201(n), Oct. 12, 1976, 90 Stat. 2169, set forth funding provisions for work-study programs for vocational education students.

Section 1372, Pub. L. 88–210, title I, §182, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1088, set forth requirements of State plan for participation in student work-study program funding.

Section 1373, Pub. L. 88–210, title I, §183, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1089; amended Pub. L. 91–230, title VII, §706(b), Apr. 13, 1970, 84 Stat. 189, authorized manner of payments for State work-study programs for vocational education students.

Section 1374, Pub. L. 88–210, title I, §184, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1090, set forth status of participants in work-study programs.

Section 1391, Pub. L. 88–210, title I, §189, formerly §191, as added Pub. L. 90–576, title I, §101(b), Oct. 16, 1968, 82 Stat. 1090; amended Pub. L. 91–230, title VII, §707, Apr. 13, 1970, 84 Stat. 189; Pub. L. 92–318, title II, §208, June 23, 1972, 86 Stat. 326; renumbered Pub. L. 93–380, title VIII, §841(a)(6), Aug. 21, 1974, 88 Stat. 607; amended Pub. L. 94–482, title II, §201(*o*), Oct. 12, 1976, 90 Stat. 2169, set forth requirements for curriculum development programs in vocational and technical education and authorized funding for such programs.

Section 1393, Pub. L. 88–210, title I, §191, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 607, set forth congressional findings for establishment of bilingual vocational training programs.

Section 1393a, Pub. L. 88–210, title I, §192, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608, set out general responsibilities of Commissioner and Secretary of Labor in administering bilingual vocational training programs.

Section 1393b, Pub. L. 88–210, title I, §193, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608; amended Pub. L. 94–482, title II, §201(p), Oct. 12, 1976, 90 Stat. 2169, authorized appropriations for bilingual vocational training programs.

Section 1393c, Pub. L. 88–210, title I, §194, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608; amended Pub. L. 94–482, title V, §501(j)(1), Oct. 12, 1976, 90 Stat. 2237, authorized grants and contracts for bilingual vocational training programs.

Section 1393d, Pub. L. 88–210, title I, §195, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 608, set forth authorized purposes of grants and contracts for bilingual vocational training programs.

Section 1393e, Pub. L. 88–210, title I, §196, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 609, set forth application requirements for grants and contracts for bilingual vocational training programs.

Section 1393f, Pub. L. 88–210, title I, §197, as added Pub. L. 93–380, title VIII, §841(a)(7), Aug. 21, 1974, 88 Stat. 609; amended Pub. L. 94–482, title V, §501(j)(2), Oct. 12, 1976, 90 Stat. 2237, set forth criteria for approval by Commissioner of applications for grants and contracts for bilingual vocational training programs.

CHAPTER 33—EDUCATION OF INDIVIDUALS WITH DISABILITIES

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CODIFICATION

The Individuals with Disabilities Education Act, comprising this chapter, was originally enacted as title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, known as the Education of the Handicapped Act, and amended by Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–142, Nov. 29, 1975, 89 Stat. 773; Pub. L. 95–49, June 17, 1977, 91 Stat. 230; Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143; Pub. L. 96–270, June 14, 1980, 94 Stat. 487; Pub. L. 98–199, Dec. 2, 1983, 97 Stat. 1357; Pub. L. 99–159, Nov. 22, 1985, 99 Stat. 887; Pub. L. 99–362, July 9, 1986, 100 Stat. 769; Pub. L. 99–372, Aug. 5, 1986, 100 Stat. 796; Pub. L. 99–457, Oct. 8, 1986, 100 Stat. 1145; Pub. L. 100–630, Nov. 7, 1988, 102 Stat. 3289; Pub. L. 101–476, Oct. 30, 1990, 104 Stat. 1103; Pub. L. 102–73, July 25, 1991, 105 Stat. 333; Pub. L. 102–119, Oct. 7, 1991, 105 Stat. 587; Pub. L. 102–421, Oct. 16, 1992, 106 Stat. 2151; Pub. L. 102–569, Oct. 29, 1992, 106 Stat. 4344; Pub. L. 103–73, Aug. 11, 1993, 107 Stat. 718; Pub. L. 103–218, Mar. 9, 1994, 108 Stat. 50; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518; Pub. L. 105–17, June 4, 1997, 111 Stat. 37; Pub. L. 105–244, Oct. 7, 1998, 112 Stat. 1581; Pub. L. 106–25, Apr. 29, 1999, 113 Stat. 41; Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677; Pub. L. 107–110, Jan. 8, 2002, 115 Stat. 1425; Pub. L. 108–173, Dec. 8, 2003, 117 Stat. 2066. Title VI is shown herein, however, as having been added by Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2647, without reference to those intervening amendments because of the extensive revision of title VI by Pub. L. 108–446.

SUBCHAPTER I—GENERAL PROVISIONS

§ 1400. Short title; findings; purposes

(a) Short title

This chapter may be cited as the ''Individuals with Disabilities Education Act''.

(b) Omitted

(c) Findings

Congress finds the following:

(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

(2) Before the date of enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94–142), the educational needs of millions of children with disabilities were not being fully met because—

(A) the children did not receive appropriate educational services;

(B) the children were excluded entirely from the public school system and from being educated with their peers;

(C) undiagnosed disabilities prevented the children from having a successful educational experience; or

(D) a lack of adequate resources within the public school system forced families to find services outside the public school system.

(3) Since the enactment and implementation of the Education for All Handicapped Children Act of 1975, this chapter has been successful in ensuring children with disabilities and the families of such children access to a free appropriate public education and in improving educational results for children with disabilities.

(4) However, the implementation of this chapter has been impeded by low expectations, and an insufficient focus on applying replicable research on proven methods of teaching and learning for children with disabilities.

(5) Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by—

(A) having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible, in order to—

(i) meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and

(ii) be prepared to lead productive and independent adult lives, to the maximum extent possible;

(B) strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home;

(C) coordinating this chapter with other local, educational service agency, State, and Federal school improvement efforts, including improvement efforts under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], in order to ensure that such children benefit from such efforts and that special education can become a service for such children rather than a place where such children are sent;

(D) providing appropriate special education and related services, and aids and supports in the regular classroom, to such children, whenever appropriate;

(E) supporting high-quality, intensive preservice preparation and professional development for all personnel who work with children with disabilities in order to ensure that such personnel have the skills and knowledge necessary to improve the academic achievement and functional performance of children with disabilities, including the use of scientifically based instructional practices, to the maximum extent possible;

(F) providing incentives for whole-school approaches, scientifically based early reading programs, positive behavioral interventions and supports, and early intervening services to reduce the need to label children as disabled in order to address the learning and behavioral needs of such children;

(G) focusing resources on teaching and learning while reducing paperwork and requirements that do not assist in improving educational results; and

(H) supporting the development and use of technology, including assistive technology devices and assistive technology services, to maximize accessibility for children with disabilities.

(6) While States, local educational agencies, and educational service agencies are primarily responsible for providing an education for all

children with disabilities, it is in the national interest that the Federal Government have a supporting role in assisting State and local efforts to educate children with disabilities in order to improve results for such children and to ensure equal protection of the law.

(7) A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

(8) Parents and schools should be given expanded opportunities to resolve their disagreements in positive and constructive ways.

(9) Teachers, schools, local educational agencies, and States should be relieved of irrelevant and unnecessary paperwork burdens that do not lead to improved educational outcomes.

(10)(A) The Federal Government must be responsive to the growing needs of an increasingly diverse society.

(B) America's ethnic profile is rapidly changing. In 2000, 1 of every 3 persons in the United States was a member of a minority group or was limited English proficient.

(C) Minority children comprise an increasing percentage of public school students.

(D) With such changing demographics, recruitment efforts for special education personnel should focus on increasing the participation of minorities in the teaching profession in order to provide appropriate role models with sufficient knowledge to address the special education needs of these students.

(11)(A) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation.

(B) Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education.

(C) Such discrepancies pose a special challenge for special education in the referral of, assessment of, and provision of services for, our Nation's students from non-English language backgrounds.

(12)(A) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

(B) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

(C) African-American children are identified as having mental retardation and emotional disturbance at rates greater than their White counterparts.

(D) In the 1998–1999 school year, African-American children represented just 14.8 percent of the population aged 6 through 21, but comprised 20.2 percent of all children with disabilities.

(E) Studies have found that schools with predominately White students and teachers have placed disproportionately high numbers of their minority students into special education.

(13)(A) As the number of minority students in special education increases, the number of minority teachers and related services personnel produced in colleges and universities continues to decrease.

(B) The opportunity for full participation by minority individuals, minority organizations, and Historically Black Colleges and Universities in awards for grants and contracts, boards of organizations receiving assistance under this chapter, peer review panels, and training of professionals in the area of special education is essential to obtain greater success in the education of minority children with disabilities.

(14) As the graduation rates for children with disabilities continue to climb, providing effective transition services to promote successful post-school employment or education is an important measure of accountability for children with disabilities.

(d) Purposes

The purposes of this chapter are—

(1)(A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;

(B) to ensure that the rights of children with disabilities and parents of such children are protected; and

(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;

(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting system improvement activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and

(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

(Pub. L. 91–230, title VI, §601, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2647.)

REFERENCES IN TEXT

The Education for All Handicapped Children Act of 1975, referred to in subsec. (c)(2), (3), is Pub. L. 94–142, Nov. 29, 1975, 89 Stat. 773, as amended. For complete classification of this Act to the Code, see Short Title of 1975 Amendment note set out below and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (c)(5)(C), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

CODIFICATION

Section is comprised of section 601 of Pub. L. 91–230. Subsec. (b) of section 601 of Pub. L. 91–230 set out the table of contents for the Individuals with Disabilities Education Act.

PRIOR PROVISIONS

A prior section 1400, Pub. L. 91–230, title VI, § 601, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 37, contained short title for this chapter and related to congressional findings and purposes, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1400, Pub. L. 91–230, title VI, § 601, Apr. 13, 1970, 84 Stat. 175; Pub. L. 94–142, § 3, Nov. 29, 1975, 89 Stat. 774; Pub. L. 101–476, title IX, § 901(a)(1), (b)(1)–(9), Oct. 30, 1990, 104 Stat. 1141, 1142; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, contained short title for this chapter and related to congressional statements and declarations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17. This section had been classified as a note under former section 1401 of this title prior to being amended by Pub. L. 94–142.

EFFECTIVE DATE

Pub. L. 108–446, title III, § 302(a), (b), Dec. 3, 2004, 118 Stat. 2803, provided that:

''(a) PARTS A, B, AND C, AND SUBPART 1 OF PART D.—

''(1) IN GENERAL.—Except as provided in paragraph (2), parts A, B, and C, and subpart 1 of part D, of the Individuals with Disabilities Education Act [subchapters I, II, and III and part A of subchapter IV of this chapter], as amended by title I, shall take effect on July 1, 2005.

''(2) HIGHLY QUALIFIED DEFINITION.—Subparagraph (A), and subparagraphs (C) through (F), of section 602(10) of the Individuals with Disabilities Education Act [20 U.S.C. 1401(10)], as amended by title I, shall take effect on the date of enactment of this Act [Dec. 3, 2004] for purposes of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

''(b) SUBPARTS 2, 3, AND 4 OF PART D.—Subparts 2, 3, and 4 of part D of the Individuals with Disabilities Education Act [parts B, C, and D of subchapter IV of this chapter], as amended by title I, shall take effect on the date of enactment of this Act [Dec. 3, 2004].''

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–446, § 1, Dec. 3, 2004, 118 Stat. 2647, provided that: ''This Act [enacting subchapters I to IV of this chapter, part E of subchapter I of chapter 76 of this title, and sections 9567 to 9567b of this title, amending sections 927, 1087ee, 1087ii, 4304, 5802, 6103, 6311, 6317, 7221g, 7273b, 9511, 9515, 9516, and 9605 of this title, section 2164 of Title 10, Armed Forces, section 121 of Title 17, Copyrights, sections 721, 725, 772, and 773 of Title 29, Labor, and sections 280c–6, 290bb–25, 290ff–1, 290ff–2, 1396b, 1396n, 5011, 9835, 9836, 9837, 12511, 15025, and 15064 of Title 42, The Public Health and Welfare, repealing section 1444 of this title, redesignating former part E of subchapter I of chapter 76 of this title as part F, omitting sections 1445, 1456, and 1483 to 1487 of this title, enacting provisions set out as notes under this section and section 9567b of this title, and amending provisions set out as a note under section 285g of Title 42] may be cited as the 'Individuals with Disabilities Education Improvement Act of 2004'.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–17, § 1, June 4, 1997, 111 Stat. 37, provided that: ''This Act [enacting subchapters I to IV of this chapter, repealing former subchapters III and V to IX of this chapter, and enacting provisions set out as notes under this section and sections 1431 and 1451 of this title] may be cited as the 'Individuals with Disabilities Education Act Amendments of 1997'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–119, § 1, Oct. 7, 1991, 105 Stat. 587, provided that: ''This Act [see Tables for classification] may be cited as the 'Individuals with Disabilities Education Act Amendments of 1991'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–476, § 1(a), Oct. 30, 1990, 104 Stat. 1103, provided that: ''This Act [see Tables for classification] may be cited as the 'Education of the Handicapped Act Amendments of 1990'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–630, § 1, Nov. 7, 1988, 102 Stat. 3289, provided that: ''This Act [amending sections 101, 1401, 1404, 1406, 1407, 1411 to 1419, 1421 to 1425, 1431 to 1433, 1441, 1443, 1451, 1452, 1461, 1471, 1472, and 1475 to 1482 of this title, sections 702, 705, 706, 709, 711, 713, 717, 720 to 723, 731, 732, 740, 741, 750, 752, 761 to 762, 770, 772, 774 to 776, 777 to 777b, 777d, 777f, 780, 781 to 783, 791 to 794, 794b, 794d, 795a, 795g to 795i, 795*l* to 795n, 795q, 796a to 796g, 796i, and 1904 of Title 29, Labor, and section 155 of Title 36, Patriotic Societies and Observances, enacting provisions set out as notes under sections 101, 1419, and 1432 of this title and sections 731 and 777c of Title 29, and repealing provisions set out as a note under section 795m of Title 29] may be cited as the 'Handicapped Programs Technical Amendments Act of 1988'.''

SHORT TITLE OF 1986 AMENDMENTS

Pub. L. 99–457, § 1(a), Oct. 8, 1986, 100 Stat. 1145, provided that: ''This Act [enacting sections 1408, 1461, 1462, and 1471 to 1485 of this title, amending sections 1401, 1406, 1411 to 1413, 1418, 1419, 1421 to 1424, 1424a, 1425, 1427, 1431 to 1433, 1435, 1441, 1443, 1444, 1452, and 1454 of this title, repealing sections 1403 and 1453 of this title, and enacting provisions set out as notes under sections 1419 and 1485 of this title] may be cited as the 'Education of the Handicapped Act Amendments of 1986'.''

Pub. L. 99–372, § 1, Aug. 5, 1986, 100 Stat. 796, provided that: ''This Act [amending section 1415 of this title and enacting provisions set out as notes under section 1415 of this title] may be cited as the 'Handicapped Children's Protection Act of 1986'.''

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98–199, § 1, Dec. 2, 1983, 97 Stat. 1357, provided: ''That this Act [enacting sections 1407 and 1427 of this title, amending sections 1401 to 1404, 1406, 1411 to 1414, 1416 to 1426, 1431 to 1435, 1441 to 1444, 1452, 1454, and 1461 of this title, repealing section 1461 of this title, omitting section 1436 of this title, enacting a provision set out as a note under section 1401 of this title, and amending provisions set out as notes under sections 101, 681, and 1411 of this title] may be cited as the 'Education of the Handicapped Act Amendments of 1983'.''

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–49, § 1, June 17, 1977, 91 Stat. 230, provided: ''That this Act [amending sections 1426, 1436, 1441, 1444, and 1454 of this title, and enacting provisions set out as a note under section 1426 of this title] may be cited as the 'Education of the Handicapped Amendments of 1977'.''

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94–142, § 1, Nov. 29, 1975, 89 Stat. 773, provided: ''That this Act [enacting sections 1405, 1406, 1415, 1416, 1417, 1418, 1419, and 1420 of this title, amending this section and sections 1232, 1401, 1411, 1411 notes, 1412, 1412 note, 1413, 1413 note, 1414, and 1453 of this title, and enacting provisions set out as a note under section 1411 of this title] may be cited as the 'Education for All Handicapped Children Act of 1975'.''

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–380, title VI, § 611, Aug. 21, 1974, 88 Stat. 579, provided that: ''This title [enacting section 1424a of this title, amending sections 1402, 1403, 1411 to 1413, 1426, 1436, 1444, 1452, 1454, and 1461 of this title, and enacting provisions set out as notes under sections 1402 and 1411 to 1413 of this title] may be cited as the 'Education of the Handicapped Amendments of 1974'.''

TRANSITION

Pub. L. 108–446, title III, § 303, Dec. 3, 2004, 118 Stat. 2803, provided that:

''(a) ORDERLY TRANSITION.—

''(1) IN GENERAL.—The Secretary of Education (in this section referred to as 'the Secretary') shall take such steps as are necessary to provide for the orderly transition from the Individuals with Disabilities Education Act [this chapter], as such Act was in effect on the day preceding the date of enactment of this Act [Dec. 3, 2004], to the Individuals with Disabilities Education Act [this chapter] and part E of the Education Sciences Reform Act of 2002 [20 U.S.C. 9567 et seq.], as amended by this Act.

''(2) LIMITATION.—The Secretary's authority in paragraph (1) shall terminate 1 year after the date of enactment of this Act.

''(b) MULTI-YEAR AWARDS.—Notwithstanding any other provision of law, the Secretary may use funds appropriated under part D of the Individuals with Disabilities Education Act [subchapter IV of this chapter] to make continuation awards for projects that were funded under section 618 [20 U.S.C. 1418], and part D, of the Individuals with Disabilities Education Act (as such section and part were in effect on September 30, 2004), in accordance with the terms of the original awards.

''(c) RESEARCH.—Notwithstanding section 302(b) [set out as a note above] or any other provision of law, the Secretary may award funds that are appropriated under the Department of Education Appropriations Act, 2005 [Pub. L. 108–447, div. F, title III, 118 Stat. 3142, see Tables for classification] for special education research under either of the headings 'SPECIAL EDUCATION' or 'INSTITUTE OF EDUCATION SCIENCES' in accordance with sections 672 and 674 of the Individuals with Disabilities Education Act [20 U.S.C. 1472, 1474], as such sections were in effect on October 1, 2004.''

REFERENCES TO EDUCATION OF THE HANDICAPPED ACT

Pub. L. 101–476, title IX, §901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: ''Any other Act and any regulation which refers to the Education of the Handicapped Act shall be considered to refer to the Individuals with Disabilities Education Act.''

§ 1401. Definitions

Except as otherwise provided, in this chapter:

(1) Assistive technology device

(A) In general

The term ''assistive technology device'' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

(B) Exception

The term does not include a medical device that is surgically implanted, or the replacement of such device.

(2) Assistive technology service

The term ''assistive technology service'' means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by such child;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) training or technical assistance for such child, or, where appropriate, the family of such child; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child.

(3) Child with a disability

(A) In general

The term ''child with a disability'' means a child—

(i) with mental retardation, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in this chapter as ''emotional disturbance''), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(ii) who, by reason thereof, needs special education and related services.

(B) Child aged 3 through 9

The term ''child with a disability'' for a child aged 3 through 9 (or any subset of that age range, including ages 3 through 5), may, at the discretion of the State and the local educational agency, include a child—

(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in 1 or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development; and

(ii) who, by reason thereof, needs special education and related services.

(4) Core academic subjects

The term ''core academic subjects'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801].

(5) Educational service agency

The term ''educational service agency''—

(A) means a regional public multiservice agency—

(i) authorized by State law to develop, manage, and provide services or programs to local educational agencies; and

(ii) recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State; and

(B) includes any other public institution or agency having administrative control and direction over a public elementary school or secondary school.

(6) Elementary school

The term ''elementary school'' means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

(7) Equipment

The term ''equipment'' includes—

(A) machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house such machinery, utilities, or equipment; and

(B) all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

(8) Excess costs

The term ''excess costs'' means those costs that are in excess of the average annual per-student expenditure in a local educational agency during the preceding school year for an elementary school or secondary school student, as may be appropriate, and which shall be computed after deducting—

(A) amounts received—

(i) under subchapter II;

(ii) under part A of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311 et seq.]; and

(iii) under parts A and B of title III of that Act [20 U.S.C. 6811 et seq., 6891 et seq.]; and

(B) any State or local funds expended for programs that would qualify for assistance under any of those parts.

(9) Free appropriate public education

The term ''free appropriate public education'' means special education and related services that—

(A) have been provided at public expense, under public supervision and direction, and without charge;

(B) meet the standards of the State educational agency;

(C) include an appropriate preschool, elementary school, or secondary school education in the State involved; and

(D) are provided in conformity with the individualized education program required under section 1414(d) of this title.

(10) Highly qualified

(A) In general

For any special education teacher, the term ''highly qualified'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801], except that such term also—

(i) includes the requirements described in subparagraph (B); and

(ii) includes the option for teachers to meet the requirements of section 9101 of such Act by meeting the requirements of subparagraph (C) or (D).

(B) Requirements for special education teachers

When used with respect to any public elementary school or secondary school special education teacher teaching in a State, such term means that—

(i) the teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law;

(ii) the teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(iii) the teacher holds at least a bachelor's degree.

(C) Special education teachers teaching to alternate achievement standards

When used with respect to a special education teacher who teaches core academic subjects exclusively to children who are assessed against alternate achievement standards established under the regulations promulgated under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311(b)(1)], such term means the teacher, whether new or not new to the profession, may either—

(i) meet the applicable requirements of section 9101 of such Act [20 U.S.C. 7801] for any elementary, middle, or secondary school teacher who is new or not new to the profession; or

(ii) meet the requirements of subparagraph (B) or (C) of section 9101(23) of such Act as applied to an elementary school teacher, or, in the case of instruction above the elementary level, has subject matter knowledge appropriate to the level of instruction being provided, as determined by the State, needed to effectively teach to those standards.

(D) Special education teachers teaching multiple subjects

When used with respect to a special education teacher who teaches 2 or more core academic subjects exclusively to children with disabilities, such term means that the teacher may either—

(i) meet the applicable requirements of section 9101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801] for any elementary, middle, or secondary school teacher who is new or not new to the profession;

(ii) in the case of a teacher who is not new to the profession, demonstrate competence in all the core academic subjects in which the teacher teaches in the same

manner as is required for an elementary, middle, or secondary school teacher who is not new to the profession under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects; or

(iii) in the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, demonstrate competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an elementary, middle, or secondary school teacher under section 9101(23)(C)(ii) of such Act, which may include a single, high objective uniform State standard of evaluation covering multiple subjects, not later than 2 years after the date of employment.

(E) Rule of construction

Notwithstanding any other individual right of action that a parent or student may maintain under this subchapter, nothing in this section or subchapter shall be construed to create a right of action on behalf of an individual student or class of students for the failure of a particular State educational agency or local educational agency employee to be highly qualified.

(F) Definition for purposes of the ESEA

A teacher who is highly qualified under this paragraph shall be considered highly qualified for purposes of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

(11) Homeless children

The term ''homeless children'' has the meaning given the term ''homeless children and youths'' in section 11434a of title 42.

(12) Indian

The term ''Indian'' means an individual who is a member of an Indian tribe.

(13) Indian tribe

The term ''Indian tribe'' means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)).

(14) Individualized education program; IEP

The term ''individualized education program'' or ''IEP'' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with section 1414(d) of this title.

(15) Individualized family service plan

The term ''individualized family service plan'' has the meaning given the term in section 1436 of this title.

(16) Infant or toddler with a disability

The term ''infant or toddler with a disability'' has the meaning given the term in section 1432 of this title.

(17) Institution of higher education

The term ''institution of higher education''—

(A) has the meaning given the term in section 1001 of this title; and

(B) also includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled College or University Assistance Act of 1978 [25 U.S.C. 1801 et seq.].

(18) Limited English proficient

The term ''limited English proficient'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801].

(19) Local educational agency

(A) In general

The term ''local educational agency'' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(B) Educational service agencies and other public institutions or agencies

The term includes—

(i) an educational service agency; and

(ii) any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(C) BIA funded schools

The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs, but only to the extent that such inclusion makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this chapter with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

(20) Native language

The term ''native language'', when used with respect to an individual who is limited English proficient, means the language normally used by the individual or, in the case of a child, the language normally used by the parents of the child.

(21) Nonprofit

The term ''nonprofit'', as applied to a school, agency, organization, or institution, means a school, agency, organization, or institution owned and operated by 1 or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(22) Outlying area

The term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(23) Parent

The term ''parent'' means—

(A) a natural, adoptive, or foster parent of a child (unless a foster parent is prohibited by State law from serving as a parent);

(B) a guardian (but not the State if the child is a ward of the State);

(C) an individual acting in the place of a natural or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(D) except as used in sections 1415(b)(2) and 1439(a)(5) of this title, an individual assigned under either of those sections to be a surrogate parent.

(24) Parent organization

The term ''parent organization'' has the meaning given the term in section 1471(g) of this title.

(25) Parent training and information center

The term ''parent training and information center'' means a center assisted under section 1471 or 1472 of this title.

(26) Related services

(A) In general

The term ''related services'' means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

(B) Exception

The term does not include a medical device that is surgically implanted, or the replacement of such device.

(27) Secondary school

The term ''secondary school'' means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

(28) Secretary

The term ''Secretary'' means the Secretary of Education.

(29) Special education

The term ''special education'' means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including—

(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(B) instruction in physical education.

(30) Specific learning disability

(A) In general

The term ''specific learning disability'' means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations.

(B) Disorders included

Such term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

(C) Disorders not included

Such term does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(31) State

The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(32) State educational agency

The term ''State educational agency'' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(33) Supplementary aids and services

The term ''supplementary aids and services'' means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with section 1412(a)(5) of this title.

(34) Transition services

The term ''transition services'' means a coordinated set of activities for a child with a disability that—

(A) is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including post-secondary education, vocational education, integrated employment (including supported employment), continuing and adult education,

adult services, independent living, or community participation;

(B) is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and

(C) includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.

(35) Universal design

The term ''universal design'' has the meaning given the term in section 3002 of title 29.

(36) Ward of the State

(A) In general

The term ''ward of the State'' means a child who, as determined by the State where the child resides, is a foster child, is a ward of the State, or is in the custody of a public child welfare agency.

(B) Exception

The term does not include a foster child who has a foster parent who meets the definition of a parent in paragraph (23).

(Pub. L. 91–230, title VI, § 602, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2652.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in pars. (8)(A)(ii), (iii) and (10)(F), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. Part A of title I of the Act is classified generally to part A (§ 6311 et seq.) of subchapter I of chapter 70 of this title. Parts A and B of title III of the Act are classified generally to parts A (§ 6811 et seq.) and B (§ 6891 et seq.), respectively, of subchapter III of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (13), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Tribally Controlled College or University Assistance Act of 1978, referred to in par. (17)(B), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 1401, Pub. L. 91–230, title VI, § 602, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 42; amended Pub. L. 105–244, title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1828, related to definitions of terms used in this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1401, Pub. L. 91–230, title VI, § 602, Apr. 13, 1970, 84 Stat. 175; Pub. L. 94–142, § 4(a), Nov. 29, 1975, 89 Stat. 775; Pub. L. 98–199, §§ 2, 3(b), Dec. 2, 1983, 97 Stat. 1357, 1358; Pub. L. 99–457, title IV, § 402, Oct. 8, 1986, 100 Stat. 1172; Pub. L. 100–630, title I, § 101(a), Nov. 7, 1988, 102 Stat. 3289; Pub. L. 101–476, title I, § 101, title IX, § 901(b)(10)–(20), Oct. 30, 1990, 104 Stat. 1103, 1142, 1143; Pub. L. 102–73, title VIII, § 802(d)(1), July 25, 1991, 105 Stat. 361; Pub. L. 102–119, §§ 3, 25(a)(1), (b), Oct. 7, 1991, 105 Stat. 587, 605, 607; Pub. L. 103–382, title III, § 391(f)(1), Oct. 20, 1994, 108 Stat. 4023, related to definitions of terms used in this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

EFFECTIVE DATE

Section effective July 1, 2005, except that subparagraphs (C) through (F) of par. (10) of this section are effective Dec. 3, 2004, for purposes of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), see section 302(a) of Pub. L. 108–446, set out as a note under section 1400 of this title.

§ 1402. Office of Special Education Programs

(a) Establishment

There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs, which shall be the principal agency in the Department for administering and carrying out this chapter and other programs and activities concerning the education of children with disabilities.

(b) Director

The Office established under subsection (a) shall be headed by a Director who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services.

(c) Voluntary and uncompensated services

Notwithstanding section 1342 of title 31, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this chapter.

(Pub. L. 91–230, title VI, § 603, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2659.)

PRIOR PROVISIONS

A prior section 1402, Pub. L. 91–230, title VI, § 603, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 46, related to the Office of Special Education Programs, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1402, Pub. L. 91–230, title VI, § 603, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93–380, title VI, § 612(a), Aug. 21, 1974, 88 Stat. 579; Pub. L. 98–199, § 3(a), Dec. 2, 1983, 97 Stat. 1357; Pub. L. 101–476, title IX, § 901(b)(21), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to the Office of Special Education Programs, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1403. Abrogation of State sovereign immunity

(a) In general

A State shall not be immune under the 11th amendment to the Constitution of the United States from suit in Federal court for a violation of this chapter.

(b) Remedies

In a suit against a State for a violation of this chapter, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as those remedies are available for such a violation in the suit against any public entity other than a State.

(c) Effective date

Subsections (a) and (b) apply with respect to violations that occur in whole or part after October 30, 1990.

(Pub. L. 91–230, title VI, § 604, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2659.)

PRIOR PROVISIONS

A prior section 1403, Pub. L. 91–230, title VI, § 604, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 47, related to abrogation of State sovereign immunity, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1403, Pub. L. 91–230, title VI, § 604, as added Pub. L. 101–476, title I, § 103, Oct. 30, 1990, 104 Stat. 1106, related to abrogation of State sovereign immunity, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

Another prior section 1403, Pub. L. 91–230, title VI, § 604, Apr. 13, 1970, 84 Stat. 177; Pub. L. 93–380, title VI, § 613, Aug. 21, 1974, 88 Stat. 580; Pub. L. 94–273, §§ 3(14), 13(2), Apr. 21, 1976, 90 Stat. 376, 378; Pub. L. 98–199, § 4, Dec. 2, 1983, 97 Stat. 1358, established the National Advisory Committee on the Education of Handicapped Children and Youth, prior to repeal by Pub. L. 99–457, title IV, § 407, Oct. 8, 1986, 100 Stat. 1177.

§ 1404. Acquisition of equipment; construction or alteration of facilities

(a) In general

If the Secretary determines that a program authorized under this chapter will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

(b) Compliance with certain regulations

Any construction of new facilities or alteration of existing facilities under subsection (a) shall comply with the requirements of—

(1) appendix A of part 36 of title 28, Code of Federal Regulations (commonly known as the ''Americans with Disabilities Accessibility Guidelines for Buildings and Facilities''); or

(2) appendix A of subpart 101–19.6 of title 41, Code of Federal Regulations (commonly known as the ''Uniform Federal Accessibility Standards'').

(Pub. L. 91–230, title VI, § 605, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2659.)

PRIOR PROVISIONS

A prior section 1404, Pub. L. 91–230, title VI, § 605, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 47, related to the acquisition of equipment and construction or alteration of facilities, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1404, Pub. L. 91–230, title VI, § 605, Apr. 13, 1970, 84 Stat. 177; Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100–630, title I, § 101(b), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 102–119, § 25(a)(2), Oct. 7, 1991, 105 Stat. 605, related to acquisition of equipment and construction of necessary facilities, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1405. Employment of individuals with disabilities

The Secretary shall ensure that each recipient of assistance under this chapter makes positive efforts to employ and advance in employment qualified individuals with disabilities in programs assisted under this chapter.

(Pub. L. 91–230, title VI, § 606, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2659.)

PRIOR PROVISIONS

A prior section 1405, Pub. L. 91–230, title VI, § 606, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 47, related to employment of individuals with disabilities by recipients of assistance under this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1405, Pub. L. 91–230, title VI, § 606, as added Pub. L. 94–142, § 6(a), Nov. 29, 1975, 89 Stat. 795; amended Pub. L. 101–476, title IX, § 901(b)(22), (23), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to employment of individuals with disabilities by recipients of assistance under this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1406. Requirements for prescribing regulations

(a) In general

In carrying out the provisions of this chapter, the Secretary shall issue regulations under this chapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements of this chapter.

(b) Protections provided to children

The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this chapter that—

(1) violates or contradicts any provision of this chapter; or

(2) procedurally or substantively lessens the protections provided to children with disabilities under this chapter, as embodied in regulations in effect on July 20, 1983 (particularly as such protections related to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at individualized education program meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of Congress in legislation.

(c) Public comment period

The Secretary shall provide a public comment period of not less than 75 days on any regulation proposed under subchapter II or subchapter III on which an opportunity for public comment is otherwise required by law.

(d) Policy letters and statements

The Secretary may not issue policy letters or other statements (including letters or statements regarding issues of national significance) that—

(1) violate or contradict any provision of this chapter; or

(2) establish a rule that is required for compliance with, and eligibility under, this chapter without following the requirements of section 553 of title 5.

(e) Explanation and assurances

Any written response by the Secretary under subsection (d) regarding a policy, question, or interpretation under subchapter II shall include an explanation in the written response that—

(1) such response is provided as informal guidance and is not legally binding;

(2) when required, such response is issued in compliance with the requirements of section 553 of title 5; and

(3) such response represents the interpretation by the Department of Education of the applicable statutory or regulatory requirements in the context of the specific facts presented.

(f) Correspondence from Department of Education describing interpretations of this chapter

(1) In general

The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education of this chapter or the regulations implemented pursuant to this chapter.

(2) Additional information

For each item of correspondence published in a list under paragraph (1), the Secretary shall—

(A) identify the topic addressed by the correspondence and shall include such other summary information as the Secretary determines to be appropriate; and

(B) ensure that all such correspondence is issued, where applicable, in compliance with the requirements of section 553 of title 5.

(Pub. L. 91–230, title VI, § 607, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2659.)

PRIOR PROVISIONS

A prior section 1406, Pub. L. 91–230, title VI, § 607, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 47, related to requirements for prescribing regulations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another section 1406, Pub. L. 91–230, title VI, § 607, as added Pub. L. 94–142, § 6(a), Nov. 29, 1975, 89 Stat. 795; amended Pub. L. 98–199, §§ 3(b), 5, Dec. 2, 1983, 97 Stat. 1358; Pub. L. 99–457, title IV, § 401, Oct. 8, 1986, 100 Stat. 1172; Pub. L. 100–630, title I, § 101(c), Nov. 7, 1988, 102 Stat. 3290, related to grants for removal of architectural barriers, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1407. State administration

(a) Rulemaking

Each State that receives funds under this chapter shall—

(1) ensure that any State rules, regulations, and policies relating to this chapter conform to the purposes of this chapter;

(2) identify in writing to local educational agencies located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this chapter and Federal regulations; and

(3) minimize the number of rules, regulations, and policies to which the local educational agencies and schools located in the State are subject under this chapter.

(b) Support and facilitation

State rules, regulations, and policies under this chapter shall support and facilitate local educational agency and school-level system improvement designed to enable children with disabilities to meet the challenging State student academic achievement standards.

(Pub. L. 91–230, title VI, § 608, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2661.)

PRIOR PROVISIONS

A prior section 1407, Pub. L. 91–230, title VI, § 608, as added Pub. L. 98–199, § 6, Dec. 2, 1983, 97 Stat. 1359; amended Pub. L. 100–630, title I, § 101(d), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 101–476, title IX, § 901(b)(24), Oct. 30, 1990, 104 Stat. 1143; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to regulation requirements, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1408. Paperwork reduction

(a) Pilot program

(1) Purpose

The purpose of this section is to provide an opportunity for States to identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of this chapter, in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities.

(2) Authorization

(A) In general

In order to carry out the purpose of this section, the Secretary is authorized to grant waivers of statutory requirements of, or regulatory requirements relating to, subchapter II for a period of time not to exceed 4 years with respect to not more than 15 States based on proposals submitted by States to reduce excessive paperwork and noninstructional time burdens that do not assist in improving educational and functional results for children with disabilities.

(B) Exception

The Secretary shall not waive under this section any statutory requirements of, or regulatory requirements relating to, applicable civil rights requirements.

(C) Rule of construction

Nothing in this section shall be construed to—

(i) affect the right of a child with a disability to receive a free appropriate public education under subchapter II; and

(ii) permit a State or local educational agency to waive procedural safeguards under section 1415 of this title.

(3) Proposal

(A) In general

A State desiring to participate in the program under this section shall submit a proposal to the Secretary at such time and in such manner as the Secretary may reasonably require.

(B) Content

The proposal shall include—

(i) a list of any statutory requirements of, or regulatory requirements relating to,

subchapter II that the State desires the Secretary to waive, in whole or in part; and

(ii) a list of any State requirements that the State proposes to waive or change, in whole or in part, to carry out a waiver granted to the State by the Secretary.

(4) Termination of waiver

The Secretary shall terminate a State's waiver under this section if the Secretary determines that the State—

(A) needs assistance under section 1416(d)(2)(A)(ii) of this title and that the waiver has contributed to or caused such need for assistance;

(B) needs intervention under section 1416(d)(2)(A)(iii) of this title or needs substantial intervention under section 1416(d)(2)(A)(iv) of this title; or

(C) failed to appropriately implement its waiver.

(b) Report

Beginning 2 years after December 3, 2004, the Secretary shall include in the annual report to Congress submitted pursuant to section 3486 of this title information related to the effectiveness of waivers granted under subsection (a), including any specific recommendations for broader implementation of such waivers, in—

(1) reducing—

(A) the paperwork burden on teachers, principals, administrators, and related service providers; and

(B) noninstructional time spent by teachers in complying with subchapter II;

(2) enhancing longer-term educational planning;

(3) improving positive outcomes for children with disabilities;

(4) promoting collaboration between IEP Team members; and

(5) ensuring satisfaction of family members.

(Pub. L. 91–230, title VI, § 609, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2661.)

PRIOR PROVISIONS

A prior section 1408, Pub. L. 91–230, title VI, § 609, as added Pub. L. 99–457, title II, § 202, Oct. 8, 1986, 100 Stat. 1158, related to eligibility for financial assistance, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1409. Freely associated States

The Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall continue to be eligible for competitive grants administered by the Secretary under this chapter to the extent that such grants continue to be available to States and local educational agencies under this chapter.

(Pub. L. 91–230, title VI, § 610, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2662.)

PRIOR PROVISIONS

A prior section 1409, Pub. L. 91–230, title VI, § 610, as added Pub. L. 101–476, title I, § 104, Oct. 30, 1990, 104 Stat. 1106, provided administrative provisions applicable to former subchapters III to VII of this chapter and former section 1418 of this title, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

SUBCHAPTER II—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

§ 1411. Authorization; allotment; use of funds; authorization of appropriations

(a) Grants to States

(1) Purpose of grants

The Secretary shall make grants to States, outlying areas, and freely associated States, and provide funds to the Secretary of the Interior, to assist them to provide special education and related services to children with disabilities in accordance with this subchapter.

(2) Maximum amount

The maximum amount of the grant a State may receive under this section—

(A) for fiscal years 2005 and 2006 is—

(i) the number of children with disabilities in the State who are receiving special education and related services—

(I) aged 3 through 5 if the State is eligible for a grant under section 1419 of this title; and

(II) aged 6 through 21; multiplied by

(ii) 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States; and

(B) for fiscal year 2007 and subsequent fiscal years is—

(i) the number of children with disabilities in the 2004–2005 school year in the State who received special education and related services—

(I) aged 3 through 5 if the State is eligible for a grant under section 1419 of this title; and

(II) aged 6 through 21; multiplied by

(ii) 40 percent of the average per-pupil expenditure in public elementary schools and secondary schools in the United States; adjusted by

(iii) the rate of annual change in the sum of—

(I) 85 percent of such State's population described in subsection (d)(3)(A)(i)(II); and

(II) 15 percent of such State's population described in subsection (d)(3)(A)(i)(III).

(b) Outlying areas and freely associated States; Secretary of the Interior

(1) Outlying areas and freely associated States

(A) Funds reserved

From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve not more than 1 percent, which shall be used—

(i) to provide assistance to the outlying areas in accordance with their respective populations of individuals aged 3 through 21; and

(ii) to provide each freely associated State a grant in the amount that such freely associated State received for fiscal year 2003 under this subchapter, but only if the freely associated State meets the applicable requirements of this subchapter, as well as the requirements of section 1411(b)(2)(C) of this title as such section was in effect on the day before December 3, 2004.

(B) Special rule

The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to the outlying areas or the freely associated States under this section.

(C) Definition

In this paragraph, the term ''freely associated States'' means the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(2) Secretary of the Interior

From the amount appropriated for any fiscal year under subsection (i), the Secretary shall reserve 1.226 percent to provide assistance to the Secretary of the Interior in accordance with subsection (h).

(c) Technical assistance

(1) In general

The Secretary may reserve not more than ½ of 1 percent of the amounts appropriated under this subchapter for each fiscal year to provide technical assistance activities authorized under section 1416(i) of this title.

(2) Maximum amount

The maximum amount the Secretary may reserve under paragraph (1) for any fiscal year is $25,000,000, cumulatively adjusted by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(d) Allocations to States

(1) In general

After reserving funds for technical assistance, and for payments to the outlying areas, the freely associated States, and the Secretary of the Interior under subsections (b) and (c) for a fiscal year, the Secretary shall allocate the remaining amount among the States in accordance with this subsection.

(2) Special rule for use of fiscal year 1999 amount

If a State received any funds under this section for fiscal year 1999 on the basis of children aged 3 through 5, but does not make a free appropriate public education available to all children with disabilities aged 3 through 5 in the State in any subsequent fiscal year, the Secretary shall compute the State's amount for fiscal year 1999, solely for the purpose of calculating the State's allocation in that subsequent year under paragraph (3) or (4), by subtracting the amount allocated to the State for fiscal year 1999 on the basis of those children.

(3) Increase in funds

If the amount available for allocations to States under paragraph (1) for a fiscal year is equal to or greater than the amount allocated to the States under this paragraph for the preceding fiscal year, those allocations shall be calculated as follows:

(A) Allocation of increase

(i) In general

Except as provided in subparagraph (B), the Secretary shall allocate for the fiscal year—

(I) to each State the amount the State received under this section for fiscal year 1999;

(II) 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 21 who are of the same age as children with disabilities for whom the State ensures the availability of a free appropriate public education under this subchapter; and

(III) 15 percent of those remaining funds to States on the basis of the States' relative populations of children described in subclause (II) who are living in poverty.

(ii) Data

For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

(B) Limitations

Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

(i) Preceding year allocation

No State's allocation shall be less than its allocation under this section for the preceding fiscal year.

(ii) Minimum

No State's allocation shall be less than the greatest of—

(I) the sum of—

(aa) the amount the State received under this section for fiscal year 1999; and

(bb) ⅓ of 1 percent of the amount by which the amount appropriated under subsection (i) for the fiscal year exceeds the amount appropriated for this section for fiscal year 1999;

(II) the sum of—

(aa) the amount the State received under this section for the preceding fiscal year; and

(bb) that amount multiplied by the percentage by which the increase in the funds appropriated for this section from the preceding fiscal year exceeds 1.5 percent; or

(III) the sum of—

(aa) the amount the State received under this section for the preceding fiscal year; and

(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated for this section from the preceding fiscal year.

(iii) Maximum

Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

(I) the amount the State received under this section for the preceding fiscal year; and

(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under this section from the preceding fiscal year.

(C) Ratable reduction

If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

(4) Decrease in funds

If the amount available for allocations to States under paragraph (1) for a fiscal year is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

(A) Amounts greater than fiscal year 1999 allocations

If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1999, each State shall be allocated the sum of—

(i) the amount the State received under this section for fiscal year 1999; and

(ii) an amount that bears the same relation to any remaining funds as the increase the State received under this section for the preceding fiscal year over fiscal year 1999 bears to the total of all such increases for all States.

(B) Amounts equal to or less than fiscal year 1999 allocations

(i) In general

If the amount available for allocations under this paragraph is equal to or less than the amount allocated to the States for fiscal year 1999, each State shall be allocated the amount the State received for fiscal year 1999.

(ii) Ratable reduction

If the amount available for allocations under this paragraph is insufficient to make the allocations described in clause (i), those allocations shall be ratably reduced.

(e) State-level activities

(1) State administration

(A) In general

For the purpose of administering this subchapter, including paragraph (3), section 1419 of this title, and the coordination of activities under this subchapter with, and providing technical assistance to, other programs that provide services to children with disabilities—

(i) each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this section for fiscal year 2004 or $800,000 (adjusted in accordance with subparagraph (B)), whichever is greater; and

(ii) each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under subsection (b)(1) for the fiscal year or $35,000, whichever is greater.

(B) Cumulative annual adjustments

For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust—

(i) the maximum amount the State was eligible to reserve for State administration under this subchapter for fiscal year 2004; and

(ii) $800,000,

by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

(C) Certification

Prior to expenditure of funds under this paragraph, the State shall certify to the Secretary that the arrangements to establish responsibility for services pursuant to section 1412(a)(12)(A) of this title are current.

(D) Subchapter III

Funds reserved under subparagraph (A) may be used for the administration of subchapter III, if the State educational agency is the lead agency for the State under such subchapter.

(2) Other State-level activities

(A) State-level activities

(i) In general

Except as provided in clause (iii), for the purpose of carrying out State-level activities, each State may reserve for each of the fiscal years 2005 and 2006 not more than 10 percent from the amount of the State's allocation under subsection (d) for each of the fiscal years 2005 and 2006, respectively. For fiscal year 2007 and each subsequent fiscal year, the State may reserve the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2006 (cumulatively adjusted by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).

(ii) Small State adjustment

Notwithstanding clause (i) and except as provided in clause (iii), in the case of a

State for which the maximum amount reserved for State administration is not greater than $850,000, the State may reserve for the purpose of carrying out State-level activities for each of the fiscal years 2005 and 2006, not more than 10.5 percent from the amount of the State's allocation under subsection (d) for each of the fiscal years 2005 and 2006, respectively. For fiscal year 2007 and each subsequent fiscal year, such State may reserve the maximum amount the State was eligible to reserve under the preceding sentence for fiscal year 2006 (cumulatively adjusted by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor).

(iii) Exception

If a State does not reserve funds under paragraph (3) for a fiscal year, then—

(I) in the case of a State that is not described in clause (ii), for fiscal year 2005 or 2006, clause (i) shall be applied by substituting ''9.0 percent'' for ''10 percent''; and

(II) in the case of a State that is described in clause (ii), for fiscal year 2005 or 2006, clause (ii) shall be applied by substituting ''9.5 percent'' for ''10.5 percent''.

(B) Required activities

Funds reserved under subparagraph (A) shall be used to carry out the following activities:

(i) For monitoring, enforcement, and complaint investigation.

(ii) To establish and implement the mediation process required by section 1415(e) of this title, including providing for the cost of mediators and support personnel.

(C) Authorized activities

Funds reserved under subparagraph (A) may be used to carry out the following activities:

(i) For support and direct services, including technical assistance, personnel preparation, and professional development and training.

(ii) To support paperwork reduction activities, including expanding the use of technology in the IEP process.

(iii) To assist local educational agencies in providing positive behavioral interventions and supports and appropriate mental health services for children with disabilities.

(iv) To improve the use of technology in the classroom by children with disabilities to enhance learning.

(v) To support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities.

(vi) Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of children with disabilities to postsecondary activities.

(vii) To assist local educational agencies in meeting personnel shortages.

(viii) To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.

(ix) Alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools.

(x) To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with sections 6311(b) and 7301 of this title.

(xi) To provide technical assistance to schools and local educational agencies, and direct services, including supplemental educational services as defined in 6316(e) of this title to children with disabilities, in schools or local educational agencies identified for improvement under section 6316 of this title on the sole basis of the assessment results of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement to meet or exceed the objectives established by the State under section 6311(b)(2)(G) of this title.

(3) Local educational agency risk pool

(A) In general

(i) Reservation of funds

For the purpose of assisting local educational agencies (including a charter school that is a local educational agency or a consortium of local educational agencies) in addressing the needs of high need children with disabilities, each State shall have the option to reserve for each fiscal year 10 percent of the amount of funds the State reserves for State-level activities under paragraph (2)(A)—

(I) to establish and make disbursements from the high cost fund to local educational agencies in accordance with this paragraph during the first and succeeding fiscal years of the high cost fund; and

(II) to support innovative and effective ways of cost sharing by the State, by a local educational agency, or among a consortium of local educational agencies, as determined by the State in coordination with representatives from local educational agencies, subject to subparagraph (B)(ii).

(ii) Definition of local educational agency

In this paragraph the term ''local educational agency'' includes a charter school that is a local educational agency, or a consortium of local educational agencies.

(B) Limitation on uses of funds

(i) Establishment of high cost fund

A State shall not use any of the funds the State reserves pursuant to subparagraph (A)(i), but may use the funds the State reserves under paragraph (1), to establish and support the high cost fund.

(ii) Innovative and effective cost sharing

A State shall not use more than 5 percent of the funds the State reserves pursuant to subparagraph (A)(i) for each fiscal year to support innovative and effective ways of cost sharing among consortia of local educational agencies.

(C) State plan for high cost fund

(i) Definition

The State educational agency shall establish the State's definition of a high need child with a disability, which definition shall be developed in consultation with local educational agencies.

(ii) State plan

The State educational agency shall develop, not later than 90 days after the State reserves funds under this paragraph, annually review, and amend as necessary, a State plan for the high cost fund. Such State plan shall—

(I) establish, in coordination with representatives from local educational agencies, a definition of a high need child with a disability that, at a minimum—

(aa) addresses the financial impact a high need child with a disability has on the budget of the child's local educational agency; and

(bb) ensures that the cost of the high need child with a disability is greater than 3 times the average per pupil expenditure (as defined in section 7801 of this title) in that State;

(II) establish eligibility criteria for the participation of a local educational agency that, at a minimum, takes into account the number and percentage of high need children with disabilities served by a local educational agency;

(III) develop a funding mechanism that provides distributions each fiscal year to local educational agencies that meet the criteria developed by the State under subclause (II); and

(IV) establish an annual schedule by which the State educational agency shall make its distributions from the high cost fund each fiscal year.

(iii) Public availability

The State shall make its final State plan publicly available not less than 30 days before the beginning of the school year, including dissemination of such information on the State website.

(D) Disbursements from the high cost fund

(i) In general

Each State educational agency shall make all annual disbursements from the high cost fund established under subparagraph (A)(i) in accordance with the State plan published pursuant to subparagraph (C).

(ii) Use of disbursements

Each State educational agency shall make annual disbursements to eligible local educational agencies in accordance with its State plan under subparagraph (C)(ii).

(iii) Appropriate costs

The costs associated with educating a high need child with a disability under subparagraph (C)(i) are only those costs associated with providing direct special education and related services to such child that are identified in such child's IEP.

(E) Legal fees

The disbursements under subparagraph (D) shall not support legal fees, court costs, or other costs associated with a cause of action brought on behalf of a child with a disability to ensure a free appropriate public education for such child.

(F) Assurance of a free appropriate public education

Nothing in this paragraph shall be construed—

(i) to limit or condition the right of a child with a disability who is assisted under this subchapter to receive a free appropriate public education pursuant to section 1412(a)(1) of this title in the least restrictive environment pursuant to section 1412(a)(5) of this title; or

(ii) to authorize a State educational agency or local educational agency to establish a limit on what may be spent on the education of a child with a disability.

(G) Special rule for risk pool and high need assistance programs in effect as of January 1, 2004

Notwithstanding the provisions of subparagraphs (A) through (F), a State may use funds reserved pursuant to this paragraph for implementing a placement neutral cost sharing and reimbursement program of high need, low incidence, catastrophic, or extraordinary aid to local educational agencies that provides services to high need students based on eligibility criteria for such programs that were created not later than January 1, 2004, and are currently in operation, if such program serves children that meet the requirement of the definition of a high need child with a disability as described in subparagraph (C)(ii)(I).

(H) Medicaid services not affected

Disbursements provided under this paragraph shall not be used to pay costs that

otherwise would be reimbursed as medical assistance for a child with a disability under the State medicaid program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(I) Remaining funds

Funds reserved under subparagraph (A) in any fiscal year but not expended in that fiscal year pursuant to subparagraph (D) shall be allocated to local educational agencies for the succeeding fiscal year in the same manner as funds are allocated to local educational agencies under subsection (f) for the succeeding fiscal year.

(4) Inapplicability of certain prohibitions

A State may use funds the State reserves under paragraphs (1) and (2) without regard to—

(A) the prohibition on commingling of funds in section 1412(a)(17)(B) of this title; and

(B) the prohibition on supplanting other funds in section 1412(a)(17)(C) of this title.

(5) Report on use of funds

As part of the information required to be submitted to the Secretary under section 1412 of this title, each State shall annually describe how amounts under this section—

(A) will be used to meet the requirements of this chapter; and

(B) will be allocated among the activities described in this section to meet State priorities based on input from local educational agencies.

(6) Special rule for increased funds

A State may use funds the State reserves under paragraph (1)(A) as a result of inflationary increases under paragraph (1)(B) to carry out activities authorized under clause (i), (iii), (vii), or (viii) of paragraph (2)(C).

(7) Flexibility in using funds for subchapter III

Any State eligible to receive a grant under section 1419 of this title may use funds made available under paragraph (1)(A), subsection (f)(3), or section 1419(f)(5) of this title to develop and implement a State policy jointly with the lead agency under subchapter III and the State educational agency to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with subchapter III to children with disabilities who are eligible for services under section 1419 of this title and who previously received services under subchapter III until such children enter, or are eligible under State law to enter, kindergarten, or elementary school as appropriate.

(f) Subgrants to local educational agencies

(1) Subgrants required

Each State that receives a grant under this section for any fiscal year shall distribute any funds the State does not reserve under subsection (e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 1413 of this title for use in accordance with this subchapter.

(2) Procedure for allocations to local educational agencies

For each fiscal year for which funds are allocated to States under subsection (d), each State shall allocate funds under paragraph (1) as follows:

(A) Base payments

The State shall first award each local educational agency described in paragraph (1) the amount the local educational agency would have received under this section for fiscal year 1999, if the State had distributed 75 percent of its grant for that year under section 1411(d) of this title as section 1411(d) was then in effect.

(B) Allocation of remaining funds

After making allocations under subparagraph (A), the State shall—

(i) allocate 85 percent of any remaining funds to those local educational agencies on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the local educational agency's jurisdiction; and

(ii) allocate 15 percent of those remaining funds to those local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

(3) Reallocation of funds

If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that local educational agency with State and local funds, the State educational agency may reallocate any portion of the funds under this subchapter that are not needed by that local educational agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other local educational agencies.

(g) Definitions

In this section:

(1) Average per-pupil expenditure in public elementary schools and secondary schools in the United States

The term ''average per-pupil expenditure in public elementary schools and secondary schools in the United States'' means—

(A) without regard to the source of funds—

(i) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the 50 States and the District of Columbia; plus

(ii) any direct expenditures by the State for the operation of those agencies; divided by

(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

(2) State

The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(h) Use of amounts by Secretary of the Interior

(1) Provision of amounts for assistance

(A) In general

The Secretary of Education shall provide amounts to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5 to 21, inclusive, enrolled in elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior. The amount of such payment for any fiscal year shall be equal to 80 percent of the amount allotted under subsection (b)(2) for that fiscal year. Of the amount described in the preceding sentence—

(i) 80 percent shall be allocated to such schools by July 1 of that fiscal year; and

(ii) 20 percent shall be allocated to such schools by September 30 of that fiscal year.

(B) Calculation of number of children

In the case of Indian students aged 3 to 5, inclusive, who are enrolled in programs affiliated with the Bureau of Indian Affairs (referred to in this subsection as the ''BIA'') schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to October 7, 1991, the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this subchapter for those children, in accordance with paragraph (2).

(C) Additional requirement

With respect to all other children aged 3 to 21, inclusive, on reservations, the State educational agency shall be responsible for ensuring that all of the requirements of this subchapter are implemented.

(2) Submission of information

The Secretary of Education may provide the Secretary of the Interior amounts under paragraph (1) for a fiscal year only if the Secretary of the Interior submits to the Secretary of Education information that—

(A) demonstrates that the Department of the Interior meets the appropriate requirements, as determined by the Secretary of Education, of sections 1412 of this title (including monitoring and evaluation activities) and 1413 of this title;

(B) includes a description of how the Secretary of the Interior will coordinate the provision of services under this subchapter with local educational agencies, tribes and tribal organizations, and other private and Federal service providers;

(C) includes an assurance that there are public hearings, adequate notice of such hearings, and an opportunity for comment afforded to members of tribes, tribal governing bodies, and affected local school boards before the adoption of the policies, programs, and procedures related to the requirements described in subparagraph (A);

(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with section 1418 of this title;

(E) includes an assurance that the Secretary of the Interior and the Secretary of Health and Human Services have entered into a memorandum of agreement, to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations (such agreement shall provide for the apportionment of responsibilities and costs, including child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical or personal supplies as needed for a child to remain in school or a program); and

(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in its exercise of monitoring and oversight of this application, and any agreements entered into between the Secretary of the Interior and other entities under this subchapter, and will fulfill its duties under this subchapter.

(3) Applicability

The Secretary shall withhold payments under this subsection with respect to the information described in paragraph (2) in the same manner as the Secretary withholds payments under section 1416(e)(6) of this title.

(4) Payments for education and services for Indian children with disabilities aged 3 through 5

(A) In general

With funds appropriated under subsection (i), the Secretary of Education shall make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 450b of title 25) or consortia of tribes or tribal organizations to provide for the coordination of assistance for special education and related services for children with disabilities aged 3 through 5 on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of

such payments under subparagraph (B) for any fiscal year shall be equal to 20 percent of the amount allotted under subsection (b)(2).

(B) Distribution of funds

The Secretary of the Interior shall distribute the total amount of the payment under subparagraph (A) by allocating to each tribe, tribal organization, or consortium an amount based on the number of children with disabilities aged 3 through 5 residing on reservations as reported annually, divided by the total of those children served by all tribes or tribal organizations.

(C) Submission of information

To receive a payment under this paragraph, the tribe or tribal organization shall submit such figures to the Secretary of the Interior as required to determine the amounts to be allocated under subparagraph (B). This information shall be compiled and submitted to the Secretary of Education.

(D) Use of funds

The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3 through 5, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The tribe or tribal organization shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(E) Biennial report

To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall provide to the Secretary of the Interior a biennial report of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year, and the estimated number of children needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis in the report to the Secretary of Education required under this subsection. The Secretary of Education may require any additional information from the Secretary of the Interior.

(F) Prohibitions

None of the funds allocated under this paragraph may be used by the Secretary of the Interior for administrative purposes, including child count and the provision of technical assistance.

(5) Plan for coordination of services

The Secretary of the Interior shall develop and implement a plan for the coordination of services for all Indian children with disabilities residing on reservations covered under this chapter. Such plan shall provide for the coordination of services benefiting those children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing the plan, the Secretary of the Interior shall consult with all interested and involved parties. The plan shall be based on the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. The plan shall also be distributed upon request to States, State educational agencies and local educational agencies, and other agencies providing services to infants, toddlers, and children with disabilities, to tribes, and to other interested parties.

(6) Establishment of advisory board

To meet the requirements of section 1412(a)(21) of this title, the Secretary of the Interior shall establish, under the BIA, an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils under section 1441 of this title in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

(A) assist in the coordination of services within the BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, and children with disabilities;

(B) advise and assist the Secretary of the Interior in the performance of the Secretary of the Interior's responsibilities described in this subsection;

(C) develop and recommend policies concerning effective inter- and intra-agency collaboration, including modifications to regulations, and the elimination of barriers to inter- and intra-agency programs and activities;

(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention services or educational programming for Indian infants, toddlers, and children with disabilities; and

(E) provide assistance in the preparation of information required under paragraph (2)(D).

(7) Annual reports

(A) In general

The advisory board established under paragraph (6) shall prepare and submit to the Secretary of the Interior and to Congress an

annual report containing a description of the activities of the advisory board for the preceding year.

(B) Availability

The Secretary of the Interior shall make available to the Secretary of Education the report described in subparagraph (A).

(i) Authorization of appropriations

For the purpose of carrying out this subchapter, other than section 1419 of this title, there are authorized to be appropriated—

(1) $12,358,376,571 for fiscal year 2005;
(2) $14,648,647,143 for fiscal year 2006;
(3) $16,938,917,714 for fiscal year 2007;
(4) $19,229,188,286 for fiscal year 2008;
(5) $21,519,458,857 for fiscal year 2009;
(6) $23,809,729,429 for fiscal year 2010;
(7) $26,100,000,000 for fiscal year 2011; and
(8) such sums as may be necessary for fiscal year 2012 and each succeeding fiscal year.

(Pub. L. 91–230, title VI, § 611, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2662.)

REFERENCES IN TEXT

Public Law 95–134, referred to in subsec. (b)(1)(B), is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159, as amended. Provisions relating to consolidation of grants are contained in section 501 of Pub. L. 95–134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

The Social Security Act, referred to in subsec. (e)(3)(H), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1411, Pub. L. 91–230, title VI, § 611, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 49, related to authorization, allotment, use of funds, and authorization of appropriations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1411, Pub. L. 91–230, title VI, § 611, Apr. 13, 1970, 84 Stat. 178; Pub. L. 93–380, title VI, § 614(a), (e)(1), (2), Aug. 21, 1974, 88 Stat. 580, 582; Pub. L. 94–142, §§ 2(a)(1)–(3), 5(a), (c), Nov. 29, 1975, 89 Stat. 773, 776, 794; Pub. L. 95–561, title XIII, § 1341(a), Nov. 1, 1978, 92 Stat. 2364; Pub. L. 96–270, § 13, June 14, 1980, 94 Stat. 498; Pub. L. 98–199, §§ 3(b), 15, Dec. 2, 1983, 97 Stat. 1358, 1374; Pub. L. 99–159, title VI, § 601, Nov. 22, 1985, 99 Stat. 904; Pub. L. 99–362, § 2, July 9, 1986, 100 Stat. 769; Pub. L. 99–457, title II, § 201(b), title IV, §§ 403, 404, Oct. 8, 1986, 100 Stat. 1158, 1173; Pub. L. 100–630, title I, § 102(a), Nov. 7, 1988, 102 Stat. 3290; Pub. L. 101–476, title II, § 201, title IX, § 901(b)(25)–(32), Oct. 30, 1990, 104 Stat. 1111, 1143; Pub. L. 102–73, title VIII, § 802(d)(2), (3), July 25, 1991, 105 Stat. 361; Pub. L. 102–119, §§ 4, 25(a)(4), (19), (b), Oct. 7, 1991, 105 Stat. 587, 606, 607; Pub. L. 103–382, title III, § 311, Oct. 20, 1994, 108 Stat. 3931, related to entitlements and allocations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

EFFECTIVE DATE

Subchapter effective July 1, 2005, see section 302(a) of Pub. L. 108–446, set out as a note under section 1400 of this title.

§ 1412. State eligibility

(a) In general

A State is eligible for assistance under this subchapter for a fiscal year if the State submits a plan that provides assurances to the Secretary that the State has in effect policies and procedures to ensure that the State meets each of the following conditions:

(1) Free appropriate public education

(A) In general

A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school.

(B) Limitation

The obligation to make a free appropriate public education available to all children with disabilities does not apply with respect to children—

(i) aged 3 through 5 and 18 through 21 in a State to the extent that its application to those children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in those age ranges; and

(ii) aged 18 through 21 to the extent that State law does not require that special education and related services under this subchapter be provided to children with disabilities who, in the educational placement prior to their incarceration in an adult correctional facility—

(I) were not actually identified as being a child with a disability under section 1401 of this title; or

(II) did not have an individualized education program under this subchapter.

(C) State flexibility

A State that provides early intervention services in accordance with subchapter III to a child who is eligible for services under section 1419 of this title, is not required to provide such child with a free appropriate public education.

(2) Full educational opportunity goal

The State has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal.

(3) Child find

(A) In general

All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

(B) Construction

Nothing in this chapter requires that children be classified by their disability so long as each child who has a disability listed in

section 1401 of this title and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under this subchapter.

(4) Individualized education program

An individualized education program, or an individualized family service plan that meets the requirements of section 1436(d) of this title, is developed, reviewed, and revised for each child with a disability in accordance with section 1414(d) of this title.

(5) Least restrictive environment

(A) In general

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(B) Additional requirement

(i) In general

A State funding mechanism shall not result in placements that violate the requirements of subparagraph (A), and a State shall not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability a free appropriate public education according to the unique needs of the child as described in the child's IEP.

(ii) Assurance

If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in such placements.

(6) Procedural safeguards

(A) In general

Children with disabilities and their parents are afforded the procedural safeguards required by section 1415 of this title.

(B) Additional procedural safeguards

Procedures to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities for services under this chapter will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(7) Evaluation

Children with disabilities are evaluated in accordance with subsections (a) through (c) of section 1414 of this title.

(8) Confidentiality

Agencies in the State comply with section 1417(c) of this title (relating to the confidentiality of records and information).

(9) Transition from subchapter III to preschool programs

Children participating in early intervention programs assisted under subchapter III, and who will participate in preschool programs assisted under this subchapter, experience a smooth and effective transition to those preschool programs in a manner consistent with section 1437(a)(9) of this title. By the third birthday of such a child, an individualized education program or, if consistent with sections 1414(d)(2)(B) and 1436(d) of this title, an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 1435(a)(10) of this title.

(10) Children in private schools

(A) Children enrolled in private schools by their parents

(i) In general

To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this subchapter by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):

(I) Amounts to be expended for the provision of those services (including direct services to parentally placed private school children) by the local educational agency shall be equal to a proportionate amount of Federal funds made available under this subchapter.

(II) In calculating the proportionate amount of Federal funds, the local educational agency, after timely and meaningful consultation with representatives of private schools as described in clause (iii), shall conduct a thorough and complete child find process to determine the number of parentally placed children with disabilities attending private schools located in the local educational agency.

(III) Such services to parentally placed private school children with disabilities may be provided to the children on the premises of private, including religious, schools, to the extent consistent with law.

(IV) State and local funds may supplement and in no case shall supplant the proportionate amount of Federal funds required to be expended under this subparagraph.

(V) Each local educational agency shall maintain in its records and provide to the State educational agency the number of children evaluated under this subparagraph, the number of children determined to be children with disabilities under this paragraph, and the number of children served under this paragraph.

(ii) Child find requirement

(I) In general

The requirements of paragraph (3) (relating to child find) shall apply with respect to children with disabilities in the State who are enrolled in private, including religious, elementary schools and secondary schools.

(II) Equitable participation

The child find process shall be designed to ensure the equitable participation of parentally placed private school children with disabilities and an accurate count of such children.

(III) Activities

In carrying out this clause, the local educational agency, or where applicable, the State educational agency, shall undertake activities similar to those activities undertaken for the agency's public school children.

(IV) Cost

The cost of carrying out this clause, including individual evaluations, may not be considered in determining whether a local educational agency has met its obligations under clause (i).

(V) Completion period

Such child find process shall be completed in a time period comparable to that for other students attending public schools in the local educational agency.

(iii) Consultation

To ensure timely and meaningful consultation, a local educational agency, or where appropriate, a State educational agency, shall consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children, including regarding—

(I) the child find process and how parentally placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;

(II) the determination of the proportionate amount of Federal funds available to serve parentally placed private school children with disabilities under this subparagraph, including the determination of how the amount was calculated;

(III) the consultation process among the local educational agency, private school officials, and representatives of parents of parentally placed private school children with disabilities, including how such process will operate throughout the school year to ensure that parentally placed private school children with disabilities identified through the child find process can meaningfully participate in special education and related services;

(IV) how, where, and by whom special education and related services will be provided for parentally placed private school children with disabilities, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when these decisions will be made; and

(V) how, if the local educational agency disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the local educational agency shall provide to the private school officials a written explanation of the reasons why the local educational agency chose not to provide services directly or through a contract.

(iv) Written affirmation

When timely and meaningful consultation as required by clause (iii) has occurred, the local educational agency shall obtain a written affirmation signed by the representatives of participating private schools, and if such representatives do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation of the consultation process to the State educational agency.

(v) Compliance

(I) In general

A private school official shall have the right to submit a complaint to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

(II) Procedure

If the private school official wishes to submit a complaint, the official shall provide the basis of the noncompliance with this subparagraph by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency. If the private school official is dissatisfied with the decision of the State educational agency, such official

may submit a complaint to the Secretary by providing the basis of the noncompliance with this subparagraph by the local educational agency to the Secretary, and the State educational agency shall forward the appropriate documentation to the Secretary.

(vi) Provision of equitable services

(I) Directly or through contracts

The provision of services pursuant to this subparagraph shall be provided—

(aa) by employees of a public agency; or

(bb) through contract by the public agency with an individual, association, agency, organization, or other entity.

(II) Secular, neutral, nonideological

Special education and related services provided to parentally placed private school children with disabilities, including materials and equipment, shall be secular, neutral, and nonideological.

(vii) Public control of funds

The control of funds used to provide special education and related services under this subparagraph, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer the funds and property.

(B) Children placed in, or referred to, private schools by public agencies

(i) In general

Children with disabilities in private schools and facilities are provided special education and related services, in accordance with an individualized education program, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this subchapter or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State.

(ii) Standards

In all cases described in clause (i), the State educational agency shall determine whether such schools and facilities meet standards that apply to State educational agencies and local educational agencies and that children so served have all the rights the children would have if served by such agencies.

(C) Payment for education of children enrolled in private schools without consent of or referral by the public agency

(i) In general

Subject to subparagraph (A), this subchapter does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

(ii) Reimbursement for private school placement

If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private elementary school or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available to the child in a timely manner prior to that enrollment.

(iii) Limitation on reimbursement

The cost of reimbursement described in clause (ii) may be reduced or denied—

(I) if—

(aa) at the most recent IEP meeting that the parents attended prior to removal of the child from the public school, the parents did not inform the IEP Team that they were rejecting the placement proposed by the public agency to provide a free appropriate public education to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or

(bb) 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the public agency of the information described in item (aa);

(II) if, prior to the parents' removal of the child from the public school, the public agency informed the parents, through the notice requirements described in section 1415(b)(3) of this title, of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for such evaluation; or

(III) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

(iv) Exception

Notwithstanding the notice requirement in clause (iii)(I), the cost of reimbursement—

(I) shall not be reduced or denied for failure to provide such notice if—

(aa) the school prevented the parent from providing such notice;

(bb) the parents had not received notice, pursuant to section 1415 of this title, of the notice requirement in clause (iii)(I); or

(cc) compliance with clause (iii)(I) would likely result in physical harm to the child; and

(II) may, in the discretion of a court or a hearing officer, not be reduced or denied for failure to provide such notice if—

(aa) the parent is illiterate or cannot write in English; or

(bb) compliance with clause (iii)(I) would likely result in serious emotional harm to the child.

(11) State educational agency responsible for general supervision

(A) In general

The State educational agency is responsible for ensuring that—

(i) the requirements of this subchapter are met;

(ii) all educational programs for children with disabilities in the State, including all such programs administered by any other State agency or local agency—

(I) are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities; and

(II) meet the educational standards of the State educational agency; and

(iii) in carrying out this subchapter with respect to homeless children, the requirements of subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.) are met.

(B) Limitation

Subparagraph (A) shall not limit the responsibility of agencies in the State other than the State educational agency to provide, or pay for some or all of the costs of, a free appropriate public education for any child with a disability in the State.

(C) Exception

Notwithstanding subparagraphs (A) and (B), the Governor (or another individual pursuant to State law), consistent with State law, may assign to any public agency in the State the responsibility of ensuring that the requirements of this subchapter are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons.

(12) Obligations related to and methods of ensuring services

(A) Establishing responsibility for services

The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) and the State educational agency, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall include the following:

(i) Agency financial responsibility

An identification of, or a method for defining, the financial responsibility of each agency for providing services described in subparagraph (B)(i) to ensure a free appropriate public education to children with disabilities, provided that the financial responsibility of each public agency described in subparagraph (B), including the State medicaid agency and other public insurers of children with disabilities, shall precede the financial responsibility of the local educational agency (or the State agency responsible for developing the child's IEP).

(ii) Conditions and terms of reimbursement

The conditions, terms, and procedures under which a local educational agency shall be reimbursed by other agencies.

(iii) Interagency disputes

Procedures for resolving interagency disputes (including procedures under which local educational agencies may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism.

(iv) Coordination of services procedures

Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services described in subparagraph (B)(i).

(B) Obligation of public agency

(i) In general

If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy pursuant to subparagraph (A), to provide or pay for any services that are also considered special education or related services (such as, but not limited to, services described in section 1401(1) relating to assistive technology devices, 1401(2) relating to assistive technology services, 1401(26) relating to related services, 1401(33) relating to supplementary aids and services, and 1401(34) of this title relating to transition services) that are necessary for ensuring a free appropriate public education to children with disabilities within the State, such public agency shall fulfill that obligation or responsibility, either directly or through contract or other arrangement pursuant to subparagraph (A) or an agreement pursuant to subparagraph (C).

(ii) Reimbursement for services by public agency

If a public agency other than an educational agency fails to provide or pay for the special education and related services described in clause (i), the local educational agency (or State agency responsible for developing the child's IEP) shall provide or pay for such services to the

child. Such local educational agency or State agency is authorized to claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism described in subparagraph (A)(i) according to the procedures established in such agreement pursuant to subparagraph (A)(ii).

(C) Special rule

The requirements of subparagraph (A) may be met through—

(i) State statute or regulation;

(ii) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

(iii) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer and approved by the Secretary.

(13) Procedural requirements relating to local educational agency eligibility

The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this subchapter without first affording that agency reasonable notice and an opportunity for a hearing.

(14) Personnel qualifications

(A) In general

The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this subchapter are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.

(B) Related services personnel and paraprofessionals

The qualifications under subparagraph (A) include qualifications for related services personnel and paraprofessionals that—

(i) are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services;

(ii) ensure that related services personnel who deliver services in their discipline or profession meet the requirements of clause (i) and have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and

(iii) allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this subchapter to be used to assist in the provision of special education and related services under this subchapter to children with disabilities.

(C) Qualifications for special education teachers

The qualifications described in subparagraph (A) shall ensure that each person employed as a special education teacher in the State who teaches elementary school, middle school, or secondary school is highly qualified by the deadline established in section 6319(a)(2) of this title.

(D) Policy

In implementing this section, a State shall adopt a policy that includes a requirement that local educational agencies in the State take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services under this subchapter to children with disabilities.

(E) Rule of construction

Notwithstanding any other individual right of action that a parent or student may maintain under this subchapter, nothing in this paragraph shall be construed to create a right of action on behalf of an individual student for the failure of a particular State educational agency or local educational agency staff person to be highly qualified, or to prevent a parent from filing a complaint about staff qualifications with the State educational agency as provided for under this subchapter.

(15) Performance goals and indicators

The State—

(A) has established goals for the performance of children with disabilities in the State that—

(i) promote the purposes of this chapter, as stated in section 1400(d) of this title;

(ii) are the same as the State's definition of adequate yearly progress, including the State's objectives for progress by children with disabilities, under section 6311(b)(2)(C) of this title;

(iii) address graduation rates and dropout rates, as well as such other factors as the State may determine; and

(iv) are consistent, to the extent appropriate, with any other goals and standards for children established by the State;

(B) has established performance indicators the State will use to assess progress toward achieving the goals described in subparagraph (A), including measurable annual objectives for progress by children with disabilities under section 6311(b)(2)(C)(v)(II)(cc) of this title; and

(C) will annually report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A), which may include elements of the reports required under section 6311(h) of this title.

(16) Participation in assessments

(A) In general

All children with disabilities are included in all general State and districtwide assess-

ment programs, including assessments described under section 6311 of this title, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs.

(B) Accommodation guidelines

The State (or, in the case of a districtwide assessment, the local educational agency) has developed guidelines for the provision of appropriate accommodations.

(C) Alternate assessments

(i) In general

The State (or, in the case of a districtwide assessment, the local educational agency) has developed and implemented guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments under subparagraph (A) with accommodations as indicated in their respective individualized education programs.

(ii) Requirements for alternate assessments

The guidelines under clause (i) shall provide for alternate assessments that—

(I) are aligned with the State's challenging academic content standards and challenging student academic achievement standards; and

(II) if the State has adopted alternate academic achievement standards permitted under the regulations promulgated to carry out section 6311(b)(1) of this title, measure the achievement of children with disabilities against those standards.

(iii) Conduct of alternate assessments

The State conducts the alternate assessments described in this subparagraph.

(D) Reports

The State educational agency (or, in the case of a districtwide assessment, the local educational agency) makes available to the public, and reports to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

(i) The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments.

(ii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(I).

(iii) The number of children with disabilities participating in alternate assessments described in subparagraph (C)(ii)(II).

(iv) The performance of children with disabilities on regular assessments and on alternate assessments (if the number of children with disabilities participating in those assessments is sufficient to yield statistically reliable information and reporting that information will not reveal personally identifiable information about an individual student), compared with the achievement of all children, including children with disabilities, on those assessments.

(E) Universal design

The State educational agency (or, in the case of a districtwide assessment, the local educational agency) shall, to the extent feasible, use universal design principles in developing and administering any assessments under this paragraph.

(17) Supplementation of State, local, and other Federal funds

(A) Expenditures

Funds paid to a State under this subchapter will be expended in accordance with all the provisions of this subchapter.

(B) Prohibition against commingling

Funds paid to a State under this subchapter will not be commingled with State funds.

(C) Prohibition against supplantation and conditions for waiver by Secretary

Except as provided in section 1413 of this title, funds paid to a State under this subchapter will be used to supplement the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this subchapter and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive, in whole or in part, the requirements of this subparagraph if the Secretary concurs with the evidence provided by the State.

(18) Maintenance of State financial support

(A) In general

The State does not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

(B) Reduction of funds for failure to maintain support

The Secretary shall reduce the allocation of funds under section 1411 of this title for any fiscal year following the fiscal year in which the State fails to comply with the requirement of subparagraph (A) by the same amount by which the State fails to meet the requirement.

(C) Waivers for exceptional or uncontrollable circumstances

The Secretary may waive the requirement of subparagraph (A) for a State, for 1 fiscal year at a time, if the Secretary determines that—

(i) granting a waiver would be equitable due to exceptional or uncontrollable cir-

cumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or

(ii) the State meets the standard in paragraph (17)(C) for a waiver of the requirement to supplement, and not to supplant, funds received under this subchapter.

(D) Subsequent years

If, for any year, a State fails to meet the requirement of subparagraph (A), including any year for which the State is granted a waiver under subparagraph (C), the financial support required of the State in future years under subparagraph (A) shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

(19) Public participation

Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities.

(20) Rule of construction

In complying with paragraphs (17) and (18), a State may not use funds paid to it under this subchapter to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation.

(21) State advisory panel

(A) In general

The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

(B) Membership

Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, be representative of the State population, and be composed of individuals involved in, or concerned with, the education of children with disabilities, including—

(i) parents of children with disabilities (ages birth through 26);

(ii) individuals with disabilities;

(iii) teachers;

(iv) representatives of institutions of higher education that prepare special education and related services personnel;

(v) State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.);

(vi) administrators of programs for children with disabilities;

(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;

(viii) representatives of private schools and public charter schools;

(ix) not less than 1 representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities;

(x) a representative from the State child welfare agency responsible for foster care; and

(xi) representatives from the State juvenile and adult corrections agencies.

(C) Special rule

A majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities (ages birth through 26).

(D) Duties

The advisory panel shall—

(i) advise the State educational agency of unmet needs within the State in the education of children with disabilities;

(ii) comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities;

(iii) advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 1418 of this title;

(iv) advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this subchapter; and

(v) advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

(22) Suspension and expulsion rates

(A) In general

The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities—

(i) among local educational agencies in the State; or

(ii) compared to such rates for nondisabled children within such agencies.

(B) Review and revision of policies

If such discrepancies are occurring, the State educational agency reviews and, if appropriate, revises (or requires the affected State or local educational agency to revise) its policies, procedures, and practices relating to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards, to ensure that such policies, procedures, and practices comply with this chapter.

(23) Access to instructional materials

(A) In general

The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional ma-

terials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility Standard in the Federal Register.

(B) Rights of State educational agency

Nothing in this paragraph shall be construed to require any State educational agency to coordinate with the National Instructional Materials Access Center. If a State educational agency chooses not to coordinate with the National Instructional Materials Access Center, such agency shall provide an assurance to the Secretary that the agency will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

(C) Preparation and delivery of files

If a State educational agency chooses to coordinate with the National Instructional Materials Access Center, not later than 2 years after December 3, 2004, the agency, as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials, shall enter into a written contract with the publisher of the print instructional materials to—

(i) require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or

(ii) purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats.

(D) Assistive technology

In carrying out this paragraph, the State educational agency, to the maximum extent possible, shall work collaboratively with the State agency responsible for assistive technology programs.

(E) Definitions

In this paragraph:

(i) National Instructional Materials Access Center

The term ''National Instructional Materials Access Center'' means the center established pursuant to section 1474(e) of this title.

(ii) National Instructional Materials Accessibility Standard

The term ''National Instructional Materials Accessibility Standard'' has the meaning given the term in section 1474(e)(3)(A) of this title.

(iii) Specialized formats

The term ''specialized formats'' has the meaning given the term in section 1474(e)(3)(D) of this title.

(24) Overidentification and disproportionality

The State has in effect, consistent with the purposes of this chapter and with section 1418(d) of this title, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in section 1401 of this title.

(25) Prohibition on mandatory medication

(A) In general

The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation under subsection (a) or (c) of section 1414 of this title, or receiving services under this chapter.

(B) Rule of construction

Nothing in subparagraph (A) shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under paragraph (3).

(b) State educational agency as provider of free appropriate public education or direct services

If the State educational agency provides free appropriate public education to children with disabilities, or provides direct services to such children, such agency—

(1) shall comply with any additional requirements of section 1413(a) of this title, as if such agency were a local educational agency; and

(2) may use amounts that are otherwise available to such agency under this subchapter to serve those children without regard to section 1413(a)(2)(A)(i) of this title (relating to excess costs).

(c) Exception for prior State plans

(1) In general

If a State has on file with the Secretary policies and procedures that demonstrate that such State meets any requirement of subsection (a), including any policies and procedures filed under this subchapter as in effect before the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall consider such State to have met such requirement for purposes of receiving a grant under this subchapter.

(2) Modifications made by State

Subject to paragraph (3), an application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification to an application to the same extent and in the same manner as this section applies to the original plan.

(3) Modifications required by the Secretary

If, after the effective date of the Individuals with Disabilities Education Improvement Act

of 2004, the provisions of this chapter are amended (or the regulations developed to carry out this chapter are amended), there is a new interpretation of this chapter by a Federal court or a State's highest court, or there is an official finding of noncompliance with Federal law or regulations, then the Secretary may require a State to modify its application only to the extent necessary to ensure the State's compliance with this subchapter.

(d) Approval by the Secretary

(1) In general

If the Secretary determines that a State is eligible to receive a grant under this subchapter, the Secretary shall notify the State of that determination.

(2) Notice and hearing

The Secretary shall not make a final determination that a State is not eligible to receive a grant under this subchapter until after providing the State—

(A) with reasonable notice; and

(B) with an opportunity for a hearing.

(e) Assistance under other Federal programs

Nothing in this chapter permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act [42 U.S.C. 701 et seq., 1396 et seq.] with respect to the provision of a free appropriate public education for children with disabilities in the State.

(f) By-pass for children in private schools

(1) In general

If, on December 2, 1983, a State educational agency was prohibited by law from providing for the equitable participation in special programs of children with disabilities enrolled in private elementary schools and secondary schools as required by subsection (a)(10)(A), or if the Secretary determines that a State educational agency, local educational agency, or other entity has substantially failed or is unwilling to provide for such equitable participation, then the Secretary shall, notwithstanding such provision of law, arrange for the provision of services to such children through arrangements that shall be subject to the requirements of such subsection.

(2) Payments

(A) Determination of amounts

If the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services for a fiscal year an amount per child that does not exceed the amount determined by dividing—

(i) the total amount received by the State under this subchapter for such fiscal year; by

(ii) the number of children with disabilities served in the prior year, as reported to the Secretary by the State under section 1418 of this title.

(B) Withholding of certain amounts

Pending final resolution of any investigation or complaint that may result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates will be necessary to pay the cost of services described in subparagraph (A).

(C) Period of payments

The period under which payments are made under subparagraph (A) shall continue until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(10)(A).

(3) Notice and hearing

(A) In general

The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why such action should not be taken.

(B) Review of action

If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the Secretary's action, as provided in section 2112 of title 28.

(C) Review of findings of fact

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Jurisdiction of court of appeals; review by United States Supreme Court

Upon the filing of a petition under subparagraph (B), the United States court of appeals shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 91–230, title VI, § 612, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2676.)

REFERENCES IN TEXT

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(11)(A)(iii), (21)(B)(v), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended. Subtitle B of title VII of the Act is classified generally to part B (§ 11431 et seq.) of subchapter VI of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

The Controlled Substances Act, referred to in subsec. (a)(25)(A), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

For the effective date of the Individuals with Disabilities Education Improvement Act of 2004, referred to in subsec. (c)(1), (3), see section 302(a), (b) of Pub. L. 108–446, set out as an Effective Date note under section 1400 of this title.

The Social Security Act, referred to in subsec. (e), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles V and XIX of the Act are classified generally to subchapters V (§ 701 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1412, Pub. L. 91–230, title VI, § 612, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 60, related to State eligibility for assistance, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1412, Pub. L. 91–230, title VI, § 612, Apr. 13, 1970, 84 Stat. 178; Pub. L. 92–318, title IV, § 421(b)(1)(C), June 23, 1972, 86 Stat. 341; Pub. L. 93–380, title VI, §§ 614(b), (f)(1), 615(a), title VIII, § 843(b), Aug. 21, 1974, 88 Stat. 581, 582, 611; Pub. L. 94–142, §§ 2(a)(4), (c), (d), 5(a), Nov. 29, 1975, 89 Stat. 773, 774, 780; Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 99–457, title II, § 203(a), Oct. 8, 1986, 100 Stat. 1158; Pub. L. 100–630, title I, § 102(b), Nov. 7, 1988, 102 Stat. 3291; Pub. L. 101–476, title IX, § 901(b)(33)–(46), (c), Oct. 30, 1990, 104 Stat. 1143, 1144, 1151; Pub. L. 102–119, § 25(a)(5), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to eligibility requirements, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1413. Local educational agency eligibility

(a) In general

A local educational agency is eligible for assistance under this subchapter for a fiscal year if such agency submits a plan that provides assurances to the State educational agency that the local educational agency meets each of the following conditions:

(1) Consistency with State policies

The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 1412 of this title.

(2) Use of amounts

(A) In general

Amounts provided to the local educational agency under this subchapter shall be expended in accordance with the applicable provisions of this subchapter and—

(i) shall be used only to pay the excess costs of providing special education and related services to children with disabilities;

(ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and

(iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.

(B) Exception

Notwithstanding the restriction in subparagraph (A)(iii), a local educational agency may reduce the level of expenditures where such reduction is attributable to—

(i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel;

(ii) a decrease in the enrollment of children with disabilities;

(iii) the termination of the obligation of the agency, consistent with this subchapter, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the State educational agency, because the child—

(I) has left the jurisdiction of the agency;

(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or

(III) no longer needs such program of special education; or

(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

(C) Adjustment to local fiscal effort in certain fiscal years

(i) Amounts in excess

Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which the allocation received by a local educational agency under section 1411(f) of this title exceeds the amount the local educational agency received for the previous fiscal year, the local educational agency may reduce the level of expenditures otherwise required by subparagraph (A)(iii) by not more than 50 percent of the amount of such excess.

(ii) Use of amounts to carry out activities under ESEA

If a local educational agency exercises the authority under clause (i), the agency shall use an amount of local funds equal to the reduction in expenditures under clause (i) to carry out activities authorized under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.].

(iii) State prohibition

Notwithstanding clause (i), if a State educational agency determines that a local educational agency is unable to es-

tablish and maintain programs of free appropriate public education that meet the requirements of subsection (a) or the State educational agency has taken action against the local educational agency under section 1416 of this title, the State educational agency shall prohibit the local educational agency from reducing the level of expenditures under clause (i) for that fiscal year.

(iv) Special rule

The amount of funds expended by a local educational agency under subsection (f) shall count toward the maximum amount of expenditures such local educational agency may reduce under clause (i).

(D) Schoolwide programs under title I of the ESEA

Notwithstanding subparagraph (A) or any other provision of this subchapter, a local educational agency may use funds received under this subchapter for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6314], except that the amount so used in any such program shall not exceed—

(i) the number of children with disabilities participating in the schoolwide program; multiplied by

(ii)(I) the amount received by the local educational agency under this subchapter for that fiscal year; divided by

(II) the number of children with disabilities in the jurisdiction of that agency.

(3) Personnel development

The local educational agency shall ensure that all personnel necessary to carry out this subchapter are appropriately and adequately prepared, subject to the requirements of section 1412(a)(14) of this title and section 2122 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6622].

(4) Permissive use of funds

(A) Uses

Notwithstanding paragraph (2)(A) or section 1412(a)(17)(B) of this title (relating to commingled funds), funds provided to the local educational agency under this subchapter may be used for the following activities:

(i) Services and aids that also benefit nondisabled children

For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program of the child, even if 1 or more nondisabled children benefit from such services.

(ii) Early intervening services

To develop and implement coordinated, early intervening educational services in accordance with subsection (f).

(iii) High cost education and related services

To establish and implement cost or risk sharing funds, consortia, or cooperatives for the local educational agency itself, or for local educational agencies working in a consortium of which the local educational agency is a part, to pay for high cost special education and related services.

(B) Administrative case management

A local educational agency may use funds received under this subchapter to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the individualized education program of children with disabilities, that is needed for the implementation of such case management activities.

(5) Treatment of charter schools and their students

In carrying out this subchapter with respect to charter schools that are public schools of the local educational agency, the local educational agency—

(A) serves children with disabilities attending those charter schools in the same manner as the local educational agency serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the local educational agency has a policy or practice of providing such services on the site to its other public schools; and

(B) provides funds under this subchapter to those charter schools—

(i) on the same basis as the local educational agency provides funds to the local educational agency's other public schools, including proportional distribution based on relative enrollment of children with disabilities; and

(ii) at the same time as the agency distributes other Federal funds to the agency's other public schools, consistent with the State's charter school law.

(6) Purchase of instructional materials

(A) In general

Not later than 2 years after December 3, 2004, a local educational agency that chooses to coordinate with the National Instructional Materials Access Center, when purchasing print instructional materials, shall acquire the print instructional materials in the same manner and subject to the same conditions as a State educational agency acquires print instructional materials under section 1412(a)(23) of this title.

(B) Rights of local educational agency

Nothing in this paragraph shall be construed to require a local educational agency to coordinate with the National Instructional Materials Access Center. If a local educational agency chooses not to coordinate with the National Instructional Materials Access Center, the local educational

agency shall provide an assurance to the State educational agency that the local educational agency will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

(7) Information for State educational agency

The local educational agency shall provide the State educational agency with information necessary to enable the State educational agency to carry out its duties under this subchapter, including, with respect to paragraphs (15) and (16) of section 1412(a) of this title, information relating to the performance of children with disabilities participating in programs carried out under this subchapter.

(8) Public information

The local educational agency shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this subchapter.

(9) Records regarding migratory children with disabilities

The local educational agency shall cooperate in the Secretary's efforts under section 1308 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6398] to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the States, health and educational information regarding such children.

(b) Exception for prior local plans

(1) In general

If a local educational agency or State agency has on file with the State educational agency policies and procedures that demonstrate that such local educational agency, or such State agency, as the case may be, meets any requirement of subsection (a), including any policies and procedures filed under this subchapter as in effect before the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the State educational agency shall consider such local educational agency or State agency, as the case may be, to have met such requirement for purposes of receiving assistance under this subchapter.

(2) Modification made by local educational agency

Subject to paragraph (3), an application submitted by a local educational agency in accordance with this section shall remain in effect until the local educational agency submits to the State educational agency such modifications as the local educational agency determines necessary.

(3) Modifications required by State educational agency

If, after the effective date of the Individuals with Disabilities Education Improvement Act of 2004, the provisions of this chapter are amended (or the regulations developed to carry out this chapter are amended), there is a new interpretation of this chapter by Federal or State courts, or there is an official finding of noncompliance with Federal or State law or regulations, then the State educational agency may require a local educational agency to modify its application only to the extent necessary to ensure the local educational agency's compliance with this subchapter or State law.

(c) Notification of local educational agency or State agency in case of ineligibility

If the State educational agency determines that a local educational agency or State agency is not eligible under this section, then the State educational agency shall notify the local educational agency or State agency, as the case may be, of that determination and shall provide such local educational agency or State agency with reasonable notice and an opportunity for a hearing.

(d) Local educational agency compliance

(1) In general

If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency that has been determined to be eligible under this section is failing to comply with any requirement described in subsection (a), the State educational agency shall reduce or shall not provide any further payments to the local educational agency or State agency until the State educational agency is satisfied that the local educational agency or State agency, as the case may be, is complying with that requirement.

(2) Additional requirement

Any State agency or local educational agency in receipt of a notice described in paragraph (1) shall, by means of public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

(3) Consideration

In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 1415 of this title that is adverse to the local educational agency or State agency involved in that decision.

(e) Joint establishment of eligibility

(1) Joint establishment

(A) In general

A State educational agency may require a local educational agency to establish its eligibility jointly with another local educational agency if the State educational agency determines that the local educational agency will be ineligible under this section because the local educational agency will not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities.

(B) Charter school exception

A State educational agency may not require a charter school that is a local educational agency to jointly establish its eligibility under subparagraph (A) unless the

charter school is explicitly permitted to do so under the State's charter school law.

(2) Amount of payments

If a State educational agency requires the joint establishment of eligibility under paragraph (1), the total amount of funds made available to the affected local educational agencies shall be equal to the sum of the payments that each such local educational agency would have received under section 1411(f) of this title if such agencies were eligible for such payments.

(3) Requirements

Local educational agencies that establish joint eligibility under this subsection shall—

(A) adopt policies and procedures that are consistent with the State's policies and procedures under section 1412(a) of this title; and

(B) be jointly responsible for implementing programs that receive assistance under this subchapter.

(4) Requirements for educational service agencies

(A) In general

If an educational service agency is required by State law to carry out programs under this subchapter, the joint responsibilities given to local educational agencies under this subsection shall—

(i) not apply to the administration and disbursement of any payments received by that educational service agency; and

(ii) be carried out only by that educational service agency.

(B) Additional requirement

Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 1412(a)(5) of this title.

(f) Early intervening services

(1) In general

A local educational agency may not use more than 15 percent of the amount such agency receives under this subchapter for any fiscal year, less any amount reduced by the agency pursuant to subsection (a)(2)(C), if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.

(2) Activities

In implementing coordinated, early intervening services under this subsection, a local educational agency may carry out activities that include—

(A) professional development (which may be provided by entities other than local educational agencies) for teachers and other school staff to enable such personnel to deliver scientifically based academic instruction and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and

(B) providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

(3) Construction

Nothing in this subsection shall be construed to limit or create a right to a free appropriate public education under this subchapter.

(4) Reporting

Each local educational agency that develops and maintains coordinated, early intervening services under this subsection shall annually report to the State educational agency on—

(A) the number of students served under this subsection; and

(B) the number of students served under this subsection who subsequently receive special education and related services under this chapter during the preceding 2-year period.

(5) Coordination with Elementary and Secondary Education Act of 1965

Funds made available to carry out this subsection may be used to carry out coordinated, early intervening services aligned with activities funded by, and carried out under, the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] if such funds are used to supplement, and not supplant, funds made available under the Elementary and Secondary Education Act of 1965 for the activities and services assisted under this subsection.

(g) Direct services by the State educational agency

(1) In general

A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency to provide special education and related services directly to children with disabilities residing in the area served by that local educational agency, or for whom that State agency is responsible, if the State educational agency determines that the local educational agency or State agency, as the case may be—

(A) has not provided the information needed to establish the eligibility of such local educational agency or State agency under this section;

(B) is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a);

(C) is unable or unwilling to be consolidated with 1 or more local educational agencies in order to establish and maintain such programs; or

(D) has 1 or more children with disabilities who can best be served by a regional or State program or service delivery system designed to meet the needs of such children.

(2) Manner and location of education and services

The State educational agency may provide special education and related services under paragraph (1) in such manner and at such locations (including regional or State centers) as the State educational agency considers appropriate. Such education and services shall be provided in accordance with this subchapter.

(h) State agency eligibility

Any State agency that desires to receive a subgrant for any fiscal year under section 1411(f) of this title shall demonstrate to the satisfaction of the State educational agency that—

(1) all children with disabilities who are participating in programs and projects funded under this subchapter receive a free appropriate public education, and that those children and their parents are provided all the rights and procedural safeguards described in this subchapter; and

(2) the agency meets such other conditions of this section as the Secretary determines to be appropriate.

(i) Disciplinary information

The State may require that a local educational agency include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the student records of nondisabled children. The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child. If the State adopts such a policy, and the child transfers from 1 school to another, the transmission of any of the child's records shall include both the child's current individualized education program and any such statement of current or previous disciplinary action that has been taken against the child.

(j) State agency flexibility

(1) Adjustment to State fiscal effort in certain fiscal years

For any fiscal year for which the allotment received by a State under section 1411 of this title exceeds the amount the State received for the previous fiscal year and if the State in school year 2003–2004 or any subsequent school year pays or reimburses all local educational agencies within the State from State revenue 100 percent of the non-Federal share of the costs of special education and related services, the State educational agency, notwithstanding paragraphs (17) and (18) of section 1412(a) of this title and section 1412(b) of this title, may reduce the level of expenditures from State sources for the education of children with disabilities by not more than 50 percent of the amount of such excess.

(2) Prohibition

Notwithstanding paragraph (1), if the Secretary determines that a State educational agency is unable to establish, maintain, or oversee programs of free appropriate public education that meet the requirements of this subchapter, or that the State needs assistance, intervention, or substantial intervention under section 1416(d)(2)(A) of this title, the Secretary shall prohibit the State educational agency from exercising the authority in paragraph (1).

(3) Education activities

If a State educational agency exercises the authority under paragraph (1), the agency shall use funds from State sources, in an amount equal to the amount of the reduction under paragraph (1), to support activities authorized under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] or to support need based student or teacher higher education programs.

(4) Report

For each fiscal year for which a State educational agency exercises the authority under paragraph (1), the State educational agency shall report to the Secretary the amount of expenditures reduced pursuant to such paragraph and the activities that were funded pursuant to paragraph (3).

(5) Limitation

Notwithstanding paragraph (1), a State educational agency may not reduce the level of expenditures described in paragraph (1) if any local educational agency in the State would, as a result of such reduction, receive less than 100 percent of the amount necessary to ensure that all children with disabilities served by the local educational agency receive a free appropriate public education from the combination of Federal funds received under this chapter and State funds received from the State educational agency.

(Pub. L. 91–230, title VI, § 613, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2694.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (a)(2)(C)(ii), (f)(5), and (j)(3), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

For the effective date of the Individuals with Disabilities Education Improvement Act of 2004, referred to in subsec. (b)(1), (3), see section 302(a), (b) of Pub. L. 108–446, set out as an Effective Date note under section 1400 of this title.

PRIOR PROVISIONS

A prior section 1413, Pub. L. 91–230, title VI, § 613, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 73; amended Pub. L. 107–110, title X, § 1076(i), Jan. 8, 2002, 115 Stat. 2091, related to local educational agency eligibility, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1413, Pub. L. 91–230, title VI, § 613, Apr. 13, 1970, 84 Stat. 179; Pub. L. 93–380, title VI, §§ 614(c), (d), 615(b), (c), title VIII, § 843(b)(2), Aug. 21, 1974, 88 Stat. 581, 583, 611; Pub. L. 94–142, § 5(a), Nov. 29,

1975, 89 Stat. 782; Pub. L. 98–199, §§3(b), 7, Dec. 2, 1983, 97 Stat. 1358, 1359; Pub. L. 99–457, title II, §203(b), title IV, §405, Oct. 8, 1986, 100 Stat. 1159, 1174; Pub. L. 100–630, title I, §102(c), Nov. 7, 1988, 102 Stat. 3291; Pub. L. 101–476, title II, §202, title IX, §901(b)(47)–(58), Oct. 30, 1990, 104 Stat. 1111, 1144; Pub. L. 102–119, §§5, 25(a)(6), (b), Oct. 7, 1991, 105 Stat. 591, 606, 607; Pub. L. 103–382, title III, §391(f)(2), Oct. 20, 1994, 108 Stat. 4023, related to requisite features of a State plan, approval of State plan by Secretary, and participation of children with disabilities enrolled in private schools, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1414. Evaluations, eligibility determinations, individualized education programs, and educational placements

(a) Evaluations, parental consent, and reevaluations

(1) Initial evaluations

(A) In general

A State educational agency, other State agency, or local educational agency shall conduct a full and individual initial evaluation in accordance with this paragraph and subsection (b), before the initial provision of special education and related services to a child with a disability under this subchapter.

(B) Request for initial evaluation

Consistent with subparagraph (D), either a parent of a child, or a State educational agency, other State agency, or local educational agency may initiate a request for an initial evaluation to determine if the child is a child with a disability.

(C) Procedures

(i) In general

Such initial evaluation shall consist of procedures—

(I) to determine whether a child is a child with a disability (as defined in 1401 of this title) within 60 days of receiving parental consent for the evaluation, or, if the State establishes a timeframe within which the evaluation must be conducted, within such timeframe; and

(II) to determine the educational needs of such child.

(ii) Exception

The relevant timeframe in clause (i)(I) shall not apply to a local educational agency if—

(I) a child enrolls in a school served by the local educational agency after the relevant timeframe in clause (i)(I) has begun and prior to a determination by the child's previous local educational agency as to whether the child is a child with a disability (as defined in section 1401 of this title), but only if the subsequent local educational agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent local educational agency agree to a specific time when the evaluation will be completed; or

(II) the parent of a child repeatedly fails or refuses to produce the child for the evaluation.

(D) Parental consent

(i) In general

(I) Consent for initial evaluation

The agency proposing to conduct an initial evaluation to determine if the child qualifies as a child with a disability as defined in section 1401 of this title shall obtain informed consent from the parent of such child before conducting the evaluation. Parental consent for evaluation shall not be construed as consent for placement for receipt of special education and related services.

(II) Consent for services

An agency that is responsible for making a free appropriate public education available to a child with a disability under this subchapter shall seek to obtain informed consent from the parent of such child before providing special education and related services to the child.

(ii) Absence of consent

(I) For initial evaluation

If the parent of such child does not provide consent for an initial evaluation under clause (i)(I), or the parent fails to respond to a request to provide the consent, the local educational agency may pursue the initial evaluation of the child by utilizing the procedures described in section 1415 of this title, except to the extent inconsistent with State law relating to such parental consent.

(II) For services

If the parent of such child refuses to consent to services under clause (i)(II), the local educational agency shall not provide special education and related services to the child by utilizing the procedures described in section 1415 of this title.

(III) Effect on agency obligations

If the parent of such child refuses to consent to the receipt of special education and related services, or the parent fails to respond to a request to provide such consent—

(aa) the local educational agency shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide such child with the special education and related services for which the local educational agency requests such consent; and

(bb) the local educational agency shall not be required to convene an IEP meeting or develop an IEP under this section for the child for the special education and related services for which the local educational agency requests such consent.

(iii) Consent for wards of the State

(I) In general

If the child is a ward of the State and is not residing with the child's parent,

the agency shall make reasonable efforts to obtain the informed consent from the parent (as defined in section 1401 of this title) of the child for an initial evaluation to determine whether the child is a child with a disability.

(II) Exception

The agency shall not be required to obtain informed consent from the parent of a child for an initial evaluation to determine whether the child is a child with a disability if—

(aa) despite reasonable efforts to do so, the agency cannot discover the whereabouts of the parent of the child;

(bb) the rights of the parents of the child have been terminated in accordance with State law; or

(cc) the rights of the parent to make educational decisions have been subrogated by a judge in accordance with State law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the child.

(E) Rule of construction

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

(2) Reevaluations

(A) In general

A local educational agency shall ensure that a reevaluation of each child with a disability is conducted in accordance with subsections (b) and (c)—

(i) if the local educational agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or

(ii) if the child's parents or teacher requests a reevaluation.

(B) Limitation

A reevaluation conducted under subparagraph (A) shall occur—

(i) not more frequently than once a year, unless the parent and the local educational agency agree otherwise; and

(ii) at least once every 3 years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.

(b) Evaluation procedures

(1) Notice

The local educational agency shall provide notice to the parents of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 1415 of this title, that describes any evaluation procedures such agency proposes to conduct.

(2) Conduct of evaluation

In conducting the evaluation, the local educational agency shall—

(A) use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining—

(i) whether the child is a child with a disability; and

(ii) the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general education curriculum, or, for preschool children, to participate in appropriate activities;

(B) not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

(C) use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(3) Additional requirements

Each local educational agency shall ensure that—

(A) assessments and other evaluation materials used to assess a child under this section—

(i) are selected and administered so as not to be discriminatory on a racial or cultural basis;

(ii) are provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer;

(iii) are used for purposes for which the assessments or measures are valid and reliable;

(iv) are administered by trained and knowledgeable personnel; and

(v) are administered in accordance with any instructions provided by the producer of such assessments;

(B) the child is assessed in all areas of suspected disability;

(C) assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided; and

(D) assessments of children with disabilities who transfer from 1 school district to another school district in the same academic year are coordinated with such children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

(4) Determination of eligibility and educational need

Upon completion of the administration of assessments and other evaluation measures—

(A) the determination of whether the child is a child with a disability as defined in section 1401(3) of this title and the educational needs of the child shall be made by a team of qualified professionals and the parent of the child in accordance with paragraph (5); and

(B) a copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent.

(5) Special rule for eligibility determination

In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is—

(A) lack of appropriate instruction in reading, including in the essential components of reading instruction (as defined in section 6368(3) of this title);

(B) lack of instruction in math; or

(C) limited English proficiency.

(6) Specific learning disabilities

(A) In general

Notwithstanding section 1406(b) of this title, when determining whether a child has a specific learning disability as defined in section 1401 of this title, a local educational agency shall not be required to take into consideration whether a child has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.

(B) Additional authority

In determining whether a child has a specific learning disability, a local educational agency may use a process that determines if the child responds to scientific, research-based intervention as a part of the evaluation procedures described in paragraphs (2) and (3).

(c) Additional requirements for evaluation and reevaluations

(1) Review of existing evaluation data

As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team and other qualified professionals, as appropriate, shall—

(A) review existing evaluation data on the child, including—

(i) evaluations and information provided by the parents of the child;

(ii) current classroom-based, local, or State assessments, and classroom-based observations; and

(iii) observations by teachers and related services providers; and

(B) on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—

(i) whether the child is a child with a disability as defined in section 1401(3) of this title, and the educational needs of the child, or, in case of a reevaluation of a child, whether the child continues to have such a disability and such educational needs;

(ii) the present levels of academic achievement and related developmental needs of the child;

(iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general education curriculum.

(2) Source of data

The local educational agency shall administer such assessments and other evaluation measures as may be needed to produce the data identified by the IEP Team under paragraph (1)(B).

(3) Parental consent

Each local educational agency shall obtain informed parental consent, in accordance with subsection (a)(1)(D), prior to conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the local educational agency can demonstrate that it had taken reasonable measures to obtain such consent and the child's parent has failed to respond.

(4) Requirements if additional data are not needed

If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability and to determine the child's educational needs, the local educational agency—

(A) shall notify the child's parents of—

(i) that determination and the reasons for the determination; and

(ii) the right of such parents to request an assessment to determine whether the child continues to be a child with a disability and to determine the child's educational needs; and

(B) shall not be required to conduct such an assessment unless requested to by the child's parents.

(5) Evaluations before change in eligibility

(A) In general

Except as provided in subparagraph (B), a local educational agency shall evaluate a child with a disability in accordance with this section before determining that the child is no longer a child with a disability.

(B) Exception

(i) In general

The evaluation described in subparagraph (A) shall not be required before the termination of a child's eligibility under this subchapter due to graduation from secondary school with a regular diploma, or due to exceeding the age eligibility for a free appropriate public education under State law.

(ii) Summary of performance

For a child whose eligibility under this subchapter terminates under cir-

cumstances described in clause (i), a local educational agency shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

(d) Individualized education programs

(1) Definitions

In this chapter:

(A) Individualized education program

(i) In general

The term ''individualized education program'' or ''IEP'' means a written statement for each child with a disability that is developed, reviewed, and revised in accordance with this section and that includes—

(I) a statement of the child's present levels of academic achievement and functional performance, including—

(aa) how the child's disability affects the child's involvement and progress in the general education curriculum;

(bb) for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities; and

(cc) for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

(II) a statement of measurable annual goals, including academic and functional goals, designed to—

(aa) meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and

(bb) meet each of the child's other educational needs that result from the child's disability;

(III) a description of how the child's progress toward meeting the annual goals described in subclause (II) will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

(IV) a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child—

(aa) to advance appropriately toward attaining the annual goals;

(bb) to be involved in and make progress in the general education curriculum in accordance with subclause (I) and to participate in extracurricular and other nonacademic activities; and

(cc) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this subparagraph;

(V) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in subclause (IV)(cc);

(VI)(aa) a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 1412(a)(16)(A) of this title; and

(bb) if the IEP Team determines that the child shall take an alternate assessment on a particular State or districtwide assessment of student achievement, a statement of why—

(AA) the child cannot participate in the regular assessment; and

(BB) the particular alternate assessment selected is appropriate for the child;

(VII) the projected date for the beginning of the services and modifications described in subclause (IV), and the anticipated frequency, location, and duration of those services and modifications; and

(VIII) beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter—

(aa) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills;

(bb) the transition services (including courses of study) needed to assist the child in reaching those goals; and

(cc) beginning not later than 1 year before the child reaches the age of majority under State law, a statement that the child has been informed of the child's rights under this chapter, if any, that will transfer to the child on reaching the age of majority under section 1415(m) of this title.

(ii) Rule of construction

Nothing in this section shall be construed to require—

(I) that additional information be included in a child's IEP beyond what is explicitly required in this section; and

(II) the IEP Team to include information under 1 component of a child's IEP that is already contained under another component of such IEP.

(B) Individualized education program team

The term ''individualized education program team'' or ''IEP Team'' means a group of individuals composed of—

(i) the parents of a child with a disability;

(ii) not less than 1 regular education teacher of such child (if the child is, or may be, participating in the regular education environment);

(iii) not less than 1 special education teacher, or where appropriate, not less than 1 special education provider of such child;

(iv) a representative of the local educational agency who—

(I) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

(II) is knowledgeable about the general education curriculum; and

(III) is knowledgeable about the availability of resources of the local educational agency;

(v) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in clauses (ii) through (vi);

(vi) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(vii) whenever appropriate, the child with a disability.

(C) IEP Team attendance

(i) Attendance not necessary

A member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the local educational agency agree that the attendance of such member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

(ii) Excusal

A member of the IEP Team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if—

(I) the parent and the local educational agency consent to the excusal; and

(II) the member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

(iii) Written agreement and consent required

A parent's agreement under clause (i) and consent under clause (ii) shall be in writing.

(D) IEP Team transition

In the case of a child who was previously served under subchapter III, an invitation to the initial IEP meeting shall, at the request of the parent, be sent to the subchapter III service coordinator or other representatives of the subchapter III system to assist with the smooth transition of services.

(2) Requirement that program be in effect

(A) In general

At the beginning of each school year, each local educational agency, State educational agency, or other State agency, as the case may be, shall have in effect, for each child with a disability in the agency's jurisdiction, an individualized education program, as defined in paragraph (1)(A).

(B) Program for child aged 3 through 5

In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2-year-old child with a disability who will turn age 3 during the school year), the IEP Team shall consider the individualized family service plan that contains the material described in section 1436 of this title, and that is developed in accordance with this section, and the individualized family service plan may serve as the IEP of the child if using that plan as the IEP is—

(i) consistent with State policy; and

(ii) agreed to by the agency and the child's parents.

(C) Program for children who transfer school districts

(i) In general

(I) Transfer within the same State

In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in the same State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency adopts the previously held IEP or develops, adopts, and implements a new IEP that is consistent with Federal and State law.

(II) Transfer outside State

In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in another State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency conducts an evaluation pursuant to subsection (a)(1), if determined to be necessary by such agency, and develops a new IEP, if appropriate, that is consistent with Federal and State law.

(ii) Transmittal of records

To facilitate the transition for a child described in clause (i)—

(I) the new school in which the child enrolls shall take reasonable steps to promptly obtain the child's records, in-

cluding the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school in which the child was enrolled, pursuant to section 99.31(a)(2) of title 34, Code of Federal Regulations; and

(II) the previous school in which the child was enrolled shall take reasonable steps to promptly respond to such request from the new school.

(3) Development of IEP

(A) In general

In developing each child's IEP, the IEP Team, subject to subparagraph (C), shall consider—

(i) the strengths of the child;

(ii) the concerns of the parents for enhancing the education of their child;

(iii) the results of the initial evaluation or most recent evaluation of the child; and

(iv) the academic, developmental, and functional needs of the child.

(B) Consideration of special factors

The IEP Team shall—

(i) in the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior;

(ii) in the case of a child with limited English proficiency, consider the language needs of the child as such needs relate to the child's IEP;

(iii) in the case of a child who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the IEP Team determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the child;

(iv) consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and

(v) consider whether the child needs assistive technology devices and services.

(C) Requirement with respect to regular education teacher

A regular education teacher of the child, as a member of the IEP Team, shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and supports, and other strategies, and the determination of supplementary aids and services, program modifications, and support for school personnel consistent with paragraph (1)(A)(i)(IV).

(D) Agreement

In making changes to a child's IEP after the annual IEP meeting for a school year, the parent of a child with a disability and the local educational agency may agree not to convene an IEP meeting for the purposes of making such changes, and instead may develop a written document to amend or modify the child's current IEP.

(E) Consolidation of IEP Team meetings

To the extent possible, the local educational agency shall encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

(F) Amendments

Changes to the IEP may be made either by the entire IEP Team or, as provided in subparagraph (D), by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with the amendments incorporated.

(4) Review and revision of IEP

(A) In general

The local educational agency shall ensure that, subject to subparagraph (B), the IEP Team—

(i) reviews the child's IEP periodically, but not less frequently than annually, to determine whether the annual goals for the child are being achieved; and

(ii) revises the IEP as appropriate to address—

(I) any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate;

(II) the results of any reevaluation conducted under this section;

(III) information about the child provided to, or by, the parents, as described in subsection (c)(1)(B);

(IV) the child's anticipated needs; or

(V) other matters.

(B) Requirement with respect to regular education teacher

A regular education teacher of the child, as a member of the IEP Team, shall, consistent with paragraph (1)(C), participate in the review and revision of the IEP of the child.

(5) Multi-year IEP demonstration

(A) Pilot program

(i) Purpose

The purpose of this paragraph is to provide an opportunity for States to allow parents and local educational agencies the opportunity for long-term planning by offering the option of developing a comprehensive multi-year IEP, not to exceed 3 years, that is designed to coincide with the natural transition points for the child.

(ii) Authorization

In order to carry out the purpose of this paragraph, the Secretary is authorized to approve not more than 15 proposals from

States to carry out the activity described in clause (i).

(iii) Proposal

(I) In general

A State desiring to participate in the program under this paragraph shall submit a proposal to the Secretary at such time and in such manner as the Secretary may reasonably require.

(II) Content

The proposal shall include—

(aa) assurances that the development of a multi-year IEP under this paragraph is optional for parents;

(bb) assurances that the parent is required to provide informed consent before a comprehensive multi-year IEP is developed;

(cc) a list of required elements for each multi-year IEP, including—

(AA) measurable goals pursuant to paragraph (1)(A)(i)(II), coinciding with natural transition points for the child, that will enable the child to be involved in and make progress in the general education curriculum and that will meet the child's other needs that result from the child's disability; and

(BB) measurable annual goals for determining progress toward meeting the goals described in subitem (AA); and

(dd) a description of the process for the review and revision of each multi-year IEP, including—

(AA) a review by the IEP Team of the child's multi-year IEP at each of the child's natural transition points;

(BB) in years other than a child's natural transition points, an annual review of the child's IEP to determine the child's current levels of progress and whether the annual goals for the child are being achieved, and a requirement to amend the IEP, as appropriate, to enable the child to continue to meet the measurable goals set out in the IEP;

(CC) if the IEP Team determines on the basis of a review that the child is not making sufficient progress toward the goals described in the multi-year IEP, a requirement that the local educational agency shall ensure that the IEP Team carries out a more thorough review of the IEP in accordance with paragraph (4) within 30 calendar days; and

(DD) at the request of the parent, a requirement that the IEP Team shall conduct a review of the child's multi-year IEP rather than or subsequent to an annual review.

(B) Report

Beginning 2 years after December 3, 2004, the Secretary shall submit an annual report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate regarding the effectiveness of the program under this paragraph and any specific recommendations for broader implementation of such program, including—

(i) reducing—

(I) the paperwork burden on teachers, principals, administrators, and related service providers; and

(II) noninstructional time spent by teachers in complying with this subchapter;

(ii) enhancing longer-term educational planning;

(iii) improving positive outcomes for children with disabilities;

(iv) promoting collaboration between IEP Team members; and

(v) ensuring satisfaction of family members.

(C) Definition

In this paragraph, the term ''natural transition points'' means those periods that are close in time to the transition of a child with a disability from preschool to elementary grades, from elementary grades to middle or junior high school grades, from middle or junior high school grades to secondary school grades, and from secondary school grades to post-secondary activities, but in no case a period longer than 3 years.

(6) Failure to meet transition objectives

If a participating agency, other than the local educational agency, fails to provide the transition services described in the IEP in accordance with paragraph (1)(A)(i)(VIII), the local educational agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.

(7) Children with disabilities in adult prisons

(A) In general

The following requirements shall not apply to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

(i) The requirements contained in section 1412(a)(16) of this title and paragraph (1)(A)(i)(VI) (relating to participation of children with disabilities in general assessments).

(ii) The requirements of items (aa) and (bb) of paragraph (1)(A)(i)(VIII) (relating to transition planning and transition services), do not apply with respect to such children whose eligibility under this subchapter will end, because of such children's age, before such children will be released from prison.

(B) Additional requirement

If a child with a disability is convicted as an adult under State law and incarcerated in an adult prison, the child's IEP Team may modify the child's IEP or placement notwithstanding the requirements of sections[1]

[1] So in original. Probably should be ''section''.

1412(a)(5)(A) of this title and paragraph (1)(A) if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(e) Educational placements

Each local educational agency or State educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

(f) Alternative means of meeting participation

When conducting IEP team[2] meetings and placement meetings pursuant to this section, section 1415(e) of this title, and section 1415(f)(1)(B) of this title, and carrying out administrative matters under section 1415 of this title (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and a local educational agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.

(Pub. L. 91–230, title VI, § 614, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2702.)

PRIOR PROVISIONS

A prior section 1414, Pub. L. 91–230, title VI, § 614, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 81, related to evaluations, eligibility determinations, individualized education programs, and educational placements, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1414, Pub. L. 91–230, title VI, § 614, Apr. 13, 1970, 84 Stat. 181; Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 784; Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100–630, title I, § 102(d), Nov. 7, 1988, 102 Stat. 3293; Pub. L. 101–476, title IX, § 901(b)(59)–(70), Oct. 30, 1990, 104 Stat. 1144, 1145; Pub. L. 102–119, §§ 6, 25(b), Oct. 7, 1991, 105 Stat. 591, 607, related to requisite features of an application, approval of application by State educational agency, consolidated applications of local educational agencies, and provision of special education and related services directly to children with disabilities in areas not served by local educational agency, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

A prior section 1414a, Pub. L. 91–230, title VI, § 614A, as added Pub. L. 103–382, title III, § 312, Oct. 20, 1994, 108 Stat. 3934, which related to treatment of State agencies that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as in existence on the day preceding Oct. 20, 1994), was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1415. Procedural safeguards

(a) Establishment of procedures

Any State educational agency, State agency, or local educational agency that receives assistance under this subchapter shall establish and maintain procedures in accordance with this section to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education by such agencies.

(b) Types of procedures

The procedures required by this section shall include the following:

[2] So in original. Probably should be capitalized.

(1) An opportunity for the parents of a child with a disability to examine all records relating to such child and to participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child.

(2)(A) Procedures to protect the rights of the child whenever the parents of the child are not known, the agency cannot, after reasonable efforts, locate the parents, or the child is a ward of the State, including the assignment of an individual to act as a surrogate for the parents, which surrogate shall not be an employee of the State educational agency, the local educational agency, or any other agency that is involved in the education or care of the child. In the case of—

(i) a child who is a ward of the State, such surrogate may alternatively be appointed by the judge overseeing the child's care provided that the surrogate meets the requirements of this paragraph; and

(ii) an unaccompanied homeless youth as defined in section 11434a(6) of title 42, the local educational agency shall appoint a surrogate in accordance with this paragraph.

(B) The State shall make reasonable efforts to ensure the assignment of a surrogate not more than 30 days after there is a determination by the agency that the child needs a surrogate.

(3) Written prior notice to the parents of the child, in accordance with subsection (c)(1), whenever the local educational agency—

(A) proposes to initiate or change; or

(B) refuses to initiate or change,

the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child.

(4) Procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so.

(5) An opportunity for mediation, in accordance with subsection (e).

(6) An opportunity for any party to present a complaint—

(A) with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child; and

(B) which sets forth an alleged violation that occurred not more than 2 years before the date the parent or public agency knew or should have known about the alleged action that forms the basis of the complaint, or, if the State has an explicit time limitation for presenting such a complaint under this subchapter, in such time as the State law allows, except that the exceptions to the timeline described in subsection (f)(3)(D) shall apply to the timeline described in this subparagraph.

(7)(A) Procedures that require either party, or the attorney representing a party, to provide due process complaint notice in accordance with subsection (c)(2) (which shall remain confidential)—

(i) to the other party, in the complaint filed under paragraph (6), and forward a copy of such notice to the State educational agency; and

(ii) that shall include—

(I) the name of the child, the address of the residence of the child (or available contact information in the case of a homeless child), and the name of the school the child is attending;

(II) in the case of a homeless child or youth (within the meaning of section 11434a(2) of title 42), available contact information for the child and the name of the school the child is attending;

(III) a description of the nature of the problem of the child relating to such proposed initiation or change, including facts relating to such problem; and

(IV) a proposed resolution of the problem to the extent known and available to the party at the time.

(B) A requirement that a party may not have a due process hearing until the party, or the attorney representing the party, files a notice that meets the requirements of subparagraph (A)(ii).

(8) Procedures that require the State educational agency to develop a model form to assist parents in filing a complaint and due process complaint notice in accordance with paragraphs (6) and (7), respectively.

(c) Notification requirements

(1) Content of prior written notice

The notice required by subsection (b)(3) shall include—

(A) a description of the action proposed or refused by the agency;

(B) an explanation of why the agency proposes or refuses to take the action and a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the proposed or refused action;

(C) a statement that the parents of a child with a disability have protection under the procedural safeguards of this subchapter and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained;

(D) sources for parents to contact to obtain assistance in understanding the provisions of this subchapter;

(E) a description of other options considered by the IEP Team and the reason why those options were rejected; and

(F) a description of the factors that are relevant to the agency's proposal or refusal.

(2) Due process complaint notice

(A) Complaint

The due process complaint notice required under subsection (b)(7)(A) shall be deemed to be sufficient unless the party receiving the notice notifies the hearing officer and the other party in writing that the receiving party believes the notice has not met the requirements of subsection (b)(7)(A).

(B) Response to complaint

(i) Local educational agency response

(I) In general

If the local educational agency has not sent a prior written notice to the parent regarding the subject matter contained in the parent's due process complaint notice, such local educational agency shall, within 10 days of receiving the complaint, send to the parent a response that shall include—

(aa) an explanation of why the agency proposed or refused to take the action raised in the complaint;

(bb) a description of other options that the IEP Team considered and the reasons why those options were rejected;

(cc) a description of each evaluation procedure, assessment, record, or report the agency used as the basis for the proposed or refused action; and

(dd) a description of the factors that are relevant to the agency's proposal or refusal.

(II) Sufficiency

A response filed by a local educational agency pursuant to subclause (I) shall not be construed to preclude such local educational agency from asserting that the parent's due process complaint notice was insufficient where appropriate.

(ii) Other party response

Except as provided in clause (i), the noncomplaining party shall, within 10 days of receiving the complaint, send to the complaint a response that specifically addresses the issues raised in the complaint.

(C) Timing

The party providing a hearing officer notification under subparagraph (A) shall provide the notification within 15 days of receiving the complaint.

(D) Determination

Within 5 days of receipt of the notification provided under subparagraph (C), the hearing officer shall make a determination on the face of the notice of whether the notification meets the requirements of subsection (b)(7)(A), and shall immediately notify the parties in writing of such determination.

(E) Amended complaint notice

(i) In general

A party may amend its due process complaint notice only if—

(I) the other party consents in writing to such amendment and is given the opportunity to resolve the complaint through a meeting held pursuant to subsection (f)(1)(B); or

(II) the hearing officer grants permission, except that the hearing officer may only grant such permission at any time not later than 5 days before a due process hearing occurs.

(ii) Applicable timeline

The applicable timeline for a due process hearing under this subchapter shall recom-

mence at the time the party files an amended notice, including the timeline under subsection (f)(1)(B).

(d) Procedural safeguards notice

(1) In general

(A) Copy to parents

A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents only 1 time a year, except that a copy also shall be given to the parents—

(i) upon initial referral or parental request for evaluation;

(ii) upon the first occurrence of the filing of a complaint under subsection (b)(6); and

(iii) upon request by a parent.

(B) Internet website

A local educational agency may place a current copy of the procedural safeguards notice on its Internet website if such website exists.

(2) Contents

The procedural safeguards notice shall include a full explanation of the procedural safeguards, written in the native language of the parents (unless it clearly is not feasible to do so) and written in an easily understandable manner, available under this section and under regulations promulgated by the Secretary relating to—

(A) independent educational evaluation;

(B) prior written notice;

(C) parental consent;

(D) access to educational records;

(E) the opportunity to present and resolve complaints, including—

(i) the time period in which to make a complaint;

(ii) the opportunity for the agency to resolve the complaint; and

(iii) the availability of mediation;

(F) the child's placement during pendency of due process proceedings;

(G) procedures for students who are subject to placement in an interim alternative educational setting;

(H) requirements for unilateral placement by parents of children in private schools at public expense;

(I) due process hearings, including requirements for disclosure of evaluation results and recommendations;

(J) State-level appeals (if applicable in that State);

(K) civil actions, including the time period in which to file such actions; and

(L) attorneys' fees.

(e) Mediation

(1) In general

Any State educational agency or local educational agency that receives assistance under this subchapter shall ensure that procedures are established and implemented to allow parties to disputes involving any matter, including matters arising prior to the filing of a complaint pursuant to subsection (b)(6), to resolve such disputes through a mediation process.

(2) Requirements

Such procedures shall meet the following requirements:

(A) The procedures shall ensure that the mediation process—

(i) is voluntary on the part of the parties;

(ii) is not used to deny or delay a parent's right to a due process hearing under subsection (f), or to deny any other rights afforded under this subchapter; and

(iii) is conducted by a qualified and impartial mediator who is trained in effective mediation techniques.

(B) OPPORTUNITY TO MEET WITH A DISINTERESTED PARTY.—A local educational agency or a State agency may establish procedures to offer to parents and schools that choose not to use the mediation process, an opportunity to meet, at a time and location convenient to the parents, with a disinterested party who is under contract with—

(i) a parent training and information center or community parent resource center in the State established under section 1471 or 1472 of this title; or

(ii) an appropriate alternative dispute resolution entity,

to encourage the use, and explain the benefits, of the mediation process to the parents.

(C) LIST OF QUALIFIED MEDIATORS.—The State shall maintain a list of individuals who are qualified mediators and knowledgeable in laws and regulations relating to the provision of special education and related services.

(D) COSTS.—The State shall bear the cost of the mediation process, including the costs of meetings described in subparagraph (B).

(E) SCHEDULING AND LOCATION.—Each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient to the parties to the dispute.

(F) WRITTEN AGREEMENT.—In the case that a resolution is reached to resolve the complaint through the mediation process, the parties shall execute a legally binding agreement that sets forth such resolution and that—

(i) states that all discussions that occurred during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding;

(ii) is signed by both the parent and a representative of the agency who has the authority to bind such agency; and

(iii) is enforceable in any State court of competent jurisdiction or in a district court of the United States.

(G) MEDIATION DISCUSSIONS.—Discussions that occur during the mediation process shall be confidential and may not be used as evidence in any subsequent due process hearing or civil proceeding.

(f) Impartial due process hearing

(1) In general

(A) Hearing

Whenever a complaint has been received under subsection (b)(6) or (k), the parents or the local educational agency involved in such complaint shall have an opportunity for an impartial due process hearing, which shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency.

(B) Resolution session

(i) Preliminary meeting

Prior to the opportunity for an impartial due process hearing under subparagraph (A), the local educational agency shall convene a meeting with the parents and the relevant member or members of the IEP Team who have specific knowledge of the facts identified in the complaint—

(I) within 15 days of receiving notice of the parents' complaint;

(II) which shall include a representative of the agency who has decision-making authority on behalf of such agency;

(III) which may not include an attorney of the local educational agency unless the parent is accompanied by an attorney; and

(IV) where the parents of the child discuss their complaint, and the facts that form the basis of the complaint, and the local educational agency is provided the opportunity to resolve the complaint,

unless the parents and the local educational agency agree in writing to waive such meeting, or agree to use the mediation process described in subsection (e).

(ii) Hearing

If the local educational agency has not resolved the complaint to the satisfaction of the parents within 30 days of the receipt of the complaint, the due process hearing may occur, and all of the applicable timelines for a due process hearing under this subchapter shall commence.

(iii) Written settlement agreement

In the case that a resolution is reached to resolve the complaint at a meeting described in clause (i), the parties shall execute a legally binding agreement that is—

(I) signed by both the parent and a representative of the agency who has the authority to bind such agency; and

(II) enforceable in any State court of competent jurisdiction or in a district court of the United States.

(iv) Review period

If the parties execute an agreement pursuant to clause (iii), a party may void such agreement within 3 business days of the agreement's execution.

(2) Disclosure of evaluations and recommendations

(A) In general

Not less than 5 business days prior to a hearing conducted pursuant to paragraph (1), each party shall disclose to all other parties all evaluations completed by that date, and recommendations based on the offering party's evaluations, that the party intends to use at the hearing.

(B) Failure to disclose

A hearing officer may bar any party that fails to comply with subparagraph (A) from introducing the relevant evaluation or recommendation at the hearing without the consent of the other party.

(3) Limitations on hearing

(A) Person conducting hearing

A hearing officer conducting a hearing pursuant to paragraph (1)(A) shall, at a minimum—

(i) not be—

(I) an employee of the State educational agency or the local educational agency involved in the education or care of the child; or

(II) a person having a personal or professional interest that conflicts with the person's objectivity in the hearing;

(ii) possess knowledge of, and the ability to understand, the provisions of this chapter, Federal and State regulations pertaining to this chapter, and legal interpretations of this chapter by Federal and State courts;

(iii) possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice; and

(iv) possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice.

(B) Subject matter of hearing

The party requesting the due process hearing shall not be allowed to raise issues at the due process hearing that were not raised in the notice filed under subsection (b)(7), unless the other party agrees otherwise.

(C) Timeline for requesting hearing

A parent or agency shall request an impartial due process hearing within 2 years of the date the parent or agency knew or should have known about the alleged action that forms the basis of the complaint, or, if the State has an explicit time limitation for requesting such a hearing under this subchapter, in such time as the State law allows.

(D) Exceptions to the timeline

The timeline described in subparagraph (C) shall not apply to a parent if the parent was prevented from requesting the hearing due to—

(i) specific misrepresentations by the local educational agency that it had resolved the problem forming the basis of the complaint; or

(ii) the local educational agency's withholding of information from the parent that was required under this subchapter to be provided to the parent.

(E) Decision of hearing officer

(i) In general

Subject to clause (ii), a decision made by a hearing officer shall be made on substantive grounds based on a determination of whether the child received a free appropriate public education.

(ii) Procedural issues

In matters alleging a procedural violation, a hearing officer may find that a child did not receive a free appropriate public education only if the procedural inadequacies—

(I) impeded the child's right to a free appropriate public education;

(II) significantly impeded the parents' opportunity to participate in the decisionmaking process regarding the provision of a free appropriate public education to the parents' child; or

(III) caused a deprivation of educational benefits.

(iii) Rule of construction

Nothing in this subparagraph shall be construed to preclude a hearing officer from ordering a local educational agency to comply with procedural requirements under this section.

(F) Rule of construction

Nothing in this paragraph shall be construed to affect the right of a parent to file a complaint with the State educational agency.

(g) Appeal

(1) In general

If the hearing required by subsection (f) is conducted by a local educational agency, any party aggrieved by the findings and decision rendered in such a hearing may appeal such findings and decision to the State educational agency.

(2) Impartial review and independent decision

The State educational agency shall conduct an impartial review of the findings and decision appealed under paragraph (1). The officer conducting such review shall make an independent decision upon completion of such review.

(h) Safeguards

Any party to a hearing conducted pursuant to subsection (f) or (k), or an appeal conducted pursuant to subsection (g), shall be accorded—

(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses;

(3) the right to a written, or, at the option of the parents, electronic verbatim record of such hearing; and

(4) the right to written, or, at the option of the parents, electronic findings of fact and decisions, which findings and decisions—

(A) shall be made available to the public consistent with the requirements of section 1417(b) of this title (relating to the confidentiality of data, information, and records); and

(B) shall be transmitted to the advisory panel established pursuant to section 1412(a)(21) of this title.

(i) Administrative procedures

(1) In general

(A) Decision made in hearing

A decision made in a hearing conducted pursuant to subsection (f) or (k) shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (g) and paragraph (2).

(B) Decision made at appeal

A decision made under subsection (g) shall be final, except that any party may bring an action under paragraph (2).

(2) Right to bring civil action

(A) In general

Any party aggrieved by the findings and decision made under subsection (f) or (k) who does not have the right to an appeal under subsection (g), and any party aggrieved by the findings and decision made under this subsection, shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States, without regard to the amount in controversy.

(B) Limitation

The party bringing the action shall have 90 days from the date of the decision of the hearing officer to bring such an action, or, if the State has an explicit time limitation for bringing such action under this subchapter, in such time as the State law allows.

(C) Additional requirements

In any action brought under this paragraph, the court—

(i) shall receive the records of the administrative proceedings;

(ii) shall hear additional evidence at the request of a party; and

(iii) basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(3) Jurisdiction of district courts; attorneys' fees

(A) In general

The district courts of the United States shall have jurisdiction of actions brought under this section without regard to the amount in controversy.

(B) Award of attorneys' fees

(i) In general

In any action or proceeding brought under this section, the court, in its discre-

tion, may award reasonable attorneys' fees as part of the costs—

(I) to a prevailing party who is the parent of a child with a disability;

(II) to a prevailing party who is a State educational agency or local educational agency against the attorney of a parent who files a complaint or subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or

(III) to a prevailing State educational agency or local educational agency against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

(ii) Rule of construction

Nothing in this subparagraph shall be construed to affect section 327 of the District of Columbia Appropriations Act, 2005.

(C) Determination of amount of attorneys' fees

Fees awarded under this paragraph shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded under this subsection.

(D) Prohibition of attorneys' fees and related costs for certain services

(i) In general

Attorneys' fees may not be awarded and related costs may not be reimbursed in any action or proceeding under this section for services performed subsequent to the time of a written offer of settlement to a parent if—

(I) the offer is made within the time prescribed by Rule 68 of the Federal Rules of Civil Procedure or, in the case of an administrative proceeding, at any time more than 10 days before the proceeding begins;

(II) the offer is not accepted within 10 days; and

(III) the court or administrative hearing officer finds that the relief finally obtained by the parents is not more favorable to the parents than the offer of settlement.

(ii) IEP Team meetings

Attorneys' fees may not be awarded relating to any meeting of the IEP Team unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection (e).

(iii) Opportunity to resolve complaints

A meeting conducted pursuant to subsection (f)(1)(B)(i) shall not be considered—

(I) a meeting convened as a result of an administrative hearing or judicial action; or

(II) an administrative hearing or judicial action for purposes of this paragraph.

(E) Exception to prohibition on attorneys' fees and related costs

Notwithstanding subparagraph (D), an award of attorneys' fees and related costs may be made to a parent who is the prevailing party and who was substantially justified in rejecting the settlement offer.

(F) Reduction in amount of attorneys' fees

Except as provided in subparagraph (G), whenever the court finds that—

(i) the parent, or the parent's attorney, during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

(ii) the amount of the attorneys' fees otherwise authorized to be awarded unreasonably exceeds the hourly rate prevailing in the community for similar services by attorneys of reasonably comparable skill, reputation, and experience;

(iii) the time spent and legal services furnished were excessive considering the nature of the action or proceeding; or

(iv) the attorney representing the parent did not provide to the local educational agency the appropriate information in the notice of the complaint described in subsection (b)(7)(A),

the court shall reduce, accordingly, the amount of the attorneys' fees awarded under this section.

(G) Exception to reduction in amount of attorneys' fees

The provisions of subparagraph (F) shall not apply in any action or proceeding if the court finds that the State or local educational agency unreasonably protracted the final resolution of the action or proceeding or there was a violation of this section.

(j) Maintenance of current educational placement

Except as provided in subsection (k)(4), during the pendency of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents otherwise agree, the child shall remain in the then-current educational placement of the child, or, if applying for initial admission to a public school, shall, with the consent of the parents, be placed in the public school program until all such proceedings have been completed.

(k) Placement in alternative educational setting

(1) Authority of school personnel

(A) Case-by-case determination

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

(B) Authority

School personnel under this subsection may remove a child with a disability who

violates a code of student conduct from their current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives are applied to children without disabilities).

(C) Additional authority

If school personnel seek to order a change in placement that would exceed 10 school days and the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to subparagraph (E), the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner and for the same duration in which the procedures would be applied to children without disabilities, except as provided in section 1412(a)(1) of this title although it may be provided in an interim alternative educational setting.

(D) Services

A child with a disability who is removed from the child's current placement under subparagraph (G) (irrespective of whether the behavior is determined to be a manifestation of the child's disability) or subparagraph (C) shall—

(i) continue to receive educational services, as provided in section 1412(a)(1) of this title, so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(ii) receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

(E) Manifestation determination

(i) In general

Except as provided in subparagraph (B), within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the local educational agency, the parent, and relevant members of the IEP Team (as determined by the parent and the local educational agency) shall review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parents to determine—

(I) if the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or

(II) if the conduct in question was the direct result of the local educational agency's failure to implement the IEP.

(ii) Manifestation

If the local educational agency, the parent, and relevant members of the IEP Team determine that either subclause (I) or (II) of clause (i) is applicable for the child, the conduct shall be determined to be a manifestation of the child's disability.

(F) Determination that behavior was a manifestation

If the local educational agency, the parent, and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team shall—

(i) conduct a functional behavioral assessment, and implement a behavioral intervention plan for such child, provided that the local educational agency had not conducted such assessment prior to such determination before the behavior that resulted in a change in placement described in subparagraph (C) or (G);

(ii) in the situation where a behavioral intervention plan has been developed, review the behavioral intervention plan if the child already has such a behavioral intervention plan, and modify it, as necessary, to address the behavior; and

(iii) except as provided in subparagraph (G), return the child to the placement from which the child was removed, unless the parent and the local educational agency agree to a change of placement as part of the modification of the behavioral intervention plan.

(G) Special circumstances

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, in cases where a child—

(i) carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a State or local educational agency;

(ii) knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency; or

(iii) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency.

(H) Notification

Not later than the date on which the decision to take disciplinary action is made, the local educational agency shall notify the parents of that decision, and of all procedural safeguards accorded under this section.

(2) Determination of setting

The interim alternative educational setting in subparagraphs (C) and (G) of paragraph (1) shall be determined by the IEP Team.

(3) Appeal

(A) In general

The parent of a child with a disability who disagrees with any decision regarding place-

ment, or the manifestation determination under this subsection, or a local educational agency that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or to others, may request a hearing.

(B) Authority of hearing officer

(i) In general

A hearing officer shall hear, and make a determination regarding, an appeal requested under subparagraph (A).

(ii) Change of placement order

In making the determination under clause (i), the hearing officer may order a change in placement of a child with a disability. In such situations, the hearing officer may—

(I) return a child with a disability to the placement from which the child was removed; or

(II) order a change in placement of a child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of such child is substantially likely to result in injury to the child or to others.

(4) Placement during appeals

When an appeal under paragraph (3) has been requested by either the parent or the local educational agency—

(A) the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period provided for in paragraph (1)(C), whichever occurs first, unless the parent and the State or local educational agency agree otherwise; and

(B) the State or local educational agency shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination within 10 school days after the hearing.

(5) Protections for children not yet eligible for special education and related services

(A) In general

A child who has not been determined to be eligible for special education and related services under this subchapter and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided for in this subchapter if the local educational agency had knowledge (as determined in accordance with this paragraph) that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

(B) Basis of knowledge

A local educational agency shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred—

(i) the parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;

(ii) the parent of the child has requested an evaluation of the child pursuant to section 1414(a)(1)(B) of this title; or

(iii) the teacher of the child, or other personnel of the local educational agency, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education of such agency or to other supervisory personnel of the agency.

(C) Exception

A local educational agency shall not be deemed to have knowledge that the child is a child with a disability if the parent of the child has not allowed an evaluation of the child pursuant to section 1414 of this title or has refused services under this subchapter or the child has been evaluated and it was determined that the child was not a child with a disability under this subchapter.

(D) Conditions that apply if no basis of knowledge

(i) In general

If a local educational agency does not have knowledge that a child is a child with a disability (in accordance with subparagraph (B) or (C)) prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with clause (ii).

(ii) Limitations

If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures under this subsection, the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, the agency shall provide special education and related services in accordance with this subchapter, except that, pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

(6) Referral to and action by law enforcement and judicial authorities

(A) Rule of construction

Nothing in this subchapter shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

(B) Transmittal of records

An agency reporting a crime committed by a child with a disability shall ensure that

copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

(7) Definitions

In this subsection:

(A) Controlled substance

The term ''controlled substance'' means a drug or other substance identified under schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

(B) Illegal drug

The term ''illegal drug'' means a controlled substance but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under that Act [21 U.S.C. 801 et seq.] or under any other provision of Federal law.

(C) Weapon

The term ''weapon'' has the meaning given the term ''dangerous weapon'' under section 930(g)(2) of title 18.

(D) Serious bodily injury

The term ''serious bodily injury'' has the meaning given the term ''serious bodily injury'' under paragraph (3) of subsection (h) of section 1365 of title 18.

(*l*) Rule of construction

Nothing in this chapter shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.], title V of the Rehabilitation Act of 1973 [29 U.S.C. 790 et seq.], or other Federal laws protecting the rights of children with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this subchapter, the procedures under subsections (f) and (g) shall be exhausted to the same extent as would be required had the action been brought under this subchapter.

(m) Transfer of parental rights at age of majority

(1) In general

A State that receives amounts from a grant under this subchapter may provide that, when a child with a disability reaches the age of majority under State law (except for a child with a disability who has been determined to be incompetent under State law)—

(A) the agency shall provide any notice required by this section to both the individual and the parents;

(B) all other rights accorded to parents under this subchapter transfer to the child;

(C) the agency shall notify the individual and the parents of the transfer of rights; and

(D) all rights accorded to parents under this subchapter transfer to children who are incarcerated in an adult or juvenile Federal, State, or local correctional institution.

(2) Special rule

If, under State law, a child with a disability who has reached the age of majority under State law, who has not been determined to be incompetent, but who is determined not to have the ability to provide informed consent with respect to the educational program of the child, the State shall establish procedures for appointing the parent of the child, or if the parent is not available, another appropriate individual, to represent the educational interests of the child throughout the period of eligibility of the child under this subchapter.

(n) Electronic mail

A parent of a child with a disability may elect to receive notices required under this section by an electronic mail (e-mail) communication, if the agency makes such option available.

(*o*) Separate complaint

Nothing in this section shall be construed to preclude a parent from filing a separate due process complaint on an issue separate from a due process complaint already filed.

(Pub. L. 91–230, title VI, § 615, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2715.)

REFERENCES IN TEXT

Section 327 of the District of Columbia Appropriations Act, 2005, referred to in subsec. (i)(3)(B)(ii), is section 327 of Pub. L. 108–335, title III, Oct. 18, 2004, 118 Stat. 1344, which is not classified to the Code.

The Federal Rules of Civil Procedure, referred to in subsec. (i)(3)(D)(i)(I), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Controlled Substances Act, referred to in subsec. (k)(7)(B), is title II of Pub. L. 91–513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (§ 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (*l*), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, as amended, which is classified principally to chapter 126 (§ 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (*l*), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended. Title V of the Act is classified generally to subchapter V (§ 790 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

PRIOR PROVISIONS

A prior section 1415, Pub. L. 91–230, title VI, § 615, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 88; amended Pub. L. 106–25, § 6(a), Apr. 29, 1999, 113 Stat. 49, related to procedural safeguards, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1415, Pub. L. 91–230, title VI, § 615, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 788; amended Pub. L. 99–372, §§ 2, 3, Aug. 5, 1986, 100 Stat. 796, 797; Pub. L. 100–630, title I, § 102(e), Nov. 7, 1988, 102 Stat. 3294; Pub. L. 101–476, title IX, § 901(b)(71)–(75), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607; Pub. L. 103–382, title III, § 314(a)(1), Oct. 20, 1994, 108 Stat. 3936, related to procedural safeguards, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1416. Monitoring, technical assistance, and enforcement

(a) Federal and State monitoring

(1) In general

The Secretary shall—

(A) monitor implementation of this subchapter through—

(i) oversight of the exercise of general supervision by the States, as required in section 1412(a)(11) of this title; and

(ii) the State performance plans, described in subsection (b);

(B) enforce this subchapter in accordance with subsection (e); and

(C) require States to—

(i) monitor implementation of this subchapter by local educational agencies; and

(ii) enforce this subchapter in accordance with paragraph (3) and subsection (e).

(2) Focused monitoring

The primary focus of Federal and State monitoring activities described in paragraph (1) shall be on—

(A) improving educational results and functional outcomes for all children with disabilities; and

(B) ensuring that States meet the program requirements under this subchapter, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

(3) Monitoring priorities

The Secretary shall monitor the States, and shall require each State to monitor the local educational agencies located in the State (except the State exercise of general supervisory responsibility), using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in the following priority areas:

(A) Provision of a free appropriate public education in the least restrictive environment.

(B) State exercise of general supervisory authority, including child find, effective monitoring, the use of resolution sessions, mediation, voluntary binding arbitration, and a system of transition services as defined in sections 1401(34) and 1437(a)(9) of this title.

(C) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification.

(4) Permissive areas of review

The Secretary shall consider other relevant information and data, including data provided by States under section 1418 of this title.

(b) State performance plans

(1) Plan

(A) In general

Not later than 1 year after December 3, 2004, each State shall have in place a performance plan that evaluates that State's efforts to implement the requirements and purposes of this subchapter and describes how the State will improve such implementation.

(B) Submission for approval

Each State shall submit the State's performance plan to the Secretary for approval in accordance with the approval process described in subsection (c).

(C) Review

Each State shall review its State performance plan at least once every 6 years and submit any amendments to the Secretary.

(2) Targets

(A) In general

As a part of the State performance plan described under paragraph (1), each State shall establish measurable and rigorous targets for the indicators established under the priority areas described in subsection (a)(3).

(B) Data collection

(i) In general

Each State shall collect valid and reliable information as needed to report annually to the Secretary on the priority areas described in subsection (a)(3).

(ii) Rule of construction

Nothing in this chapter shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this subchapter.

(C) Public reporting and privacy

(i) In general

The State shall use the targets established in the plan and priority areas described in subsection (a)(3) to analyze the performance of each local educational agency in the State in implementing this subchapter.

(ii) Report

(I) Public report

The State shall report annually to the public on the performance of each local educational agency located in the State on the targets in the State's performance plan. The State shall make the State's performance plan available through public means, including by posting on the website of the State educational agency, distribution to the media, and distribution through public agencies.

(II) State performance report

The State shall report annually to the Secretary on the performance of the State under the State's performance plan.

(iii) Privacy

The State shall not report to the public or the Secretary any information on performance that would result in the disclo-

sure of personally identifiable information about individual children or where the available data is insufficient to yield statistically reliable information.

(c) Approval process

(1) Deemed approval

The Secretary shall review (including the specific provisions described in subsection (b)) each performance plan submitted by a State pursuant to subsection (b)(1)(B) and the plan shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the plan, that the plan does not meet the requirements of this section, including the specific provisions described in subsection (b).

(2) Disapproval

The Secretary shall not finally disapprove a performance plan, except after giving the State notice and an opportunity for a hearing.

(3) Notification

If the Secretary finds that the plan does not meet the requirements, in whole or in part, of this section, the Secretary shall—

(A) give the State notice and an opportunity for a hearing; and

(B) notify the State of the finding, and in such notification shall—

(i) cite the specific provisions in the plan that do not meet the requirements; and

(ii) request additional information, only as to the provisions not meeting the requirements, needed for the plan to meet the requirements of this section.

(4) Response

If the State responds to the Secretary's notification described in paragraph (3)(B) during the 30-day period beginning on the date on which the State received the notification, and resubmits the plan with the requested information described in paragraph (3)(B)(ii), the Secretary shall approve or disapprove such plan prior to the later of—

(A) the expiration of the 30-day period beginning on the date on which the plan is resubmitted; or

(B) the expiration of the 120-day period described in paragraph (1).

(5) Failure to respond

If the State does not respond to the Secretary's notification described in paragraph (3)(B) during the 30-day period beginning on the date on which the State received the notification, such plan shall be deemed to be disapproved.

(d) Secretary's review and determination

(1) Review

The Secretary shall annually review the State performance report submitted pursuant to subsection (b)(2)(C)(ii)(II) in accordance with this section.

(2) Determination

(A) In general

Based on the information provided by the State in the State performance report, information obtained through monitoring visits, and any other public information made available, the Secretary shall determine if the State—

(i) meets the requirements and purposes of this subchapter;

(ii) needs assistance in implementing the requirements of this subchapter;

(iii) needs intervention in implementing the requirements of this subchapter; or

(iv) needs substantial intervention in implementing the requirements of this subchapter.

(B) Notice and opportunity for a hearing

For determinations made under clause (iii) or (iv) of subparagraph (A), the Secretary shall provide reasonable notice and an opportunity for a hearing on such determination.

(e) Enforcement

(1) Needs assistance

If the Secretary determines, for 2 consecutive years, that a State needs assistance under subsection (d)(2)(A)(ii) in implementing the requirements of this subchapter, the Secretary shall take 1 or more of the following actions:

(A) Advise the State of available sources of technical assistance that may help the State address the areas in which the State needs assistance, which may include assistance from the Office of Special Education Programs, other offices of the Department of Education, other Federal agencies, technical assistance providers approved by the Secretary, and other federally funded nonprofit agencies, and require the State to work with appropriate entities. Such technical assistance may include—

(i) the provision of advice by experts to address the areas in which the State needs assistance, including explicit plans for addressing the area for concern within a specified period of time;

(ii) assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research;

(iii) designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and support; and

(iv) devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under subchapter IV, and private providers of scientifically based technical assistance.

(B) Direct the use of State-level funds under section 1411(e) of this title on the area or areas in which the State needs assistance.

(C) Identify the State as a high-risk grantee and impose special conditions on the State's grant under this subchapter.

(2) Needs intervention

If the Secretary determines, for 3 or more consecutive years, that a State needs intervention under subsection (d)(2)(A)(iii) in implementing the requirements of this subchapter, the following shall apply:

(A) The Secretary may take any of the actions described in paragraph (1).

(B) The Secretary shall take 1 or more of the following actions:

(i) Require the State to prepare a corrective action plan or improvement plan if the Secretary determines that the State should be able to correct the problem within 1 year.

(ii) Require the State to enter into a compliance agreement under section 457 of the General Education Provisions Act [20 U.S.C. 1234f], if the Secretary has reason to believe that the State cannot correct the problem within 1 year.

(iii) For each year of the determination, withhold not less than 20 percent and not more than 50 percent of the State's funds under section 1411(e) of this title, until the Secretary determines the State has sufficiently addressed the areas in which the State needs intervention.

(iv) Seek to recover funds under section 452 of the General Education Provisions Act [20 U.S.C. 1234a].

(v) Withhold, in whole or in part, any further payments to the State under this subchapter pursuant to paragraph (5).

(vi) Refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.

(3) Needs substantial intervention

Notwithstanding paragraph (1) or (2), at any time that the Secretary determines that a State needs substantial intervention in implementing the requirements of this subchapter or that there is a substantial failure to comply with any condition of a State educational agency's or local educational agency's eligibility under this subchapter, the Secretary shall take 1 or more of the following actions:

(A) Recover funds under section 452 of the General Education Provisions Act [20 U.S.C. 1234a].

(B) Withhold, in whole or in part, any further payments to the State under this subchapter.

(C) Refer the case to the Office of the Inspector General at the Department of Education.

(D) Refer the matter for appropriate enforcement action, which may include referral to the Department of Justice.

(4) Opportunity for hearing

(A) Withholding funds

Prior to withholding any funds under this section, the Secretary shall provide reasonable notice and an opportunity for a hearing to the State educational agency involved.

(B) Suspension

Pending the outcome of any hearing to withhold payments under subsection (b), the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate funds under this subchapter, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate funds under this subchapter should not be suspended.

(5) Report to Congress

The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate within 30 days of taking enforcement action pursuant to paragraph (1), (2), or (3), on the specific action taken and the reasons why enforcement action was taken.

(6) Nature of withholding

(A) Limitation

If the Secretary withholds further payments pursuant to paragraph (2) or (3), the Secretary may determine—

(i) that such withholding will be limited to programs or projects, or portions of programs or projects, that affected the Secretary's determination under subsection (d)(2); or

(ii) that the State educational agency shall not make further payments under this subchapter to specified State agencies or local educational agencies that caused or were involved in the Secretary's determination under subsection (d)(2).

(B) Withholding until rectified

Until the Secretary is satisfied that the condition that caused the initial withholding has been substantially rectified—

(i) payments to the State under this subchapter shall be withheld in whole or in part; and

(ii) payments by the State educational agency under this subchapter shall be limited to State agencies and local educational agencies whose actions did not cause or were not involved in the Secretary's determination under subsection (d)(2), as the case may be.

(7) Public attention

Any State that has received notice under subsection (d)(2) shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the State.

(8) Judicial review

(A) In general

If any State is dissatisfied with the Secretary's action with respect to the eligibility of the State under section 1412 of this title, such State may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record

of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28.

(B) Jurisdiction; review by United States Supreme Court

Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(C) Standard of review

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall be conclusive if supported by substantial evidence.

(f) State enforcement

If a State educational agency determines that a local educational agency is not meeting the requirements of this subchapter, including the targets in the State's performance plan, the State educational agency shall prohibit the local educational agency from reducing the local educational agency's maintenance of effort under section 1413(a)(2)(C) of this title for any fiscal year.

(g) Rule of construction

Nothing in this section shall be construed to restrict the Secretary from utilizing any authority under the General Education Provisions Act [20 U.S.C. 1221 et seq.] to monitor and enforce the requirements of this chapter.

(h) Divided State agency responsibility

For purposes of this section, where responsibility for ensuring that the requirements of this subchapter are met with respect to children with disabilities who are convicted as adults under State law and incarcerated in adult prisons is assigned to a public agency other than the State educational agency pursuant to section 1412(a)(11)(C) of this title, the Secretary, in instances where the Secretary finds that the failure to comply substantially with the provisions of this subchapter are related to a failure by the public agency, shall take appropriate corrective action to ensure compliance with this subchapter, except that—

(1) any reduction or withholding of payments to the State shall be proportionate to the total funds allotted under section 1411 of this title to the State as the number of eligible children with disabilities in adult prisons under the supervision of the other public agency is proportionate to the number of eligible individuals with disabilities in the State under the supervision of the State educational agency; and

(2) any withholding of funds under paragraph (1) shall be limited to the specific agency responsible for the failure to comply with this subchapter.

(i) Data capacity and technical assistance review

The Secretary shall—

(1) review the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of this section is collected, analyzed, and accurately reported to the Secretary; and

(2) provide technical assistance (from funds reserved under section 1411(c) of this title), where needed, to improve the capacity of States to meet the data collection requirements.

(Pub. L. 91–230, title VI, § 616, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2731.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (g), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

A prior section 1416, Pub. L. 91–230, title VI, § 616, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 99, related to withholding of payments and judicial review, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1416, Pub. L. 91–230, title VI, § 616, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 789; amended Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100–630, title I, § 102(f), Nov. 7, 1988, 102 Stat. 3294; Pub. L. 101–476, title IX, § 901(b)(76), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to withholding of payments, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1417. Administration

(a) Responsibilities of Secretary

The Secretary shall—

(1) cooperate with, and (directly or by grant or contract) furnish technical assistance necessary to, a State in matters relating to—

(A) the education of children with disabilities; and

(B) carrying out this subchapter; and

(2) provide short-term training programs and institutes.

(b) Prohibition against Federal mandates, direction, or control

Nothing in this chapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction.

(c) Confidentiality

The Secretary shall take appropriate action, in accordance with section 1232g of this title, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State educational agencies and local educational agencies pursuant to this subchapter.

(d) Personnel

The Secretary is authorized to hire qualified personnel necessary to carry out the Secretary's duties under subsection (a), under section 1418 of this title, and under part D of subchapter IV, without regard to the provisions of title 5 relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, except that no more than 20 such personnel shall be employed at any time.

(e) Model forms

Not later than the date that the Secretary publishes final regulations under this chapter, to implement amendments made by the Individuals with Disabilities Education Improvement Act of 2004, the Secretary shall publish and disseminate widely to States, local educational agencies, and parent and community training and information centers—

(1) a model IEP form;

(2) a model individualized family service plan (IFSP) form;

(3) a model form of the notice of procedural safeguards described in section 1415(d) of this title; and

(4) a model form of the prior written notice described in subsections (b)(3) and (c)(1) of section 1415 of this title that is consistent with the requirements of this subchapter and is sufficient to meet such requirements.

(Pub. L. 91–230, title VI, §617, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2737.)

REFERENCES IN TEXT

The provisions of title 5 relating to appointments in the competitive service, referred to in subsec. (d), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The Individuals with Disabilities Education Improvement Act of 2004, referred to in subsec. (e), is Pub. L. 108–446, Dec. 3, 2004, 118 Stat. 2647. For complete classification of this Act to the Code, see Short Title of 2004 Amendment note set out under section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 1417, Pub. L. 91–230, title VI, §617, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 100, related to Secretary's administrative duties, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1417, Pub. L. 91–230, title VI, §617, as added Pub. L. 94–142, §5(a), Nov. 29, 1975, 89 Stat. 791; amended Pub. L. 98–199, §3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 100–630, title I, §102(g), Nov. 7, 1988, 102 Stat. 3295; Pub. L. 101–476, title IX, §901(b)(77), (78), Oct. 30, 1990, 104 Stat. 1145; Pub. L. 102–119, §25(a)(7), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to Secretary's administrative duties, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§1418. Program information

(a) In general

Each State that receives assistance under this subchapter, and the Secretary of the Interior, shall provide data each year to the Secretary of Education and the public on the following:

(1)(A) The number and percentage of children with disabilities, by race, ethnicity, limited English proficiency status, gender, and disability category, who are in each of the following separate categories:

(i) Receiving a free appropriate public education.

(ii) Participating in regular education.

(iii) In separate classes, separate schools or facilities, or public or private residential facilities.

(iv) For each year of age from age 14 through 21, stopped receiving special education and related services because of program completion (including graduation with a regular secondary school diploma), or other reasons, and the reasons why those children stopped receiving special education and related services.

(v)(I) Removed to an interim alternative educational setting under section 1415(k)(1) of this title.

(II) The acts or items precipitating those removals.

(III) The number of children with disabilities who are subject to long-term suspensions or expulsions.

(B) The number and percentage of children with disabilities, by race, gender, and ethnicity, who are receiving early intervention services.

(C) The number and percentage of children with disabilities, by race, gender, and ethnicity, who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons.

(D) The incidence and duration of disciplinary actions by race, ethnicity, limited English proficiency status, gender, and disability category, of children with disabilities, including suspensions of 1 day or more.

(E) The number and percentage of children with disabilities who are removed to alternative educational settings or expelled as compared to children without disabilities who are removed to alternative educational settings or expelled.

(F) The number of due process complaints filed under section 1415 of this title and the number of hearings conducted.

(G) The number of hearings requested under section 1415(k) of this title and the number of changes in placements ordered as a result of those hearings.

(H) The number of mediations held and the number of settlement agreements reached through such mediations.

(2) The number and percentage of infants and toddlers, by race, and ethnicity, who are at risk of having substantial developmental delays (as defined in section 1432 of this title), and who are receiving early intervention services under subchapter III.

(3) Any other information that may be required by the Secretary.

(b) Data reporting

(1) Protection of identifiable data

The data described in subsection (a) shall be publicly reported by each State in a manner that does not result in the disclosure of data identifiable to individual children.

(2) Sampling

The Secretary may permit States and the Secretary of the Interior to obtain the data described in subsection (a) through sampling.

(c) Technical assistance

The Secretary may provide technical assistance to States to ensure compliance with the data collection and reporting requirements under this chapter.

(d) Disproportionality

(1) In general

Each State that receives assistance under this subchapter, and the Secretary of the Interior, shall provide for the collection and examination of data to determine if significant disproportionality based on race and ethnicity is occurring in the State and the local educational agencies of the State with respect to—

(A) the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment described in section 1401(3) of this title;

(B) the placement in particular educational settings of such children; and

(C) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

(2) Review and revision of policies, practices, and procedures

In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with paragraph (1), the State or the Secretary of the Interior, as the case may be, shall—

(A) provide for the review and, if appropriate, revision of the policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of this chapter;

(B) require any local educational agency identified under paragraph (1) to reserve the maximum amount of funds under section 1413(f) of this title to provide comprehensive coordinated early intervening services to serve children in the local educational agency, particularly children in those groups that were significantly overidentified under paragraph (1); and

(C) require the local educational agency to publicly report on the revision of policies, practices, and procedures described under subparagraph (A).

(Pub. L. 91–230, title VI, § 618, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2738.)

PRIOR PROVISIONS

A prior section 1418, Pub. L. 91–230, title VI, § 618, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 101, related to program information, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1418, Pub. L. 91–230, title VI, § 618, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 791; amended Pub. L. 98–199, §§ 3(b), 8, Dec. 2, 1983, 97 Stat. 1358, 1360; Pub. L. 99–457, title IV, § 406, Oct. 8, 1986, 100 Stat. 1174; Pub. L. 100–630, title I, § 102(h), Nov. 7, 1988, 102 Stat. 3295; Pub. L. 101–476, title II, § 203, Oct. 30, 1990, 104 Stat. 1112, related to evaluation and program information, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1419. Preschool grants

(a) In general

The Secretary shall provide grants under this section to assist States to provide special education and related services, in accordance with this subchapter—

(1) to children with disabilities aged 3 through 5, inclusive; and

(2) at the State's discretion, to 2-year-old children with disabilities who will turn 3 during the school year.

(b) Eligibility

A State shall be eligible for a grant under this section if such State—

(1) is eligible under section 1412 of this title to receive a grant under this subchapter; and

(2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the State.

(c) Allocations to States

(1) In general

The Secretary shall allocate the amount made available to carry out this section for a fiscal year among the States in accordance with paragraph (2) or (3), as the case may be.

(2) Increase in funds

If the amount available for allocations to States under paragraph (1) for a fiscal year is equal to or greater than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

(A) Allocation

(i) In general

Except as provided in subparagraph (B), the Secretary shall—

(I) allocate to each State the amount the State received under this section for fiscal year 1997;

(II) allocate 85 percent of any remaining funds to States on the basis of the States' relative populations of children aged 3 through 5; and

(III) allocate 15 percent of those remaining funds to States on the basis of the States' relative populations of all children aged 3 through 5 who are living in poverty.

(ii) Data

For the purpose of making grants under this paragraph, the Secretary shall use the most recent population data, including data on children living in poverty, that are available and satisfactory to the Secretary.

(B) Limitations

Notwithstanding subparagraph (A), allocations under this paragraph shall be subject to the following:

(i) Preceding years

No State's allocation shall be less than its allocation under this section for the preceding fiscal year.

(ii) Minimum

No State's allocation shall be less than the greatest of—

(I) the sum of—

(aa) the amount the State received under this section for fiscal year 1997; and

(bb) ⅓ of 1 percent of the amount by which the amount appropriated under subsection (j) for the fiscal year exceeds the amount appropriated for this section for fiscal year 1997;

(II) the sum of—

(aa) the amount the State received under this section for the preceding fiscal year; and

(bb) that amount multiplied by the percentage by which the increase in the funds appropriated under this section from the preceding fiscal year exceeds 1.5 percent; or

(III) the sum of—

(aa) the amount the State received under this section for the preceding fiscal year; and

(bb) that amount multiplied by 90 percent of the percentage increase in the amount appropriated under this section from the preceding fiscal year.

(iii) Maximum

Notwithstanding clause (ii), no State's allocation under this paragraph shall exceed the sum of—

(I) the amount the State received under this section for the preceding fiscal year; and

(II) that amount multiplied by the sum of 1.5 percent and the percentage increase in the amount appropriated under this section from the preceding fiscal year.

(C) Ratable reductions

If the amount available for allocations under this paragraph is insufficient to pay those allocations in full, those allocations shall be ratably reduced, subject to subparagraph (B)(i).

(3) Decrease in funds

If the amount available for allocations to States under paragraph (1) for a fiscal year is less than the amount allocated to the States under this section for the preceding fiscal year, those allocations shall be calculated as follows:

(A) Allocations

If the amount available for allocations is greater than the amount allocated to the States for fiscal year 1997, each State shall be allocated the sum of—

(i) the amount the State received under this section for fiscal year 1997; and

(ii) an amount that bears the same relation to any remaining funds as the increase the State received under this section for the preceding fiscal year over fiscal year 1997 bears to the total of all such increases for all States.

(B) Ratable reductions

If the amount available for allocations is equal to or less than the amount allocated to the States for fiscal year 1997, each State shall be allocated the amount the State received for fiscal year 1997, ratably reduced, if necessary.

(d) Reservation for State activities

(1) In general

Each State may reserve not more than the amount described in paragraph (2) for administration and other State-level activities in accordance with subsections (e) and (f).

(2) Amount described

For each fiscal year, the Secretary shall determine and report to the State educational agency an amount that is 25 percent of the amount the State received under this section for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—

(A) the percentage increase, if any, from the preceding fiscal year in the State's allocation under this section; or

(B) the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(e) State administration

(1) In general

For the purpose of administering this section (including the coordination of activities under this subchapter with, and providing technical assistance to, other programs that provide services to children with disabilities) a State may use not more than 20 percent of the maximum amount the State may reserve under subsection (d) for any fiscal year.

(2) Administration of subchapter III

Funds described in paragraph (1) may also be used for the administration of subchapter III.

(f) Other State-level activities

Each State shall use any funds the State reserves under subsection (d) and does not use for administration under subsection (e)—

(1) for support services (including establishing and implementing the mediation process required by section 1415(e) of this title), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities aged 3 through 5;

(2) for direct services for children eligible for services under this section;

(3) for activities at the State and local levels to meet the performance goals established by the State under section 1412(a)(15) of this title;

(4) to supplement other funds used to develop and implement a statewide coordinated services system designed to improve results for children and families, including children

with disabilities and their families, but not more than 1 percent of the amount received by the State under this section for a fiscal year;

(5) to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with subchapter III to children with disabilities who are eligible for services under this section and who previously received services under subchapter III until such children enter, or are eligible under State law to enter, kindergarten; or

(6) at the State's discretion, to continue service coordination or case management for families who receive services under subchapter III.

(g) Subgrants to local educational agencies

(1) Subgrants required

Each State that receives a grant under this section for any fiscal year shall distribute all of the grant funds that the State does not reserve under subsection (d) to local educational agencies in the State that have established their eligibility under section 1413 of this title, as follows:

(A) Base payments

The State shall first award each local educational agency described in paragraph (1) the amount that agency would have received under this section for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 1419(c)(3) of this title, as such section was then in effect.

(B) Allocation of remaining funds

After making allocations under subparagraph (A), the State shall—

(i) allocate 85 percent of any remaining funds to those local educational agencies on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the local educational agency's jurisdiction; and

(ii) allocate 15 percent of those remaining funds to those local educational agencies in accordance with their relative numbers of children living in poverty, as determined by the State educational agency.

(2) Reallocation of funds

If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities aged 3 through 5 residing in the area served by the local educational agency with State and local funds, the State educational agency may reallocate any portion of the funds under this section that are not needed by that local educational agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities aged 3 through 5 residing in the areas the other local educational agencies serve.

(h) Subchapter III inapplicable

Subchapter III does not apply to any child with a disability receiving a free appropriate public education, in accordance with this subchapter, with funds received under this section.

(i) State defined

In this section, the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(j) Authorization of appropriations

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

(Pub. L. 91–230, title VI, § 619, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2740.)

PRIOR PROVISIONS

A prior section 1419, Pub. L. 91–230, title VI, § 619, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 102, related to preschool grants, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1419, Pub. L. 91–230, title VI, § 619, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 793; amended Pub. L. 98–199, §§ 3(b), 9, Dec. 2, 1983, 97 Stat. 1358, 1363; Pub. L. 99–457, title II, § 201(a), Oct. 8, 1986, 100 Stat. 1155; Pub. L. 100–630, title I, § 102(i), Nov. 7, 1988, 102 Stat. 3296; Pub. L. 101–476, title IX, § 901(b)(79)–(93), Oct. 30, 1990, 104 Stat. 1145, 1146; Pub. L. 102–119, §§ 7, 25(b), Oct. 7, 1991, 105 Stat. 591, 607, related to preschool grants, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

A prior section 1420, Pub. L. 91–230, title VI, § 620, as added Pub. L. 94–142, § 5(a), Nov. 29, 1975, 89 Stat. 793; amended Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358, which related to payments to States and distribution by States to local educational agencies and intermediate educational units, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

Prior sections 1421 to 1427, which comprised former subchapter III of this chapter, were repealed by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

Section 1421, Pub. L. 91–230, title VI, § 621, Apr. 13, 1970, 84 Stat. 181; Pub. L. 98–199, §§ 3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1363; Pub. L. 99–457, title III, § 301, Oct. 8, 1986, 100 Stat. 1159; Pub. L. 100–630, title I, § 103(b), Nov. 7, 1988, 102 Stat. 3296; Pub. L. 101–476, title III, § 301, title IX, § 901(b)(95)–(99), Oct. 30, 1990, 104 Stat. 1117, 1146; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to establishment and operation of regional and Federal resource centers.

Section 1422, Pub. L. 91–230, title VI, § 622, Apr. 13, 1970, 84 Stat. 182; Pub. L. 98–199, §§ 3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1364; Pub. L. 99–457, title III, § 302, Oct. 8, 1986, 100 Stat. 1160; Pub. L. 100–630, title I, § 103(c), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101–476, title III, § 302, Oct. 30, 1990, 104 Stat. 1118; Pub. L. 102–119, § 25(a)(8), Oct. 7, 1991, 105 Stat. 606; Pub. L. 103–382, title III, § 391(f)(3), Oct. 20, 1994, 108 Stat. 4023, related to services for deaf-blind children and youth.

Section 1423, Pub. L. 91–230, title VI, § 623, Apr. 13, 1970, 84 Stat. 183; Pub. L. 98–199, §§ 3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1365; Pub. L. 99–457, title III, § 303, Oct. 8, 1986, 100 Stat. 1161; Pub. L. 100–630, title I, § 103(d), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101–476, title III, § 303, title IX, § 901(b)(100)–(106), Oct. 30, 1990, 104 Stat. 1121, 1146, 1147; Pub. L. 102–119, §§ 8, 25(a)(9), (b), Oct. 7, 1991, 105 Stat. 592, 606, 607, related to early education for children with disabilities.

Section 1424, Pub. L. 91–230, title VI, § 624, Apr. 13, 1970, 84 Stat. 183; Pub. L. 98–199, §§ 3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1366; Pub. L. 99–457, title III, § 304, Oct. 8, 1986, 100 Stat. 1162; Pub. L. 100–630, title I, § 103(e), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101–476, title III, § 304, title IX, § 901(b)(107)–(110), Oct. 30, 1990, 104 Stat. 1122, 1147; Pub. L. 102–119, § 25(a)(10), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to programs for children with severe disabilities.

Section 1424a, Pub. L. 91–230, title VI, § 625, as added Pub. L. 93–380, title VI, § 616, Aug. 21, 1974, 88 Stat. 584; amended Pub. L. 98–199, §§ 3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1367; Pub. L. 99–457, title III, § 305, Oct. 8, 1986, 100 Stat. 1162; Pub. L. 100–630, title I, § 103(f), Nov. 7, 1988, 102 Stat. 3297; Pub. L. 101–476, title III, § 305, title IX, § 901(b)(111)–(118), Oct. 30, 1990, 104 Stat. 1123, 1147; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607; Pub. L. 102–421, title II, § 201(a), Oct. 16, 1992, 106 Stat. 2164, related to programs of postsecondary, vocational, technical, continuing, or adult education for individuals with disabilities.

Section 1425, Pub. L. 91–230, title VI, § 626, formerly § 625, Apr. 13, 1970, 84 Stat. 183, renumbered § 626, Pub. L. 93–380, title VI, § 616, Aug. 21, 1974, 88 Stat. 584; amended Pub. L. 98–199, §§ 3(b), 10, Dec. 2, 1983, 97 Stat. 1358, 1367; Pub. L. 99–457, title III, § 306, Oct. 8, 1986, 100 Stat. 1163; Pub. L. 100–630, title I, § 103(g), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101–476, title III, § 306, title IX, § 901(b)(119)–(127), Oct. 30, 1990, 104 Stat. 1124, 1147, 1148; Pub. L. 102–119, § 25(a)(11), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to secondary education and transitional services for youth with disabilities.

Section 1426, Pub. L. 91–230, title VI, § 627, formerly § 626, Apr. 13, 1970, 84 Stat. 184, renumbered § 627 and amended Pub. L. 93–380, title VI, §§ 616, 617, Aug. 21, 1974, 88 Stat. 584; Pub. L. 95–49, § 2, June 17, 1977, 91 Stat. 230; Pub. L. 98–199, § 10, Dec. 2, 1983, 97 Stat. 1368; Pub. L. 101–476, title III, § 307, Oct. 30, 1990, 104 Stat. 1127, related to programs for children and youth with serious emotional disturbance.

Section 1427, Pub. L. 91–230, title VI, § 628, as added Pub. L. 98–199, § 10, Dec. 2, 1983, 97 Stat. 1368; amended Pub. L. 99–457, title III, § 307, Oct. 8, 1986, 100 Stat. 1165; Pub. L. 101–476, title III, § 308, Oct. 30, 1990, 104 Stat. 1128, authorized appropriations.

PRESCHOOL GRANTS

Pub. L. 100–630, title I, § 110, Nov. 7, 1988, 102 Stat. 3303, as amended by Pub. L. 101–476, title IX, § 901(a)(3), Oct. 30, 1990, 104 Stat. 1142, provided that: ''The provisions of section 300.300(b)(3) of title 34, Code of Federal Regulations, shall not apply with respect to children aged 3 through 5, inclusive, in any State for any fiscal year for which the State receives a grant under section 619(a)(1) of the Individuals with Disabilities Education Act [20 U.S.C. 1419(a)(1)].''

SUBCHAPTER III—INFANTS AND TODDLERS WITH DISABILITIES

§ 1431. Findings and policy

(a) Findings

Congress finds that there is an urgent and substantial need—

(1) to enhance the development of infants and toddlers with disabilities, to minimize their potential for developmental delay, and to recognize the significant brain development that occurs during a child's first 3 years of life;

(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after infants and toddlers with disabilities reach school age;

(3) to maximize the potential for individuals with disabilities to live independently in society;

(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and

(5) to enhance the capacity of State and local agencies and service providers to identify, evaluate, and meet the needs of all children, particularly minority, low-income, inner city, and rural children, and infants and toddlers in foster care.

(b) Policy

It is the policy of the United States to provide financial assistance to States—

(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system that provides early intervention services for infants and toddlers with disabilities and their families;

(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage);

(3) to enhance State capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families; and

(4) to encourage States to expand opportunities for children under 3 years of age who would be at risk of having substantial developmental delay if they did not receive early intervention services.

(Pub. L. 91–230, title VI, § 631, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2744.)

PRIOR PROVISIONS

A prior section 1431, Pub. L. 91–230, title VI, § 631, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 106, set out findings and policy, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1431, Pub. L. 91–230, title VI, § 631, Apr. 13, 1970, 84 Stat. 184; Pub. L. 98–199, §§ 3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1369; Pub. L. 99–457, title III, § 308, Oct. 8, 1986, 100 Stat. 1165; Pub. L. 100–630, title I, § 104(b), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101–476, title IV, § 401, title IX, § 901(b)(129)–(142), Oct. 30, 1990, 104 Stat. 1129, 1148; Pub. L. 102–119, §§ 9(a), (b), 25(a)(12), (b), Oct. 7, 1991, 105 Stat. 593, 594, 606, 607; Pub. L. 102–421, title II, § 202, Oct. 16, 1992, 106 Stat. 2165; Pub. L. 102–569, title IX, § 912(a), Oct. 29, 1992, 106 Stat. 4486; Pub. L. 103–73, title III, § 302, Aug. 11, 1993, 107 Stat. 736; Pub. L. 103–218, title IV, § 401, Mar. 9, 1994, 108 Stat. 95, related to grants for personnel training, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

EFFECTIVE DATE

Subchapter effective July 1, 2005, see section 302(a) of Pub. L. 108–446, set out as a note under section 1400 of this title.

§ 1432. Definitions

In this subchapter:

(1) At-risk infant or toddler

The term ''at-risk infant or toddler'' means an individual under 3 years of age who would be at risk of experiencing a substantial developmental delay if early intervention services were not provided to the individual.

(2) Council

The term ''council'' means a State interagency coordinating council established under section 1441 of this title.

(3) Developmental delay

The term ''developmental delay'', when used with respect to an individual residing in a State, has the meaning given such term by the State under section 1435(a)(1) of this title.

(4) Early intervention services

The term ''early intervention services'' means developmental services that—

(A) are provided under public supervision;

(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees;

(C) are designed to meet the developmental needs of an infant or toddler with a disability, as identified by the individualized family service plan team, in any 1 or more of the following areas:

(i) physical development;

(ii) cognitive development;

(iii) communication development;

(iv) social or emotional development; or

(v) adaptive development;

(D) meet the standards of the State in which the services are provided, including the requirements of this subchapter;

(E) include—

(i) family training, counseling, and home visits;

(ii) special instruction;

(iii) speech-language pathology and audiology services, and sign language and cued language services;

(iv) occupational therapy;

(v) physical therapy;

(vi) psychological services;

(vii) service coordination services;

(viii) medical services only for diagnostic or evaluation purposes;

(ix) early identification, screening, and assessment services;

(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services;

(xi) social work services;

(xii) vision services;

(xiii) assistive technology devices and assistive technology services; and

(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in this paragraph;

(F) are provided by qualified personnel, including—

(i) special educators;

(ii) speech-language pathologists and audiologists;

(iii) occupational therapists;

(iv) physical therapists;

(v) psychologists;

(vi) social workers;

(vii) nurses;

(viii) registered dietitians;

(ix) family therapists;

(x) vision specialists, including ophthalmologists and optometrists;

(xi) orientation and mobility specialists; and

(xii) pediatricians and other physicians;

(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate; and

(H) are provided in conformity with an individualized family service plan adopted in accordance with section 1436 of this title.

(5) Infant or toddler with a disability

The term ''infant or toddler with a disability''—

(A) means an individual under 3 years of age who needs early intervention services because the individual—

(i) is experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in 1 or more of the areas of cognitive development, physical development, communication development, social or emotional development, and adaptive development; or

(ii) has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay; and

(B) may also include, at a State's discretion—

(i) at-risk infants and toddlers; and

(ii) children with disabilities who are eligible for services under section 1419 of this title and who previously received services under this subchapter until such children enter, or are eligible under State law to enter, kindergarten or elementary school, as appropriate, provided that any programs under this subchapter serving such children shall include—

(I) an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills; and

(II) a written notification to parents of their rights and responsibilities in determining whether their child will continue to receive services under this subchapter or participate in preschool programs under section 1419 of this title.

(Pub. L. 91–230, title VI, § 632, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2744.)

PRIOR PROVISIONS

A prior section 1432, Pub. L. 91–230, title VI, § 632, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 106, set out definitions for this subchapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1432, Pub. L. 91–230, title VI, § 632, Apr. 13, 1970, 84 Stat. 184; Pub. L. 98–199, §§ 3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1371; Pub. L. 99–457, title III, § 309, Oct. 8, 1986, 100 Stat. 1168; Pub. L. 100–630, title I, § 104(c), Nov. 7, 1988, 102 Stat. 3298; Pub. L. 101–476, title IV, § 402, title IX, § 901(b)(143), Oct. 30, 1990, 104 Stat. 1132, 1148; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to grants to State educational agencies and institutions for traineeships, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1433. General authority

The Secretary shall, in accordance with this subchapter, make grants to States (from their allotments under section 1443 of this title) to assist each State to maintain and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

(Pub. L. 91–230, title VI, § 633, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2746.)

PRIOR PROVISIONS

A prior section 1433, Pub. L. 91–230, title VI, § 633, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 108, related to the general authority of the Secretary, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1433, Pub. L. 91–230, title VI, § 633, Apr. 13, 1970, 84 Stat. 184; Pub. L. 98–199, §§ 3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1371; Pub. L. 99–457, title III, § 310, Oct. 8, 1986, 100 Stat. 1168; Pub. L. 100–630, title I, § 104(e), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101–476, title IV, § 403, title IX, § 901(b)(144), Oct. 30, 1990, 104 Stat. 1133, 1149; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to establishment of national clearinghouses, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1434. Eligibility

In order to be eligible for a grant under section 1433 of this title, a State shall provide assurances to the Secretary that the State—

(1) has adopted a policy that appropriate early intervention services are available to all infants and toddlers with disabilities in the State and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State, infants and toddlers with disabilities who are homeless children and their families, and infants and toddlers with disabilities who are wards of the State; and

(2) has in effect a statewide system that meets the requirements of section 1435 of this title.

(Pub. L. 91–230, title VI, § 634, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2746.)

PRIOR PROVISIONS

A prior section 1434, Pub. L. 91–230, title VI, § 634, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 108, related to grant eligibility, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1434, Pub. L. 91–230, title VI, § 634, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98–199, §§ 3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1372; Pub. L. 101–476, title IV, § 404, Oct. 30, 1990, 104 Stat. 1135; Pub. L. 102–119, § 9(c)(1), Oct. 7, 1991, 105 Stat. 595, related to reports to Secretary by recipients of grants and contracts, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1435. Requirements for statewide system

(a) In general

A statewide system described in section 1433 of this title shall include, at a minimum, the following components:

(1) A rigorous definition of the term ''developmental delay'' that will be used by the State in carrying out programs under this subchapter in order to appropriately identify infants and toddlers with disabilities that are in need of services under this subchapter.

(2) A State policy that is in effect and that ensures that appropriate early intervention services based on scientifically based research, to the extent practicable, are available to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities and their families residing on a reservation geographically located in the State and infants and toddlers with disabilities who are homeless children and their families.

(3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant or toddler with a disability in the State, and a family-directed identification of the needs of each family of such an infant or toddler, to assist appropriately in the development of the infant or toddler.

(4) For each infant or toddler with a disability in the State, an individualized family service plan in accordance with section 1436 of this title, including service coordination services in accordance with such service plan.

(5) A comprehensive child find system, consistent with subchapter II, including a system for making referrals to service providers that includes timelines and provides for participation by primary referral sources and that ensures rigorous standards for appropriately identifying infants and toddlers with disabilities for services under this subchapter that will reduce the need for future services.

(6) A public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency designated or established under paragraph (10) to all primary referral sources, especially hospitals and physicians, of information to be given to parents, especially to inform parents with premature infants, or infants with other physical risk factors associated with learning or developmental complications, on the availability of early intervention services under this subchapter and of services under section 1419 of this title, and procedures for assisting such sources in disseminating such information to parents of infants and toddlers with disabilities.

(7) A central directory that includes information on early intervention services, resources, and experts available in the State and research and demonstration projects being conducted in the State.

(8) A comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State that—

(A) shall include—

(i) implementing innovative strategies and activities for the recruitment and retention of early education service providers;

(ii) promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this subchapter; and

(iii) training personnel to coordinate transition services for infants and toddlers served under this subchapter from a program providing early intervention services under this subchapter and under subchapter II (other than section 1419 of this title), to a preschool program receiving

funds under section 1419 of this title, or another appropriate program; and

(B) may include—

(i) training personnel to work in rural and inner-city areas; and

(ii) training personnel in the emotional and social development of young children.

(9) Policies and procedures relating to the establishment and maintenance of qualifications to ensure that personnel necessary to carry out this subchapter are appropriately and adequately prepared and trained, including the establishment and maintenance of qualifications that are consistent with any State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing early intervention services, except that nothing in this subchapter (including this paragraph) shall be construed to prohibit the use of paraprofessionals and assistants who are appropriately trained and supervised in accordance with State law, regulation, or written policy, to assist in the provision of early intervention services under this subchapter to infants and toddlers with disabilities.

(10) A single line of responsibility in a lead agency designated or established by the Governor for carrying out—

(A) the general administration and supervision of programs and activities receiving assistance under section 1433 of this title, and the monitoring of programs and activities used by the State to carry out this subchapter, whether or not such programs or activities are receiving assistance made available under section 1433 of this title, to ensure that the State complies with this subchapter;

(B) the identification and coordination of all available resources within the State from Federal, State, local, and private sources;

(C) the assignment of financial responsibility in accordance with section 1437(a)(2) of this title to the appropriate agencies;

(D) the development of procedures to ensure that services are provided to infants and toddlers with disabilities and their families under this subchapter in a timely manner pending the resolution of any disputes among public agencies or service providers;

(E) the resolution of intra- and interagency disputes; and

(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination.

(11) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this subchapter, including the contents of the application used and the conditions of the contract or other arrangements.

(12) A procedure for securing timely reimbursements of funds used under this subchapter in accordance with section 1440(a) of this title.

(13) Procedural safeguards with respect to programs under this subchapter, as required by section 1439 of this title.

(14) A system for compiling data requested by the Secretary under section 1418 of this title that relates to this subchapter.

(15) A State interagency coordinating council that meets the requirements of section 1441 of this title.

(16) Policies and procedures to ensure that, consistent with section 1436(d)(5) of this title—

(A) to the maximum extent appropriate, early intervention services are provided in natural environments; and

(B) the provision of early intervention services for any infant or toddler with a disability occurs in a setting other than a natural environment that is most appropriate, as determined by the parent and the individualized family service plan team, only when early intervention cannot be achieved satisfactorily for the infant or toddler in a natural environment.

(b) Policy

In implementing subsection (a)(9), a State may adopt a policy that includes making ongoing good-faith efforts to recruit and hire appropriately and adequately trained personnel to provide early intervention services to infants and toddlers with disabilities, including, in a geographic area of the State where there is a shortage of such personnel, the most qualified individuals available who are making satisfactory progress toward completing applicable course work necessary to meet the standards described in subsection (a)(9).

(c) Flexibility to serve children 3 years of age until entrance into elementary school

(1) In general

A statewide system described in section 1433 of this title may include a State policy, developed and implemented jointly by the lead agency and the State educational agency, under which parents of children with disabilities who are eligible for services under section 1419 of this title and previously received services under this subchapter, may choose the continuation of early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) for such children under this subchapter until such children enter, or are eligible under State law to enter, kindergarten.

(2) Requirements

If a statewide system includes a State policy described in paragraph (1), the statewide system shall ensure that—

(A) parents of children with disabilities served pursuant to this subsection are provided annual notice that contains—

(i) a description of the rights of such parents to elect to receive services pursuant to this subsection or under subchapter II; and

(ii) an explanation of the differences between services provided pursuant to this

subsection and services provided under subchapter II, including—

(I) types of services and the locations at which the services are provided;

(II) applicable procedural safeguards; and

(III) possible costs (including any fees to be charged to families as described in section 1432(4)(B)) of this title, if any, to parents of infants or toddlers with disabilities;

(B) services provided pursuant to this subsection include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills;

(C) the State policy will not affect the right of any child served pursuant to this subsection to instead receive a free appropriate public education under subchapter II;

(D) all early intervention services outlined in the child's individualized family service plan under section 1436 of this title are continued while any eligibility determination is being made for services under this subsection;

(E) the parents of infants or toddlers with disabilities (as defined in section 1432(5)(A) of this title) provide informed written consent to the State, before such infants or toddlers reach 3 years of age, as to whether such parents intend to choose the continuation of early intervention services pursuant to this subsection for such infants or toddlers;

(F) the requirements under section 1437(a)(9) of this title shall not apply with respect to a child who is receiving services in accordance with this subsection until not less than 90 days (and at the discretion of the parties to the conference, not more than 9 months) before the time the child will no longer receive those services; and

(G) there will be a referral for evaluation for early intervention services of a child who experiences a substantiated case of trauma due to exposure to family violence (as defined in section 10421 of title 42).

(3) Reporting requirement

If a statewide system includes a State policy described in paragraph (1), the State shall submit to the Secretary, in the State's report under section 1437(b)(4)(A) of this title, a report on the number and percentage of children with disabilities who are eligible for services under section 1419 of this title but whose parents choose for such children to continue to receive early intervention services under this subchapter.

(4) Available funds

If a statewide system includes a State policy described in paragraph (1), the policy shall describe the funds (including an identification as Federal, State, or local funds) that will be used to ensure that the option described in paragraph (1) is available to eligible children and families who provide the consent described in paragraph (2)(E), including fees (if any) to be charged to families as described in section 1432(4)(B) of this title.

(5) Rules of construction

(A) Services under subchapter II

If a statewide system includes a State policy described in paragraph (1), a State that provides services in accordance with this subsection to a child with a disability who is eligible for services under section 1419 of this title shall not be required to provide the child with a free appropriate public education under subchapter II for the period of time in which the child is receiving services under this subchapter.

(B) Services under this subchapter

Nothing in this subsection shall be construed to require a provider of services under this subchapter to provide a child served under this subchapter with a free appropriate public education.

(Pub. L. 91–230, title VI, § 635, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2747.)

PRIOR PROVISIONS

A prior section 1435, Pub. L. 91–230, title VI, § 635, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 108, related to requirements for statewide system, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1435, Pub. L. 91–230, title VI, § 635, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98–199, §§ 3(b), 11, Dec. 2, 1983, 97 Stat. 1358, 1372; Pub. L. 99–457, title III, § 311, Oct. 8, 1986, 100 Stat. 1169; Pub. L. 101–476, title IV, § 405, Oct. 30, 1990, 104 Stat. 1135; Pub. L. 102–119, §§ 9(c)(2), 10, 25(a)(13), Oct. 7, 1991, 105 Stat. 595, 606, authorized appropriations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 105–17.

§ 1436. Individualized family service plan

(a) Assessment and program development

A statewide system described in section 1433 of this title shall provide, at a minimum, for each infant or toddler with a disability, and the infant's or toddler's family, to receive—

(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

(2) a family-directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of the infant or toddler; and

(3) a written individualized family service plan developed by a multidisciplinary team, including the parents, as required by subsection (e), including a description of the appropriate transition services for the infant or toddler.

(b) Periodic review

The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant or toddler and family needs).

(c) Promptness after assessment

The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is com-

pleted. With the parents' consent, early intervention services may commence prior to the completion of the assessment.

(d) Content of plan

The individualized family service plan shall be in writing and contain—

(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development, based on objective criteria;

(2) a statement of the family's resources, priorities, and concerns relating to enhancing the development of the family's infant or toddler with a disability;

(3) a statement of the measurable results or outcomes expected to be achieved for the infant or toddler and the family, including preliteracy and language skills, as developmentally appropriate for the child, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the results or outcomes is being made and whether modifications or revisions of the results or outcomes or services are necessary;

(4) a statement of specific early intervention services based on peer-reviewed research, to the extent practicable, necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and method of delivering services;

(5) a statement of the natural environments in which early intervention services will appropriately be provided, including a justification of the extent, if any, to which the services will not be provided in a natural environment;

(6) the projected dates for initiation of services and the anticipated length, duration, and frequency of the services;

(7) the identification of the service coordinator from the profession most immediately relevant to the infant's or toddler's or family's needs (or who is otherwise qualified to carry out all applicable responsibilities under this subchapter) who will be responsible for the implementation of the plan and coordination with other agencies and persons, including transition services; and

(8) the steps to be taken to support the transition of the toddler with a disability to preschool or other appropriate services.

(e) Parental consent

The contents of the individualized family service plan shall be fully explained to the parents and informed written consent from the parents shall be obtained prior to the provision of early intervention services described in such plan. If the parents do not provide consent with respect to a particular early intervention service, then only the early intervention services to which consent is obtained shall be provided.

(Pub. L. 91–230, title VI, § 636, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2751.)

PRIOR PROVISIONS

A prior section 1436, Pub. L. 91–230, title VI, § 636, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 111, related to individualized family service plans, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1436, Pub. L. 91–230, title VI, § 636, Apr. 13, 1970, 84 Stat. 185; Pub. L. 93–380, title VI, § 618, Aug. 21, 1974, 88 Stat. 584; Pub. L. 95–49, § 3, June 17, 1977, 91 Stat. 230, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 98–199, § 11, Dec. 2, 1983, 97 Stat. 1369.

§ 1437. State application and assurances

(a) Application

A State desiring to receive a grant under section 1433 of this title shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require. The application shall contain—

(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 1433 of this title;

(2) a certification to the Secretary that the arrangements to establish financial responsibility for services provided under this subchapter pursuant to section 1440(b) of this title are current as of the date of submission of the certification;

(3) information demonstrating eligibility of the State under section 1434 of this title, including—

(A) information demonstrating to the Secretary's satisfaction that the State has in effect the statewide system required by section 1433 of this title; and

(B) a description of services to be provided to infants and toddlers with disabilities and their families through the system;

(4) if the State provides services to at-risk infants and toddlers through the statewide system, a description of such services;

(5) a description of the uses for which funds will be expended in accordance with this subchapter;

(6) a description of the State policies and procedures that require the referral for early intervention services under this subchapter of a child under the age of 3 who—

(A) is involved in a substantiated case of child abuse or neglect; or

(B) is identified as affected by illegal substance abuse, or withdrawal symptoms resulting from prenatal drug exposure;

(7) a description of the procedure used to ensure that resources are made available under this subchapter for all geographic areas within the State;

(8) a description of State policies and procedures that ensure that, prior to the adoption by the State of any other policy or procedure necessary to meet the requirements of this subchapter, there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of infants and toddlers with disabilities;

(9) a description of the policies and procedures to be used—

(A) to ensure a smooth transition for toddlers receiving early intervention services

under this subchapter (and children receiving those services under section 1435(c) of this title) to preschool, school, other appropriate services, or exiting the program, including a description of how—

(i) the families of such toddlers and children will be included in the transition plans required by subparagraph (C); and

(ii) the lead agency designated or established under section 1435(a)(10) of this title will—

(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age of eligibility for preschool services under subchapter II, as determined in accordance with State law;

(II) in the case of a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency not less than 90 days (and at the discretion of all such parties, not more than 9 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive; and

(III) in the case of a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under subchapter II, to discuss the appropriate services that the child may receive;

(B) to review the child's program options for the period from the child's third birthday through the remainder of the school year; and

(C) to establish a transition plan, including, as appropriate, steps to exit from the program;

(10) a description of State efforts to promote collaboration among Early Head Start programs under section 9840a of title 42, early education and child care programs, and services under this subchapter; and

(11) such other information and assurances as the Secretary may reasonably require.

(b) Assurances

The application described in subsection (a)—

(1) shall provide satisfactory assurance that Federal funds made available under section 1443 of this title to the State will be expended in accordance with this subchapter;

(2) shall contain an assurance that the State will comply with the requirements of section 1440 of this title;

(3) shall provide satisfactory assurance that the control of funds provided under section 1443 of this title, and title to property derived from those funds, will be in a public agency for the uses and purposes provided in this subchapter and that a public agency will administer such funds and property;

(4) shall provide for—

(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this subchapter; and

(B) keeping such reports and affording such access to the reports as the Secretary may find necessary to ensure the correctness and verification of those reports and proper disbursement of Federal funds under this subchapter;

(5) provide satisfactory assurance that Federal funds made available under section 1443 of this title to the State—

(A) will not be commingled with State funds; and

(B) will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds;

(6) shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under section 1443 of this title to the State;

(7) shall provide satisfactory assurance that policies and procedures have been adopted to ensure meaningful involvement of underserved groups, including minority, low-income, homeless, and rural families and children with disabilities who are wards of the State, in the planning and implementation of all the requirements of this subchapter; and

(8) shall contain such other information and assurances as the Secretary may reasonably require by regulation.

(c) Standard for disapproval of application

The Secretary may not disapprove such an application unless the Secretary determines, after notice and opportunity for a hearing, that the application fails to comply with the requirements of this section.

(d) Subsequent State application

If a State has on file with the Secretary a policy, procedure, or assurance that demonstrates that the State meets a requirement of this section, including any policy or procedure filed under this subchapter (as in effect before December 3, 2004), the Secretary shall consider the State to have met the requirement for purposes of receiving a grant under this subchapter.

(e) Modification of application

An application submitted by a State in accordance with this section shall remain in effect until the State submits to the Secretary such modifications as the State determines necessary. This section shall apply to a modification of an application to the same extent and in the same manner as this section applies to the original application.

(f) Modifications required by the Secretary

The Secretary may require a State to modify its application under this section, but only to the extent necessary to ensure the State's compliance with this subchapter, if—

(1) an amendment is made to this chapter, or a Federal regulation issued under this chapter;

(2) a new interpretation of this chapter is made by a Federal court or the State's highest court; or

(3) an official finding of noncompliance with Federal law or regulations is made with respect to the State.

(Pub. L. 91–230, title VI, § 637, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2752.)

PRIOR PROVISIONS

A prior section 1437, Pub. L. 91–230, title VI, § 637, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 112, related to State application and assurances, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

§ 1438. Uses of funds

In addition to using funds provided under section 1433 of this title to maintain and implement the statewide system required by such section, a State may use such funds—

(1) for direct early intervention services for infants and toddlers with disabilities, and their families, under this subchapter that are not otherwise funded through other public or private sources;

(2) to expand and improve on services for infants and toddlers and their families under this subchapter that are otherwise available;

(3) to provide a free appropriate public education, in accordance with subchapter II, to children with disabilities from their third birthday to the beginning of the following school year;

(4) with the written consent of the parents, to continue to provide early intervention services under this subchapter to children with disabilities from their 3rd birthday until such children enter, or are eligible under State law to enter, kindergarten, in lieu of a free appropriate public education provided in accordance with subchapter II; and

(5) in any State that does not provide services for at-risk infants and toddlers under section 1437(a)(4) of this title, to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including establishing linkages with appropriate public or private community-based organizations, services, and personnel for the purposes of—

(A) identifying and evaluating at-risk infants and toddlers;

(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A); and

(C) conducting periodic follow-up on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler for services under this subchapter.

(Pub. L. 91–230, title VI, § 638, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2755.)

PRIOR PROVISIONS

A prior section 1438, Pub. L. 91–230, title VI, § 638, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 114, related to uses of funds, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

§ 1439. Procedural safeguards

(a) Minimum procedures

The procedural safeguards required to be included in a statewide system under section 1435(a)(13) of this title shall provide, at a minimum, the following:

(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(2) The right to confidentiality of personally identifiable information, including the right of parents to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.

(3) The right of the parents to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this subchapter in accordance with State law without jeopardizing other early intervention services under this subchapter.

(4) The opportunity for parents to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

(5) Procedures to protect the rights of the infant or toddler whenever the parents of the infant or toddler are not known or cannot be found or the infant or toddler is a ward of the State, including the assignment of an individual (who shall not be an employee of the State lead agency, or other State agency, and who shall not be any person, or any employee of a person, providing early intervention services to the infant or toddler or any family member of the infant or toddler) to act as a surrogate for the parents.

(6) Written prior notice to the parents of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or placement of the infant or toddler with a disability, or the provision of appropriate early intervention services to the infant or toddler.

(7) Procedures designed to ensure that the notice required by paragraph (6) fully informs the parents, in the parents' native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

(8) The right of parents to use mediation in accordance with section 1415 of this title, except that—

(A) any reference in the section to a State educational agency shall be considered to be a reference to a State's lead agency estab-

lished or designated under section 1435(a)(10) of this title;

(B) any reference in the section to a local educational agency shall be considered to be a reference to a local service provider or the State's lead agency under this subchapter, as the case may be; and

(C) any reference in the section to the provision of a free appropriate public education to children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

(b) Services during pendency of proceedings

During the pendency of any proceeding or action involving a complaint by the parents of an infant or toddler with a disability, unless the State agency and the parents otherwise agree, the infant or toddler shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

(Pub. L. 91–230, title VI, § 639, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2755.)

PRIOR PROVISIONS

A prior section 1439, Pub. L. 91–230, title VI, § 639, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 115, set out procedural safeguards, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

§ 1440. Payor of last resort

(a) Nonsubstitution

Funds provided under section 1443 of this title may not be used to satisfy a financial commitment for services that would have been paid for from another public or private source, including any medical program administered by the Secretary of Defense, but for the enactment of this subchapter, except that whenever considered necessary to prevent a delay in the receipt of appropriate early intervention services by an infant, toddler, or family in a timely fashion, funds provided under section 1443 of this title may be used to pay the provider of services pending reimbursement from the agency that has ultimate responsibility for the payment.

(b) Obligations related to and methods of ensuring services

(1) Establishing financial responsibility for services

(A) In general

The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency and the designated lead agency, in order to ensure—

(i) the provision of, and financial responsibility for, services provided under this subchapter; and

(ii) such services are consistent with the requirements of section 1435 of this title and the State's application pursuant to section 1437 of this title, including the provision of such services during the pendency of any such dispute.

(B) Consistency between agreements or mechanisms under subchapter II

The Chief Executive Officer of a State or designee of the officer shall ensure that the terms and conditions of such agreement or mechanism are consistent with the terms and conditions of the State's agreement or mechanism under section 1412(a)(12) of this title, where appropriate.

(2) Reimbursement for services by public agency

(A) In general

If a public agency other than an educational agency fails to provide or pay for the services pursuant to an agreement required under paragraph (1), the local educational agency or State agency (as determined by the Chief Executive Officer or designee) shall provide or pay for the provision of such services to the child.

(B) Reimbursement

Such local educational agency or State agency is authorized to claim reimbursement for the services from the public agency that failed to provide or pay for such services and such public agency shall reimburse the local educational agency or State agency pursuant to the terms of the interagency agreement or other mechanism required under paragraph (1).

(3) Special rule

The requirements of paragraph (1) may be met through—

(A) State statute or regulation;

(B) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

(C) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer and approved by the Secretary through the review and approval of the State's application pursuant to section 1437 of this title.

(c) Reduction of other benefits

Nothing in this subchapter shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act [42 U.S.C. 701 et seq.] (relating to maternal and child health) or title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (relating to medicaid for infants or toddlers with disabilities) within the State.

(Pub. L. 91–230, title VI, § 640, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2757.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles V and XIX of the Act are classified generally to subchapters V (§ 701 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1440, Pub. L. 91–230, title VI, § 640, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat.

116, related to the payor of last resort, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

§ 1441. State interagency coordinating council

(a) Establishment

(1) In general

A State that desires to receive financial assistance under this subchapter shall establish a State interagency coordinating council.

(2) Appointment

The council shall be appointed by the Governor. In making appointments to the council, the Governor shall ensure that the membership of the council reasonably represents the population of the State.

(3) Chairperson

The Governor shall designate a member of the council to serve as the chairperson of the council, or shall require the council to so designate such a member. Any member of the council who is a representative of the lead agency designated under section 1435(a)(10) of this title may not serve as the chairperson of the council.

(b) Composition

(1) In general

The council shall be composed as follows:

(A) Parents

Not less than 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. Not less than 1 such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

(B) Service providers

Not less than 20 percent of the members shall be public or private providers of early intervention services.

(C) State legislature

Not less than 1 member shall be from the State legislature.

(D) Personnel preparation

Not less than 1 member shall be involved in personnel preparation.

(E) Agency for early intervention services

Not less than 1 member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

(F) Agency for preschool services

Not less than 1 member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

(G) State medicaid agency

Not less than 1 member shall be from the agency responsible for the State medicaid program.

(H) Head Start agency

Not less than 1 member shall be a representative from a Head Start agency or program in the State.

(I) Child care agency

Not less than 1 member shall be a representative from a State agency responsible for child care.

(J) Agency for health insurance

Not less than 1 member shall be from the agency responsible for the State regulation of health insurance.

(K) Office of the Coordinator of Education of Homeless Children and Youth

Not less than 1 member shall be a representative designated by the Office of Coordinator for Education of Homeless Children and Youths.

(L) State foster care representative

Not less than 1 member shall be a representative from the State child welfare agency responsible for foster care.

(M) Mental health agency

Not less than 1 member shall be a representative from the State agency responsible for children's mental health.

(2) Other members

The council may include other members selected by the Governor, including a representative from the Bureau of Indian Affairs (BIA), or where there is no BIA-operated or BIA-funded school, from the Indian Health Service or the tribe or tribal council.

(c) Meetings

The council shall meet, at a minimum, on a quarterly basis, and in such places as the council determines necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

(d) Management authority

Subject to the approval of the Governor, the council may prepare and approve a budget using funds under this subchapter to conduct hearings and forums, to reimburse members of the council for reasonable and necessary expenses for attending council meetings and performing council duties (including child care for parent representatives), to pay compensation to a member of the council if the member is not employed or must forfeit wages from other employment when performing official council business, to hire staff, and to obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this subchapter.

(e) Functions of council

(1) Duties

The council shall—

(A) advise and assist the lead agency designated or established under section

1435(a)(10) of this title in the performance of the responsibilities set forth in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements;

(B) advise and assist the lead agency in the preparation of applications and amendments thereto;

(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to preschool and other appropriate services; and

(D) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

(2) Authorized activity

The council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children from birth through age 5. The council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities and at-risk infants and toddlers and their families, regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State.

(f) Conflict of interest

No member of the council shall cast a vote on any matter that is likely to provide a direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

(Pub. L. 91–230, title VI, § 641, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2758.)

PRIOR PROVISIONS

A prior section 1441, Pub. L. 91–230, title VI, § 641, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 116, related to State interagency coordinating councils, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1441, Pub. L. 91–230, title VI, § 641, Apr. 13, 1970, 84 Stat. 185; Pub. L. 95–49, § 4, June 17, 1977, 91 Stat. 230; Pub. L. 98–199, §§ 3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1372; Pub. L. 99–457, title III, § 312, Oct. 8, 1986, 100 Stat. 1169; Pub. L. 100–630, title I, § 105(b), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101–476, title V, § 501, Oct. 30, 1990, 104 Stat. 1135; Pub. L. 102–421, title II, § 203, Oct. 16, 1992, 106 Stat. 2165, related to grants, contracts, and cooperative agreements for research and related activities, attention deficit disorder centers, and model demonstration programs, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

§ 1442. Federal administration

Sections 1416, 1417, and 1418 of this title shall, to the extent not inconsistent with this subchapter, apply to the program authorized by this subchapter, except that—

(1) any reference in such sections to a State educational agency shall be considered to be a reference to a State's lead agency established or designated under section 1435(a)(10) of this title;

(2) any reference in such sections to a local educational agency, educational service agency, or a State agency shall be considered to be a reference to an early intervention service provider under this subchapter; and

(3) any reference to the education of children with disabilities or the education of all children with disabilities shall be considered to be a reference to the provision of appropriate early intervention services to infants and toddlers with disabilities.

(Pub. L. 91–230, title VI, § 642, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2760.)

PRIOR PROVISIONS

A prior section 1442, Pub. L. 91–230, title VI, § 642, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 118, related to Federal administration, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1442, Pub. L. 91–230, title VI, § 642, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98–199, §§ 3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1373; Pub. L. 101–476, title V, § 502, Oct. 30, 1990, 104 Stat. 1138; Pub. L. 102–119, § 25(a)(14), Oct. 7, 1991, 105 Stat. 606, related to research and demonstration projects in physical education and recreation for children with disabilities, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

§ 1443. Allocation of funds

(a) Reservation of funds for outlying areas

(1) In general

From the sums appropriated to carry out this subchapter for any fiscal year, the Secretary may reserve not more than 1 percent for payments to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs for assistance under this subchapter.

(2) Consolidation of funds

The provisions of Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds those areas receive under this subchapter.

(b) Payments to Indians

(1) In general

The Secretary shall, subject to this subsection, make payments to the Secretary of the Interior to be distributed to tribes, tribal organizations (as defined under section 450b of title 25), or consortia of the above entities for the coordination of assistance in the provision of early intervention services by the States to infants and toddlers with disabilities and their families on reservations served by elementary schools and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this subchapter for such fiscal year.

(2) Allocation

For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and

toddlers residing on the reservation, as determined annually, divided by the total of such children served by all tribes, tribal organizations, or consortia.

(3) Information

To receive a payment under this subsection, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be distributed under paragraph (2).

(4) Use of funds

The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child find, screening, and other procedures for the early identification of Indian children under 3 years of age and for parent training. Such funds may also be used to provide early intervention services in accordance with this subchapter. Such activities may be carried out directly or through contracts or cooperative agreements with the Bureau of Indian Affairs, local educational agencies, and other public or private nonprofit organizations. The tribe, tribal organization, or consortium is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(5) Reports

To be eligible to receive a payment under paragraph (2), a tribe, tribal organization, or consortium shall make a biennial report to the Secretary of the Interior of activities undertaken under this subsection, including the number of contracts and cooperative agreements entered into, the number of infants and toddlers contacted and receiving services for each year, and the estimated number of infants and toddlers needing services during the 2 years following the year in which the report is made. The Secretary of the Interior shall include a summary of this information on a biennial basis to the Secretary of Education along with such other information as required under section 1411(h)(3)(E) of this title. The Secretary of Education may require any additional information from the Secretary of the Interior.

(6) Prohibited uses of funds

None of the funds under this subsection may be used by the Secretary of the Interior for administrative purposes, including child count, and the provision of technical assistance.

(c) State allotments

(1) In general

Except as provided in paragraphs (2) and (3), from the funds remaining for each fiscal year after the reservation and payments under subsections (a), (b), and (e), the Secretary shall first allot to each State an amount that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

(2) Minimum allotments

Except as provided in paragraph (3), no State shall receive an amount under this section for any fiscal year that is less than the greater of—

(A) ½ of 1 percent of the remaining amount described in paragraph (1); or

(B) $500,000.

(3) Ratable reduction

(A) In general

If the sums made available under this subchapter for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive under this subsection for such year, the Secretary shall ratably reduce the allotments to such States for such year.

(B) Additional funds

If additional funds become available for making payments under this subsection for a fiscal year, allotments that were reduced under subparagraph (A) shall be increased on the same basis the allotments were reduced.

(4) Definitions

In this subsection—

(A) the terms ''infants'' and ''toddlers'' mean children under 3 years of age; and

(B) the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(d) Reallotment of funds

If a State elects not to receive its allotment under subsection (c), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

(e) Reservation for State incentive grants

(1) In general

For any fiscal year for which the amount appropriated pursuant to the authorization of appropriations under section 1444 of this title exceeds $460,000,000, the Secretary shall reserve 15 percent of such appropriated amount to provide grants to States that are carrying out the policy described in section 1435(c) of this title in order to facilitate the implementation of such policy.

(2) Amount of grant

(A) In general

Notwithstanding paragraphs (2) and (3) of subsection (c), the Secretary shall provide a grant to each State under paragraph (1) in an amount that bears the same ratio to the amount reserved under such paragraph as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States receiving grants under such paragraph.

(B) Maximum amount

No State shall receive a grant under paragraph (1) for any fiscal year in an amount that is greater than 20 percent of the amount reserved under such paragraph for the fiscal year.

(3) Carryover of amounts

(A) First succeeding fiscal year

Pursuant to section 1225(b) of this title, amounts under a grant provided under para-

graph (1) that are not obligated and expended prior to the beginning of the first fiscal year succeeding the fiscal year for which such amounts were appropriated shall remain available for obligation and expenditure during such first succeeding fiscal year.

(B) Second succeeding fiscal year

Amounts under a grant provided under paragraph (1) that are not obligated and expended prior to the beginning of the second fiscal year succeeding the fiscal year for which such amounts were appropriated shall be returned to the Secretary and used to make grants to States under section 1433 of this title (from their allotments under this section) during such second succeeding fiscal year.

(Pub. L. 91–230, title VI, § 643, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2760.)

REFERENCES IN TEXT

Public Law 95–134, referred to in subsec. (a)(2), is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159, as amended. Provisions relating to consolidation of grants are contained in section 501 of Pub. L. 95–134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 1443, Pub. L. 91–230, title VI, § 643, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 118, related to allocation of funds, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1443, Pub. L. 91–230, title VI, § 643, Apr. 13, 1970, 84 Stat. 185; Pub. L. 98–199, §§ 3(b), 12, Dec. 2, 1983, 97 Stat. 1358, 1373; Pub. L. 99–457, title III, § 313, Oct. 8, 1986, 100 Stat. 1170; Pub. L. 100–630, title I, § 105(c), Nov. 7, 1988, 102 Stat. 3299; Pub. L. 101–476, title IX, § 901(b)(145), (146), Oct. 30, 1990, 104 Stat. 1149; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to requirement of the Secretary to convene panels of experts to evaluate proposals for projects, prior to repeal by Pub. L. 101–476, title V, §§ 503, 1001, Oct. 30, 1990, 104 Stat. 1138, 1151, effective Oct. 1, 1990.

§ 1444. Authorization of appropriations

For the purpose of carrying out this subchapter, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2005 through 2010.

(Pub. L. 91–230, title VI, § 644, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2763.)

PRIOR PROVISIONS

A prior section 1444, Pub. L. 91–230, title VI, § 644, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 121; amended Pub. L. 106–402, title IV, § 401(b)(1), Oct. 30, 2000, 114 Stat. 1737; Pub. L. 108–173, title IX, § 900(e)(6)(C), Dec. 8, 2003, 117 Stat. 2373, which related to the Federal Interagency Coordinating Council, was repealed, as such section was in effect on the day before Dec. 3, 2004, by Pub. L. 108–446, title III, § 304, Dec. 3, 2004, 118 Stat. 2804.

Another prior section 1444, Pub. L. 91–230, title VI, § 643, formerly § 644, Apr. 13, 1970, 84 Stat. 186; Pub. L. 93–380, title VI, § 619, Aug. 21, 1974, 88 Stat. 585; Pub. L. 95–49, § 5, June 17, 1977, 91 Stat. 231; Pub. L. 98–199, § 12, Dec. 2, 1983, 97 Stat. 1374; Pub. L. 99–457, title III, § 314, Oct. 8, 1986, 100 Stat. 1171; renumbered § 643 and amended Pub. L. 101–476, title V, §§ 503, 504, title IX, § 901(b)(147), (148), Oct. 30, 1990, 104 Stat. 1138, 1149; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, authorized appropriations, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

A prior section 1445, Pub. L. 91–230, title VI, § 645, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 123, which authorized appropriations, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

SUBCHAPTER IV—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES

§ 1450. Findings

Congress finds the following:

(1) The Federal Government has an ongoing obligation to support activities that contribute to positive results for children with disabilities, enabling those children to lead productive and independent adult lives.

(2) Systemic change benefiting all students, including children with disabilities, requires the involvement of States, local educational agencies, parents, individuals with disabilities and their families, teachers and other service providers, and other interested individuals and organizations to develop and implement comprehensive strategies that improve educational results for children with disabilities.

(3) State educational agencies, in partnership with local educational agencies, parents of children with disabilities, and other individuals and organizations, are in the best position to improve education for children with disabilities and to address their special needs.

(4) An effective educational system serving students with disabilities should—

(A) maintain high academic achievement standards and clear performance goals for children with disabilities, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that all children with disabilities have the opportunity to achieve those standards and goals;

(B) clearly define, in objective, measurable terms, the school and post-school results that children with disabilities are expected to achieve; and

(C) promote transition services and coordinate State and local education, social, health, mental health, and other services, in addressing the full range of student needs, particularly the needs of children with disabilities who need significant levels of support to participate and learn in school and the community.

(5) The availability of an adequate number of qualified personnel is critical—

(A) to serve effectively children with disabilities;

(B) to assume leadership positions in administration and direct services;

(C) to provide teacher training; and

(D) to conduct high quality research to improve special education.

(6) High quality, comprehensive professional development programs are essential to ensure that the persons responsible for the education or transition of children with disabilities possess the skills and knowledge necessary to ad-

dress the educational and related needs of those children.

(7) Models of professional development should be scientifically based and reflect successful practices, including strategies for recruiting, preparing, and retaining personnel.

(8) Continued support is essential for the development and maintenance of a coordinated and high quality program of research to inform successful teaching practices and model curricula for educating children with disabilities.

(9) Training, technical assistance, support, and dissemination activities are necessary to ensure that subchapters II and III are fully implemented and achieve high quality early intervention, educational, and transitional results for children with disabilities and their families.

(10) Parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and transitional services and results at the State and local levels for children with disabilities and their families.

(11) Parent training and information activities assist parents of a child with a disability in dealing with the multiple pressures of parenting such a child and are of particular importance in—

(A) playing a vital role in creating and preserving constructive relationships between parents of children with disabilities and schools by facilitating open communication between the parents and schools; encouraging dispute resolution at the earliest possible point in time; and discouraging the escalation of an adversarial process between the parents and schools;

(B) ensuring the involvement of parents in planning and decisionmaking with respect to early intervention, educational, and transitional services;

(C) achieving high quality early intervention, educational, and transitional results for children with disabilities;

(D) providing such parents information on their rights, protections, and responsibilities under this chapter to ensure improved early intervention, educational, and transitional results for children with disabilities;

(E) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 1473(b)(6) of this title;

(F) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results for children with disabilities and their families; and

(G) supporting such parents who may have limited access to services and supports, due to economic, cultural, or linguistic barriers.

(12) Support is needed to improve technological resources and integrate technology, including universally designed technologies, into the lives of children with disabilities, parents of children with disabilities, school personnel, and others through curricula, services, and assistive technologies.

(Pub. L. 91–230, title VI, § 650, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2763.)

TRANSITION PROVISIONS

Pub. L. 105–17, title II, § 202, June 4, 1997, 111 Stat. 156, provided that: ''Notwithstanding any other provision of law, beginning on October 1, 1997, the Secretary of Education may use funds appropriated under part D of the Individuals with Disabilities Education Act [this subchapter] to make continuation awards for projects that were funded under section 618 [former 20 U.S.C. 1418] and parts C through G of such Act [former subchapters III to VII of this chapter] (as in effect on September 30, 1997).''

PART A—STATE PERSONNEL DEVELOPMENT GRANTS

§ 1451. Purpose; definition of personnel; program authority

(a) Purpose

The purpose of this part is to assist State educational agencies in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services in order to improve results for children with disabilities.

(b) Definition of personnel

In this part the term ''personnel'' means special education teachers, regular education teachers, principals, administrators, related services personnel, paraprofessionals, and early intervention personnel serving infants, toddlers, preschoolers, or children with disabilities, except where a particular category of personnel, such as related services personnel, is identified.

(c) Competitive grants

(1) In general

Except as provided in subsection (d), for any fiscal year for which the amount appropriated under section 1455 of this title, that remains after the Secretary reserves funds under subsection (e) for the fiscal year, is less than $100,000,000, the Secretary shall award grants, on a competitive basis, to State educational agencies to carry out the activities described in the State plan submitted under section 1453 of this title.

(2) Priority

In awarding grants under paragraph (1), the Secretary may give priority to State educational agencies that—

(A) are in States with the greatest personnel shortages; or

(B) demonstrate the greatest difficulty meeting the requirements of section 1412(a)(14) of this title.

(3) Minimum amount

The Secretary shall make a grant to each State educational agency selected under paragraph (1) in an amount for each fiscal year that is—

(A) not less than $500,000, nor more than $4,000,000, in the case of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) not less than $80,000 in the case of an outlying area.

(4) Increase in amount

The Secretary may increase the amounts of grants under paragraph (4) to account for inflation.

(5) Factors

The Secretary shall determine the amount of a grant under paragraph (1) after considering—

(A) the amount of funds available for making the grants;

(B) the relative population of the State or outlying area;

(C) the types of activities proposed by the State or outlying area;

(D) the alignment of proposed activities with section 1412(a)(14) of this title;

(E) the alignment of proposed activities with the State plans and applications submitted under sections 6311 and 6612, respectively, of this title; and

(F) the use, as appropriate, of scientifically based research activities.

(d) Formula grants

(1) In general

Except as provided in paragraphs (2) and (3), for the first fiscal year for which the amount appropriated under section 1455 of this title, that remains after the Secretary reserves funds under subsection (e) for the fiscal year, is equal to or greater than $100,000,000, and for each fiscal year thereafter, the Secretary shall allot to each State educational agency, whose application meets the requirements of this part, an amount that bears the same relation to the amount remaining as the amount the State received under section 1411(d) of this title for that fiscal year bears to the amount of funds received by all States (whose applications meet the requirements of this part) under section 1411(d) of this title for that fiscal year.

(2) Minimum allotments for States that received competitive grants

(A) In general

The amount allotted under this subsection to any State educational agency that received a competitive multi-year grant under subsection (c) for which the grant period has not expired shall be not less than the amount specified for that fiscal year in the State educational agency's grant award document under that subsection.

(B) Special rule

Each such State educational agency shall use the minimum amount described in subparagraph (A) for the activities described in the State educational agency's competitive grant award document for that year, unless the Secretary approves a request from the State educational agency to spend the funds on other activities.

(3) Minimum allotment

The amount of any State educational agency's allotment under this subsection for any fiscal year shall not be less than—

(A) the greater of $500,000 or ½ of 1 percent of the total amount available under this subsection for that year, in the case of each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) $80,000, in the case of an outlying area.

(4) Direct benefit

In using grant funds allotted under paragraph (1), a State educational agency shall, through grants, contracts, or cooperative agreements, undertake activities that significantly and directly benefit the local educational agencies in the State.

(e) Continuation awards

(1) In general

Notwithstanding any other provision of this part, from funds appropriated under section 1455 of this title for each fiscal year, the Secretary shall reserve the amount that is necessary to make a continuation award to any State educational agency (at the request of the State educational agency) that received a multi-year award under this subchapter (as this subchapter was in effect on the day before December 3, 2004), to enable the State educational agency to carry out activities in accordance with the terms of the multi-year award.

(2) Prohibition

A State educational agency that receives a continuation award under paragraph (1) for any fiscal year may not receive any other award under this part for that fiscal year.

(Pub. L. 91–230, title VI, § 651, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2765.)

PRIOR PROVISIONS

A prior section 1451, Pub. L. 91–230, title VI, § 651, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 123, related to the findings and purposes of part A of former subchapter IV of this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1451, Pub. L. 91–230, title VI, § 651, Apr. 13, 1970, 84 Stat. 186; Pub. L. 100–630, title I, § 106(b), Nov. 7, 1988, 102 Stat. 3300; Pub. L. 101–476, title VI, § 601, title IX, § 901(b)(150), Oct. 30, 1990, 104 Stat. 1138, 1149; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to the purposes of former subchapter VI of this chapter, which included promoting general welfare of deaf and hard of hearing individuals and visually impaired individuals and educational advancement of individuals with disabilities, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

EFFECTIVE DATE

Part effective July 1, 2005, see section 302(a) of Pub. L. 108–446, set out as a note under section 1400 of this title.

§ 1452. Eligibility and collaborative process

(a) Eligible applicants

A State educational agency may apply for a grant under this part for a grant period of not less than 1 year and not more than 5 years.

(b) Partners

(1) In general

In order to be considered for a grant under this part, a State educational agency shall es-

tablish a partnership with local educational agencies and other State agencies involved in, or concerned with, the education of children with disabilities, including—

(A) not less than 1 institution of higher education; and

(B) the State agencies responsible for administering subchapter III, early education, child care, and vocational rehabilitation programs.

(2) Other partners

In order to be considered for a grant under this part, a State educational agency shall work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, which may include—

(A) the Governor;

(B) parents of children with disabilities ages birth through 26;

(C) parents of nondisabled children ages birth through 26;

(D) individuals with disabilities;

(E) parent training and information centers or community parent resource centers funded under sections 1471 and 1472 of this title, respectively;

(F) community based and other nonprofit organizations involved in the education and employment of individuals with disabilities;

(G) personnel as defined in section 1451(b) of this title;

(H) the State advisory panel established under subchapter II;

(I) the State interagency coordinating council established under subchapter III;

(J) individuals knowledgeable about vocational education;

(K) the State agency for higher education;

(L) public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice;

(M) other providers of professional development that work with infants, toddlers, preschoolers, and children with disabilities; and

(N) other individuals.

(3) Required partner

If State law assigns responsibility for teacher preparation and certification to an individual, entity, or agency other than the State educational agency, the State educational agency shall—

(A) include that individual, entity, or agency as a partner in the partnership under this subsection; and

(B) ensure that any activities the State educational agency will carry out under this part that are within that partner's jurisdiction (which may include activities described in section 1454(b) of this title) are carried out by that partner.

(Pub. L. 91–230, title VI, § 652, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2767.)

PRIOR PROVISIONS

A prior section 1452, Pub. L. 91–230, title VI, § 652, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 124, related to eligibility and collaborative process, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1452, Pub. L. 91–230, title VI, § 652, Apr. 13, 1970, 84 Stat. 186; Pub. L. 93–380, title VI, § 620(1), Aug. 21, 1974, 88 Stat. 585; Pub. L. 94–482, title V, § 501(h), Oct. 12, 1976, 90 Stat. 2237; Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358; Pub. L. 99–457, title III, § 315, Oct. 8, 1986, 100 Stat. 1171; Pub. L. 100–630, title I, § 106(c), Nov. 7, 1988, 102 Stat. 3300; Pub. L. 101–476, title VI, § 602, title IX, § 901(b)(151), (152), Oct. 30, 1990, 104 Stat. 1139, 1149; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to establishment of a loan service of captioned films, television, descriptive video, and educational media for individuals with disabilities, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

§ 1453. Applications

(a) In general

(1) Submission

A State educational agency that desires to receive a grant under this part shall submit to the Secretary an application at such time, in such manner, and including such information as the Secretary may require.

(2) State plan

The application shall include a plan that identifies and addresses the State and local needs for the personnel preparation and professional development of personnel, as well as individuals who provide direct supplementary aids and services to children with disabilities, and that—

(A) is designed to enable the State to meet the requirements of section 1412(a)(14) of this title and section 1435(a)(8) and (9) of this title;

(B) is based on an assessment of State and local needs that identifies critical aspects and areas in need of improvement related to the preparation, ongoing training, and professional development of personnel who serve infants, toddlers, preschoolers, and children with disabilities within the State, including—

(i) current and anticipated personnel vacancies and shortages; and

(ii) the number of preservice and inservice programs; and

(C) is integrated and aligned, to the maximum extent possible, with State plans and activities under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.].

(3) Requirement

The State application shall contain an assurance that the State educational agency will carry out each of the strategies described in subsection (b)(4).

(b) Elements of State personnel development plan

Each State personnel development plan under subsection (a)(2) shall—

(1) describe a partnership agreement that is in effect for the period of the grant, which agreement shall specify—

(A) the nature and extent of the partnership described in section 1452(b) of this title and the respective roles of each member of

the partnership, including the partner described in section 1452(b)(3) of this title if applicable; and

(B) how the State educational agency will work with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of the persons and organizations;

(2) describe how the strategies and activities described in paragraph (4) will be coordinated with activities supported with other public resources (including part B [subchapter II] and part C [subchapter III] funds retained for use at the State level for personnel and professional development purposes) and private resources;

(3) describe how the State educational agency will align its personnel development plan under this part with the plan and application submitted under sections 1111 and 2112, respectively, of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311, 6612];

(4) describe those strategies the State educational agency will use to address the professional development and personnel needs identified under subsection (a)(2) and how such strategies will be implemented, including—

(A) a description of the programs and activities to be supported under this part that will provide personnel with the knowledge and skills to meet the needs of, and improve the performance and achievement of, infants, toddlers, preschoolers, and children with disabilities; and

(B) how such strategies will be integrated, to the maximum extent possible, with other activities supported by grants funded under section 1462 of this title;

(5) provide an assurance that the State educational agency will provide technical assistance to local educational agencies to improve the quality of professional development available to meet the needs of personnel who serve children with disabilities;

(6) provide an assurance that the State educational agency will provide technical assistance to entities that provide services to infants and toddlers with disabilities to improve the quality of professional development available to meet the needs of personnel serving such children;

(7) describe how the State educational agency will recruit and retain highly qualified teachers and other qualified personnel in geographic areas of greatest need;

(8) describe the steps the State educational agency will take to ensure that poor and minority children are not taught at higher rates by teachers who are not highly qualified; and

(9) describe how the State educational agency will assess, on a regular basis, the extent to which the strategies implemented under this part have been effective in meeting the performance goals described in section 1412(a)(15) of this title.

(c) Peer review

(1) In general

The Secretary shall use a panel of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications for grants under section 1451(c)(1) of this title.

(2) Composition of panel

A majority of a panel described in paragraph (1) shall be composed of individuals who are not employees of the Federal Government.

(3) Payment of fees and expenses of certain members

The Secretary may use available funds appropriated to carry out this part to pay the expenses and fees of panel members who are not employees of the Federal Government.

(d) Reporting procedures

Each State educational agency that receives a grant under this part shall submit annual performance reports to the Secretary. The reports shall—

(1) describe the progress of the State educational agency in implementing its plan;

(2) analyze the effectiveness of the State educational agency's activities under this part and of the State educational agency's strategies for meeting its goals under section 1412(a)(15) of this title; and

(3) identify changes in the strategies used by the State educational agency and described in subsection (b)(4), if any, to improve the State educational agency's performance.

(Pub. L. 91–230, title VI, § 653, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2768.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(C), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a)(2)(C), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Higher Education Act of 1965, referred to in subsec. (a)(2)(C), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 1453, Pub. L. 91–230, title VI, § 653, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 125, related to grant applications, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1453, Pub. L. 91–230, title VI, § 653, Apr. 13, 1970, 84 Stat. 187; Pub. L. 94–142, § 6(b), Nov. 29, 1975, 89 Stat. 795; Pub. L. 99–386, title II, § 204, Aug. 22, 1986, 100 Stat. 823, related to establishment and operation of centers on educational media and materials for handicapped, prior to repeal by Pub. L. 99–457, title III, § 316, Oct. 8, 1986, 100 Stat. 1171.

§ 1454. Use of funds

(a) Professional development activities

A State educational agency that receives a grant under this part shall use the grant funds

to support activities in accordance with the State's plan described in section 1453 of this title, including 1 or more of the following:

(1) Carrying out programs that provide support to both special education and regular education teachers of children with disabilities and principals, such as programs that—

(A) provide teacher mentoring, team teaching, reduced class schedules and case loads, and intensive professional development;

(B) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement and functional standards and with the requirements for professional development, as defined in section 7801 of this title; and

(C) encourage collaborative and consultative models of providing early intervention, special education, and related services.

(2) Encouraging and supporting the training of special education and regular education teachers and administrators to effectively use and integrate technology—

(A) into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability;

(B) to enhance learning by children with disabilities; and

(C) to effectively communicate with parents.

(3) Providing professional development activities that—

(A) improve the knowledge of special education and regular education teachers concerning—

(i) the academic and developmental or functional needs of students with disabilities; or

(ii) effective instructional strategies, methods, and skills, and the use of State academic content standards and student academic achievement and functional standards, and State assessments, to improve teaching practices and student academic achievement;

(B) improve the knowledge of special education and regular education teachers and principals and, in appropriate cases, paraprofessionals, concerning effective instructional practices, and that—

(i) provide training in how to teach and address the needs of children with different learning styles and children who are limited English proficient;

(ii) involve collaborative groups of teachers, administrators, and, in appropriate cases, related services personnel;

(iii) provide training in methods of—

(I) positive behavioral interventions and supports to improve student behavior in the classroom;

(II) scientifically based reading instruction, including early literacy instruction;

(III) early and appropriate interventions to identify and help children with disabilities;

(IV) effective instruction for children with low incidence disabilities;

(V) successful transitioning to postsecondary opportunities; and

(VI) using classroom-based techniques to assist children prior to referral for special education;

(iv) provide training to enable personnel to work with and involve parents in their child's education, including parents of low income and limited English proficient children with disabilities;

(v) provide training for special education personnel and regular education personnel in planning, developing, and implementing effective and appropriate IEPs; and

(vi) provide training to meet the needs of students with significant health, mobility, or behavioral needs prior to serving such students;

(C) train administrators, principals, and other relevant school personnel in conducting effective IEP meetings; and

(D) train early intervention, preschool, and related services providers, and other relevant school personnel, in conducting effective individualized family service plan (IFSP) meetings.

(4) Developing and implementing initiatives to promote the recruitment and retention of highly qualified special education teachers, particularly initiatives that have been proven effective in recruiting and retaining highly qualified teachers, including programs that provide—

(A) teacher mentoring from exemplary special education teachers, principals, or superintendents;

(B) induction and support for special education teachers during their first 3 years of employment as teachers; or

(C) incentives, including financial incentives, to retain special education teachers who have a record of success in helping students with disabilities.

(5) Carrying out programs and activities that are designed to improve the quality of personnel who serve children with disabilities, such as—

(A) innovative professional development programs (which may be provided through partnerships that include institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, which professional development shall be consistent with the definition of professional development in section 7801 of this title; and

(B) the development and use of proven, cost effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning.

(6) Carrying out programs and activities that are designed to improve the quality of early intervention personnel, including paraprofessionals and primary referral sources, such as—

(A) professional development programs to improve the delivery of early intervention services;

(B) initiatives to promote the recruitment and retention of early intervention personnel; and

(C) interagency activities to ensure that early intervention personnel are adequately prepared and trained.

(b) Other activities

A State educational agency that receives a grant under this part shall use the grant funds to support activities in accordance with the State's plan described in section 1453 of this title, including 1 or more of the following:

(1) Reforming special education and regular education teacher certification (including recertification) or licensing requirements to ensure that—

(A) special education and regular education teachers have—

(i) the training and information necessary to address the full range of needs of children with disabilities across disability categories; and

(ii) the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach;

(B) special education and regular education teacher certification (including recertification) or licensing requirements are aligned with challenging State academic content standards; and

(C) special education and regular education teachers have the subject matter knowledge and teaching skills, including technology literacy, necessary to help students with disabilities meet challenging State student academic achievement and functional standards.

(2) Programs that establish, expand, or improve alternative routes for State certification of special education teachers for highly qualified individuals with a baccalaureate or master's degree, including mid-career professionals from other occupations, paraprofessionals, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective special education teachers.

(3) Teacher advancement initiatives for special education teachers that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

(4) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified special education teachers.

(5) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965 [20 U.S.C. 1021 et seq.].

(6) Funding projects to promote reciprocity of teacher certification or licensing between or among States for special education teachers, except that no reciprocity agreement developed under this paragraph or developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement.

(7) Assisting local educational agencies to serve children with disabilities through the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(8) Developing, or assisting local educational agencies in developing, merit based performance systems, and strategies that provide differential and bonus pay for special education teachers.

(9) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement and functional standards, and State assessments for all children with disabilities, to improve instructional practices and improve the academic achievement of children with disabilities.

(10) When applicable, coordinating with, and expanding centers established under, section 6613(c)(18) of this title to benefit special education teachers.

(c) Contracts and subgrants

A State educational agency that receives a grant under this part—

(1) shall award contracts or subgrants to local educational agencies, institutions of higher education, parent training and information centers, or community parent resource centers, as appropriate, to carry out its State plan under this part; and

(2) may award contracts and subgrants to other public and private entities, including the lead agency under subchapter III, to carry out the State plan.

(d) Use of funds for professional development

A State educational agency that receives a grant under this part shall use—

(1) not less than 90 percent of the funds the State educational agency receives under the grant for any fiscal year for activities under subsection (a); and

(2) not more than 10 percent of the funds the State educational agency receives under the grant for any fiscal year for activities under subsection (b).

(e) Grants to outlying areas

Public Law 95–134, permitting the consolidation of grants to the outlying areas, shall not apply to funds received under this part.

(Pub. L. 91–230, title VI, § 654, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2770.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (b)(5), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title II of the Act is classified generally to subchapter II (§ 1021 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Public Law 95–134, referred to in subsec. (e), is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159, as amended. Provisions relating to consolidation of grants to the outlying areas are contained in section 501 of Pub. L. 95–134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 1454, Pub. L. 91–230, title VI, § 654, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 128, related to use of funds, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1454, Pub. L. 91–230, title VI, § 653, formerly § 654, Apr. 13, 1970, 84 Stat. 187; Pub. L. 93–380, title VI, § 620(2), Aug. 21, 1974, 88 Stat. 585; Pub. L. 95–49, § 6, June 17, 1977, 91 Stat. 231; Pub. L. 98–199, § 13, Dec. 2, 1983, 97 Stat. 1374; renumbered § 653 and amended Pub. L. 99–457, title III, § 316, Oct. 8, 1986, 100 Stat. 1171; Pub. L. 101–476, title VI, § 603, Oct. 30, 1990, 104 Stat. 1140, authorized appropriations, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

§ 1455. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 2005 through 2010.

(Pub. L. 91–230, title VI, § 655, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2774.)

PRIOR PROVISIONS

A prior section 1455, Pub. L. 91–230, title VI, § 655, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 129, set out minimum State grant amounts, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

A prior section 1456, Pub. L. 91–230, title VI, § 656, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 129, which authorized appropriations, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

PART B—PERSONNEL PREPARATION, TECHNICAL ASSISTANCE, MODEL DEMONSTRATION PROJECTS, AND DISSEMINATION OF INFORMATION

§ 1461. Purpose; definition of eligible entity

(a) Purpose

The purpose of this part is—

(1) to provide Federal funding for personnel preparation, technical assistance, model demonstration projects, information dissemination, and studies and evaluations, in order to improve early intervention, educational, and transitional results for children with disabilities; and

(2) to assist State educational agencies and local educational agencies in improving their education systems for children with disabilities.

(b) Definition of eligible entity

(1) In general

In this part, the term ''eligible entity'' means—

(A) a State educational agency;

(B) a local educational agency;

(C) a public charter school that is a local educational agency under State law;

(D) an institution of higher education;

(E) a public agency not described in subparagraphs (A) through (D);

(F) a private nonprofit organization;

(G) an outlying area;

(H) an Indian tribe or a tribal organization (as defined under section 450b of title 25); or

(I) a for-profit organization, if the Secretary finds it appropriate in light of the purposes of a particular competition for a grant, contract, or cooperative agreement under this part.

(2) Special rule

The Secretary may limit which eligible entities described in paragraph (1) are eligible for a grant, contract, or cooperative agreement under this part to 1 or more of the categories of eligible entities described in paragraph (1).

(Pub. L. 91–230, title VI, § 661, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2774.)

PRIOR PROVISIONS

A prior section 1461, Pub. L. 91–230, title VI, § 661, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 130, related to administrative provisions, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1461, Pub. L. 91–230, title VI, § 661, as added Pub. L. 99–457, title III, § 317, Oct. 8, 1986, 100 Stat. 1172; amended Pub. L. 100–630, title I, § 107(b), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title VII, § 701, title IX, § 901(b)(154)–(156), Oct. 30, 1990, 104 Stat. 1140, 1149; Pub. L. 102–119, § 25(a)(15), (b), Oct. 7, 1991, 105 Stat. 606, 607, related to financial assistance for the purpose of advancing use of new technology, media, and materials in education of students with disabilities and provision of related services and early intervention services to infants and toddlers with disabilities, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

Another prior section 1461, Pub. L. 91–230, title VI, § 661, Apr. 13, 1970, 84 Stat. 187; Pub. L. 93–380, title VI, § 621, Aug. 21, 1974, 88 Stat. 585; Pub. L. 98–199, § 3(b), Dec. 2, 1983, 97 Stat. 1358, related to research, training, and model centers respecting special programs for children with specific learning disabilities, providing in subsec. (a), Secretary's grant and contract authority, functions of model centers, and considerations governing making of contracts and grants; subsec. (b), other considerations in making awards, geographical distribution of training programs and trained personnel, and a model center in each State; and subsec. (c), appropriations authorization of $10, $20, and $20 million dollars for fiscal years ending June 30, 1975 through 1977, respectively, prior to repeal by Pub. L. 98–199, § 14, Dec. 2, 1983, 97 Stat. 1374.

§ 1462. Personnel development to improve services and results for children with disabilities

(a) In general

The Secretary, on a competitive basis, shall award grants to, or enter into contracts or cooperative agreements with, eligible entities to carry out 1 or more of the following objectives:

(1) To help address the needs identified in the State plan described in section 1453(a)(2) of this title for highly qualified personnel, as defined in section 1451(b) of this title, to work with infants or toddlers with disabilities, or children with disabilities, consistent with the qualifications described in section 1412(a)(14) of this title.

(2) To ensure that those personnel have the necessary skills and knowledge, derived from

practices that have been determined, through scientifically based research, to be successful in serving those children.

(3) To encourage increased focus on academics and core content areas in special education personnel preparation programs.

(4) To ensure that regular education teachers have the necessary skills and knowledge to provide instruction to students with disabilities in the regular education classroom.

(5) To ensure that all special education teachers are highly qualified.

(6) To ensure that preservice and in-service personnel preparation programs include training in—

(A) the use of new technologies;

(B) the area of early intervention, educational, and transition services;

(C) effectively involving parents; and

(D) positive behavioral supports.

(7) To provide high-quality professional development for principals, superintendents, and other administrators, including training in—

(A) instructional leadership;

(B) behavioral supports in the school and classroom;

(C) paperwork reduction;

(D) promoting improved collaboration between special education and general education teachers;

(E) assessment and accountability;

(F) ensuring effective learning environments; and

(G) fostering positive relationships with parents.

(b) Personnel development; enhanced support for beginning special educators

(1) In general

In carrying out this section, the Secretary shall support activities—

(A) for personnel development, including activities for the preparation of personnel who will serve children with high incidence and low incidence disabilities, to prepare special education and general education teachers, principals, administrators, and related services personnel (and school board members, when appropriate) to meet the diverse and individualized instructional needs of children with disabilities and improve early intervention, educational, and transitional services and results for children with disabilities, consistent with the objectives described in subsection (a); and

(B) for enhanced support for beginning special educators, consistent with the objectives described in subsection (a).

(2) Personnel development

In carrying out paragraph (1)(A), the Secretary shall support not less than 1 of the following activities:

(A) Assisting effective existing, improving existing, or developing new, collaborative personnel preparation activities undertaken by institutions of higher education, local educational agencies, and other local entities that incorporate best practices and scientifically based research, where applicable, in providing special education and general education teachers, principals, administrators, and related services personnel with the knowledge and skills to effectively support students with disabilities, including—

(i) working collaboratively in regular classroom settings;

(ii) using appropriate supports, accommodations, and curriculum modifications;

(iii) implementing effective teaching strategies, classroom-based techniques, and interventions to ensure appropriate identification of students who may be eligible for special education services, and to prevent the misidentification, inappropriate overidentification, or underidentification of children as having a disability, especially minority and limited English proficient children;

(iv) effectively working with and involving parents in the education of their children;

(v) utilizing strategies, including positive behavioral interventions, for addressing the conduct of children with disabilities that impedes their learning and that of others in the classroom;

(vi) effectively constructing IEPs, participating in IEP meetings, and implementing IEPs;

(vii) preparing children with disabilities to participate in statewide assessments (with or without accommodations) and alternate assessments, as appropriate, and to ensure that all children with disabilities are a part of all accountability systems under the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.]; and

(viii) working in high need elementary schools and secondary schools, including urban schools, rural schools, and schools operated by an entity described in section 7113(d)(1)(A)(ii) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7423(d)(1)(A)(ii)], and schools that serve high numbers or percentages of limited English proficient children.

(B) Developing, evaluating, and disseminating innovative models for the recruitment, induction, retention, and assessment of new, highly qualified teachers to reduce teacher shortages, especially from groups that are underrepresented in the teaching profession, including individuals with disabilities.

(C) Providing continuous personnel preparation, training, and professional development designed to provide support and ensure retention of special education and general education teachers and personnel who teach and provide related services to children with disabilities.

(D) Developing and improving programs for paraprofessionals to become special education teachers, related services personnel, and early intervention personnel, including interdisciplinary training to enable the paraprofessionals to improve early intervention, educational, and transitional results for children with disabilities.

(E) In the case of principals and superintendents, providing activities to promote

instructional leadership and improved collaboration between general educators, special education teachers, and related services personnel.

(F) Supporting institutions of higher education with minority enrollments of not less than 25 percent for the purpose of preparing personnel to work with children with disabilities.

(G) Developing and improving programs to train special education teachers to develop an expertise in autism spectrum disorders.

(H) Providing continuous personnel preparation, training, and professional development designed to provide support and improve the qualifications of personnel who provide related services to children with disabilities, including to enable such personnel to obtain advanced degrees.

(3) Enhanced support for beginning special educators

In carrying out paragraph (1)(B), the Secretary shall support not less than 1 of the following activities:

(A) Enhancing and restructuring existing programs or developing preservice teacher education programs to prepare special education teachers, at colleges or departments of education within institutions of higher education, by incorporating an extended (such as an additional 5th year) clinical learning opportunity, field experience, or supervised practicum into such programs.

(B) Creating or supporting teacher-faculty partnerships (such as professional development schools) that—

(i) consist of not less than—

(I) 1 or more institutions of higher education with special education personnel preparation programs;

(II) 1 or more local educational agencies that serve high numbers or percentages of low-income students; or

(III) 1 or more elementary schools or secondary schools, particularly schools that have failed to make adequate yearly progress on the basis, in whole and in part, of the assessment results of the disaggregated subgroup of students with disabilities;

(ii) may include other entities eligible for assistance under this subchapter; and

(iii) provide—

(I) high-quality mentoring and induction opportunities with ongoing support for beginning special education teachers; or

(II) inservice professional development to beginning and veteran special education teachers through the ongoing exchange of information and instructional strategies with faculty.

(c) Low incidence disabilities; authorized activities

(1) In general

In carrying out this section, the Secretary shall support activities, consistent with the objectives described in subsection (a), that benefit children with low incidence disabilities.

(2) Authorized activities

Activities that may be carried out under this subsection include activities such as the following:

(A) Preparing persons who—

(i) have prior training in educational and other related service fields; and

(ii) are studying to obtain degrees, certificates, or licensure that will enable the persons to assist children with low incidence disabilities to achieve the objectives set out in their individualized education programs described in section 1414(d) of this title, or to assist infants and toddlers with low incidence disabilities to achieve the outcomes described in their individualized family service plans described in section 1436 of this title.

(B) Providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with low incidence disabilities.

(C) Preparing personnel in the innovative uses and application of technology, including universally designed technologies, assistive technology devices, and assistive technology services—

(i) to enhance learning by children with low incidence disabilities through early intervention, educational, and transitional services; and

(ii) to improve communication with parents.

(D) Preparing personnel who provide services to visually impaired or blind children to teach and use Braille in the provision of services to such children.

(E) Preparing personnel to be qualified educational interpreters, to assist children with low incidence disabilities, particularly deaf and hard of hearing children in school and school related activities, and deaf and hard of hearing infants and toddlers and preschool children in early intervention and preschool programs.

(F) Preparing personnel who provide services to children with significant cognitive disabilities and children with multiple disabilities.

(G) Preparing personnel who provide services to children with low incidence disabilities and limited English proficient children.

(3) Definition

In this section, the term ''low incidence disability'' means—

(A) a visual or hearing impairment, or simultaneous visual and hearing impairments;

(B) a significant cognitive impairment; or

(C) any impairment for which a small number of personnel with highly specialized skills and knowledge are needed in order for children with that impairment to receive early intervention services or a free appropriate public education.

(4) Selection of recipients

In selecting eligible entities for assistance under this subsection, the Secretary may give

preference to eligible entities submitting applications that include 1 or more of the following:

(A) A proposal to prepare personnel in more than 1 low incidence disability, such as deafness and blindness.

(B) A demonstration of an effective collaboration between an eligible entity and a local educational agency that promotes recruitment and subsequent retention of highly qualified personnel to serve children with low incidence disabilities.

(5) Preparation in use of braille

The Secretary shall ensure that all recipients of awards under this subsection who will use that assistance to prepare personnel to provide services to visually impaired or blind children that can appropriately be provided in Braille, will prepare those individuals to provide those services in Braille.

(d) Leadership preparation; authorized activities

(1) In general

In carrying out this section, the Secretary shall support leadership preparation activities that are consistent with the objectives described in subsection (a).

(2) Authorized activities

Activities that may be carried out under this subsection include activities such as the following:

(A) Preparing personnel at the graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services to improve results for children with disabilities.

(B) Providing interdisciplinary training for various types of leadership personnel, including teacher preparation faculty, related services faculty, administrators, researchers, supervisors, principals, and other persons whose work affects early intervention, educational, and transitional services for children with disabilities, including children with disabilities who are limited English proficient children.

(e) Applications

(1) In general

An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) Identified State needs

(A) Requirement to address identified needs

An application for assistance under subsection (b), (c), or (d) shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State or States the eligible entity proposes to serve.

(B) Cooperation with State educational agencies

An eligible entity that is not a local educational agency or a State educational agency shall include in the eligible entity's application information demonstrating to the satisfaction of the Secretary that the eligible entity and 1 or more State educational agencies or local educational agencies will cooperate in carrying out and monitoring the proposed project.

(3) Acceptance by States of personnel preparation requirements

The Secretary may require eligible entities to provide in the eligible entities' applications assurances from 1 or more States that such States intend to accept successful completion of the proposed personnel preparation program as meeting State personnel standards or other requirements in State law or regulation for serving children with disabilities or serving infants and toddlers with disabilities.

(f) Selection of recipients

(1) Impact of project

In selecting eligible entities for assistance under this section, the Secretary shall consider the impact of the proposed project described in the application in meeting the need for personnel identified by the States.

(2) Requirement for eligible entities to meet State and professional qualifications

The Secretary shall make grants and enter into contracts and cooperative agreements under this section only to eligible entities that meet State and professionally recognized qualifications for the preparation of special education and related services personnel, if the purpose of the project is to assist personnel in obtaining degrees.

(3) Preferences

In selecting eligible entities for assistance under this section, the Secretary may give preference to eligible entities that are institutions of higher education that are—

(A) educating regular education personnel to meet the needs of children with disabilities in integrated settings;

(B) educating special education personnel to work in collaboration with regular educators in integrated settings; and

(C) successfully recruiting and preparing individuals with disabilities and individuals from groups that are underrepresented in the profession for which the institution of higher education is preparing individuals.

(g) Scholarships

The Secretary may include funds for scholarships, with necessary stipends and allowances, in awards under subsections (b), (c), and (d).

(h) Service obligation

(1) In general

Each application for assistance under subsections (b), (c), and (d) shall include an assurance that the eligible entity will ensure that individuals who receive a scholarship under the proposed project agree to subsequently provide special education and related services to children with disabilities, or in the case of leadership personnel to subsequently work in the appropriate field, for a period of 2 years for

every year for which the scholarship was received or repay all or part of the amount of the scholarship, in accordance with regulations issued by the Secretary.

(2) Special rule

Notwithstanding paragraph (1), the Secretary may reduce or waive the service obligation requirement under paragraph (1) if the Secretary determines that the service obligation is acting as a deterrent to the recruitment of students into special education or a related field.

(3) Secretary's responsibility

The Secretary—

(A) shall ensure that individuals described in paragraph (1) comply with the requirements of that paragraph; and

(B) may use not more than 0.5 percent of the funds appropriated under subsection (i) for each fiscal year, to carry out subparagraph (A), in addition to any other funds that are available for that purpose.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 2005 through 2010.

(Pub. L. 91–230, title VI, § 662, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2774.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(2)(A)(vii), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 1462, Pub. L. 91–230, title VI, § 662, as added Pub. L. 99–457, title III, § 317, Oct. 8, 1986, 100 Stat. 1172; amended Pub. L. 101–476, title VII, § 702, Oct. 30, 1990, 104 Stat. 1141, authorized appropriations, prior to repeal by Pub. L. 105–17, title II, § 203(c), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1997.

A prior section 662 of Pub. L. 91–230, title VI, Apr. 13, 1970, 84 Stat. 188, eff. July 1, 1971, repealed sections 611 to 618, 621 to 624, and 871 to 880a of this title, and sections 2491 to 2494 and 2698 to 2698b of Title 42, The Public Health and Welfare, and amended section 676 of this title, prior to repeal by Pub. L. 98–199, § 14, Dec. 2, 1983, 97 Stat. 1374.

§ 1463. Technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research

(a) In general

The Secretary shall make competitive grants to, or enter into contracts or cooperative agreements with, eligible entities to provide technical assistance, support model demonstration projects, disseminate useful information, and implement activities that are supported by scientifically based research.

(b) Required activities

Funds received under this section shall be used to support activities to improve services provided under this chapter, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

(1) implementing effective strategies for addressing inappropriate behavior of students with disabilities in schools, including strategies to prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services;

(2) improving the alignment, compatibility, and development of valid and reliable assessments and alternate assessments for assessing adequate yearly progress, as described under section 6311(b)(2)(B) of this title;

(3) providing training for both regular education teachers and special education teachers to address the needs of students with different learning styles;

(4) disseminating information about innovative, effective, and efficient curricula designs, instructional approaches, and strategies, and identifying positive academic and social learning opportunities, that—

(A) provide effective transitions between educational settings or from school to post school settings; and

(B) improve educational and transitional results at all levels of the educational system in which the activities are carried out and, in particular, that improve the progress of children with disabilities, as measured by assessments within the general education curriculum involved; and

(5) applying scientifically based findings to facilitate systemic changes, related to the provision of services to children with disabilities, in policy, procedure, practice, and the training and use of personnel.

(c) Authorized activities

Activities that may be carried out under this section include activities to improve services provided under this chapter, including the practices of professionals and others involved in providing such services to children with disabilities, that promote academic achievement and improve results for children with disabilities through—

(1) applying and testing research findings in typical settings where children with disabilities receive services to determine the usefulness, effectiveness, and general applicability of such research findings in such areas as improving instructional methods, curricula, and tools, such as textbooks and media;

(2) supporting and promoting the coordination of early intervention and educational services for children with disabilities with services provided by health, rehabilitation, and social service agencies;

(3) promoting improved alignment and compatibility of general and special education reforms concerned with curricular and instructional reform, and evaluation of such reforms;

(4) enabling professionals, parents of children with disabilities, and other persons to learn about, and implement, the findings of

scientifically based research, and successful practices developed in model demonstration projects, relating to the provision of services to children with disabilities;

(5) conducting outreach, and disseminating information, relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services to personnel who provide services to children with disabilities;

(6) assisting States and local educational agencies with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities;

(7) promoting change through a multistate or regional framework that benefits States, local educational agencies, and other participants in partnerships that are in the process of achieving systemic-change outcomes;

(8) focusing on the needs and issues that are specific to a population of children with disabilities, such as providing single-State and multi-State technical assistance and in-service training—

(A) to schools and agencies serving deaf-blind children and their families;

(B) to programs and agencies serving other groups of children with low incidence disabilities and their families;

(C) addressing the postsecondary education needs of individuals who are deaf or hard-of-hearing; and

(D) to schools and personnel providing special education and related services for children with autism spectrum disorders;

(9) demonstrating models of personnel preparation to ensure appropriate placements and services for all students and to reduce disproportionality in eligibility, placement, and disciplinary actions for minority and limited English proficient children; and

(10) disseminating information on how to reduce inappropriate racial and ethnic disproportionalities identified under section 1418 of this title.

(d) Balance among activities and age ranges

In carrying out this section, the Secretary shall ensure that there is an appropriate balance across all age ranges of children with disabilities.

(e) Linking States to information sources

In carrying out this section, the Secretary shall support projects that link States to technical assistance resources, including special education and general education resources, and shall make research and related products available through libraries, electronic networks, parent training projects, and other information sources, including through the activities of the National Center for Education Evaluation and Regional Assistance established under part D of the Education Sciences Reform Act of 2002 [20 U.S.C. 9561 et seq.].

(f) Applications

(1) In general

An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) Standards

To the maximum extent feasible, each eligible entity shall demonstrate that the project described in the eligible entity's application is supported by scientifically valid research that has been carried out in accordance with the standards for the conduct and evaluation of all relevant research and development established by the National Center for Education Research.

(3) Priority

As appropriate, the Secretary shall give priority to applications that propose to serve teachers and school personnel directly in the school environment.

(Pub. L. 91–230, title VI, § 663, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2781.)

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in subsec. (e), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, as amended. Part D of the Act is classified generally to part D (§ 9561 et seq.) of subchapter I of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

§ 1464. Studies and evaluations

(a) Studies and evaluations

(1) Delegation

The Secretary shall delegate to the Director of the Institute of Education Sciences responsibility to carry out this section, other than subsections (d) and (f).

(2) Assessment

The Secretary shall, directly or through grants, contracts, or cooperative agreements awarded to eligible entities on a competitive basis, assess the progress in the implementation of this chapter, including the effectiveness of State and local efforts to provide—

(A) a free appropriate public education to children with disabilities; and

(B) early intervention services to infants and toddlers with disabilities, and infants and toddlers who would be at risk of having substantial developmental delays if early intervention services were not provided to the infants and toddlers.

(b) Assessment of national activities

(1) In general

The Secretary shall carry out a national assessment of activities carried out with Federal funds under this chapter in order—

(A) to determine the effectiveness of this chapter in achieving the purposes of this chapter;

(B) to provide timely information to the President, Congress, the States, local educational agencies, and the public on how to implement this chapter more effectively; and

(C) to provide the President and Congress with information that will be useful in de-

veloping legislation to achieve the purposes of this chapter more effectively.

(2) Scope of assessment

The national assessment shall assess activities supported under this chapter, including—

(A) the implementation of programs assisted under this chapter and the impact of such programs on addressing the developmental needs of, and improving the academic achievement of, children with disabilities to enable the children to reach challenging developmental goals and challenging State academic content standards based on State academic assessments;

(B) the types of programs and services that have demonstrated the greatest likelihood of helping students reach the challenging State academic content standards and developmental goals;

(C) the implementation of the professional development activities assisted under this chapter and the impact on instruction, student academic achievement, and teacher qualifications to enhance the ability of special education teachers and regular education teachers to improve results for children with disabilities; and

(D) the effectiveness of schools, local educational agencies, States, other recipients of assistance under this chapter, and the Secretary in achieving the purposes of this chapter by—

(i) improving the academic achievement of children with disabilities and their performance on regular statewide assessments as compared to nondisabled children, and the performance of children with disabilities on alternate assessments;

(ii) improving the participation of children with disabilities in the general education curriculum;

(iii) improving the transitions of children with disabilities at natural transition points;

(iv) placing and serving children with disabilities, including minority children, in the least restrictive environment appropriate;

(v) preventing children with disabilities, especially children with emotional disturbances and specific learning disabilities, from dropping out of school;

(vi) addressing the reading and literacy needs of children with disabilities;

(vii) reducing the inappropriate overidentification of children, especially minority and limited English proficient children, as having a disability;

(viii) improving the participation of parents of children with disabilities in the education of their children; and

(ix) resolving disagreements between education personnel and parents through alternate dispute resolution activities, including mediation.

(3) Interim and final reports

The Secretary shall submit to the President and Congress—

(A) an interim report that summarizes the preliminary findings of the assessment not later than 3 years after December 3, 2004; and

(B) a final report of the findings of the assessment not later than 5 years after December 3, 2004.

(c) Study on ensuring accountability for students who are held to alternative achievement standards

The Secretary shall carry out a national study or studies to examine—

(1) the criteria that States use to determine—

(A) eligibility for alternate assessments; and

(B) the number and type of children who take those assessments and are held accountable to alternative achievement standards;

(2) the validity and reliability of alternate assessment instruments and procedures;

(3) the alignment of alternate assessments and alternative achievement standards to State academic content standards in reading, mathematics, and science; and

(4) the use and effectiveness of alternate assessments in appropriately measuring student progress and outcomes specific to individualized instructional need.

(d) Annual report

The Secretary shall provide an annual report to Congress that—

(1) summarizes the research conducted under part E of the Education Sciences Reform Act of 2002 [20 U.S.C. 9567 et seq.];

(2) analyzes and summarizes the data reported by the States and the Secretary of the Interior under section 1418 of this title;

(3) summarizes the studies and evaluations conducted under this section and the timeline for their completion;

(4) describes the extent and progress of the assessment of national activities; and

(5) describes the findings and determinations resulting from reviews of State implementation of this chapter.

(e) Authorized activities

In carrying out this section, the Secretary may support objective studies, evaluations, and assessments, including studies that—

(1) analyze measurable impact, outcomes, and results achieved by State educational agencies and local educational agencies through their activities to reform policies, procedures, and practices designed to improve educational and transitional services and results for children with disabilities;

(2) analyze State and local needs for professional development, parent training, and other appropriate activities that can reduce the need for disciplinary actions involving children with disabilities;

(3) assess educational and transitional services and results for children with disabilities from minority backgrounds, including—

(A) data on—

(i) the number of minority children who are referred for special education evaluation;

(ii) the number of minority children who are receiving special education and related services and their educational or other service placement;

(iii) the number of minority children who graduated from secondary programs with a regular diploma in the standard number of years; and

(iv) the number of minority children who drop out of the educational system; and

(B) the performance of children with disabilities from minority backgrounds on State assessments and other performance indicators established for all students;

(4) measure educational and transitional services and results for children with disabilities served under this chapter, including longitudinal studies that—

(A) examine educational and transitional services and results for children with disabilities who are 3 through 17 years of age and are receiving special education and related services under this chapter, using a national, representative sample of distinct age cohorts and disability categories; and

(B) examine educational results, transition services, postsecondary placement, and employment status for individuals with disabilities, 18 through 21 years of age, who are receiving or have received special education and related services under this chapter; and

(5) identify and report on the placement of children with disabilities by disability category.

(f) Study

The Secretary shall study, and report to Congress regarding, the extent to which States adopt policies described in section 1435(c)(1) of this title and on the effects of those policies.

(Pub. L. 91–230, title VI, § 664, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2783.)

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in subsec. (d)(1), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, as amended. Part E of the Act is classified generally to part E (§ 9567 et seq.) of subchapter I of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

§ 1465. Interim alternative educational settings, behavioral supports, and systemic school interventions

(a) Program authorized

The Secretary may award grants, and enter into contracts and cooperative agreements, to support safe learning environments that support academic achievement for all students by—

(1) improving the quality of interim alternative educational settings; and

(2) providing increased behavioral supports and research-based, systemic interventions in schools.

(b) Authorized activities

In carrying out this section, the Secretary may support activities to—

(1) establish, expand, or increase the scope of behavioral supports and systemic interventions by providing for effective, research-based practices, including—

(A) training for school staff on early identification, prereferral, and referral procedures;

(B) training for administrators, teachers, related services personnel, behavioral specialists, and other school staff in positive behavioral interventions and supports, behavioral intervention planning, and classroom and student management techniques;

(C) joint training for administrators, parents, teachers, related services personnel, behavioral specialists, and other school staff on effective strategies for positive behavioral interventions and behavior management strategies that focus on the prevention of behavior problems;

(D) developing or implementing specific curricula, programs, or interventions aimed at addressing behavioral problems;

(E) stronger linkages between school-based services and community-based resources, such as community mental health and primary care providers; or

(F) using behavioral specialists, related services personnel, and other staff necessary to implement behavioral supports; or

(2) improve interim alternative educational settings by—

(A) improving the training of administrators, teachers, related services personnel, behavioral specialists, and other school staff (including ongoing mentoring of new teachers) in behavioral supports and interventions;

(B) attracting and retaining a high quality, diverse staff;

(C) providing for referral to counseling services;

(D) utilizing research-based interventions, curriculum, and practices;

(E) allowing students to use instructional technology that provides individualized instruction;

(F) ensuring that the services are fully consistent with the goals of the individual student's IEP;

(G) promoting effective case management and collaboration among parents, teachers, physicians, related services personnel, behavioral specialists, principals, administrators, and other school staff;

(H) promoting interagency coordination and coordinated service delivery among schools, juvenile courts, child welfare agencies, community mental health providers, primary care providers, public recreation agencies, and community-based organizations; or

(I) providing for behavioral specialists to help students transitioning from interim alternative educational settings reintegrate into their regular classrooms.

(c) Definition of eligible entity

In this section, the term ''eligible entity'' means—

(1) a local educational agency; or

(2) a consortium consisting of a local educational agency and 1 or more of the following entities:

(A) Another local educational agency.

(B) A community-based organization with a demonstrated record of effectiveness in helping children with disabilities who have behavioral challenges succeed.

(C) An institution of higher education.
(D) A community mental health provider.
(E) An educational service agency.

(d) Applications

Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall—

(1) submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require; and

(2) involve parents of participating students in the design and implementation of the activities funded under this section.

(e) Report and evaluation

Each eligible entity receiving a grant under this section shall prepare and submit annually to the Secretary a report on the outcomes of the activities assisted under the grant.

(Pub. L. 91–230, title VI, § 665, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2786.)

§ 1466. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this part (other than section 1462 of this title) such sums as may be necessary for each of the fiscal years 2005 through 2010.

(b) Reservation

From amounts appropriated under subsection (a) for fiscal year 2005, the Secretary shall reserve $1,000,000 to carry out the study authorized in section 1464(c) of this title. From amounts appropriated under subsection (a) for a succeeding fiscal year, the Secretary may reserve an additional amount to carry out such study if the Secretary determines the additional amount is necessary.

(Pub. L. 91–230, title VI, § 667, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2787.)

PART C—SUPPORTS TO IMPROVE RESULTS FOR CHILDREN WITH DISABILITIES

§ 1470. Purposes

The purposes of this part are to ensure that—

(1) children with disabilities and their parents receive training and information designed to assist the children in meeting developmental and functional goals and challenging academic achievement goals, and in preparing to lead productive independent adult lives;

(2) children with disabilities and their parents receive training and information on their rights, responsibilities, and protections under this chapter, in order to develop the skills necessary to cooperatively and effectively participate in planning and decision making relating to early intervention, educational, and transitional services;

(3) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist such personnel in improving early intervention, educational, and transitional services and results for children with disabilities and their families; and

(4) appropriate technology and media are researched, developed, and demonstrated, to improve and implement early intervention, educational, and transitional services and results for children with disabilities and their families.

(Pub. L. 91–230, title VI, § 670, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2788.)

§ 1471. Parent training and information centers

(a) Program authorized

(1) In general

The Secretary may award grants to, and enter into contracts and cooperative agreements with, parent organizations to support parent training and information centers to carry out activities under this section.

(2) Definition of parent organization

In this section, the term ''parent organization'' means a private nonprofit organization (other than an institution of higher education) that—

(A) has a board of directors—

(i) the majority of whom are parents of children with disabilities ages birth through 26;

(ii) that includes—

(I) individuals working in the fields of special education, related services, and early intervention; and

(II) individuals with disabilities; and

(iii) the parent and professional members of which are broadly representative of the population to be served, including low-income parents and parents of limited English proficient children; and

(B) has as its mission serving families of children with disabilities who—

(i) are ages birth through 26; and

(ii) have the full range of disabilities described in section 1401(3) of this title.

(b) Required activities

Each parent training and information center that receives assistance under this section shall—

(1) provide training and information that meets the needs of parents of children with disabilities living in the area served by the center, particularly underserved parents and parents of children who may be inappropriately identified, to enable their children with disabilities to—

(A) meet developmental and functional goals, and challenging academic achievement goals that have been established for all children; and

(B) be prepared to lead productive independent adult lives, to the maximum extent possible;

(2) serve the parents of infants, toddlers, and children with the full range of disabilities described in section 1401(3) of this title;

(3) ensure that the training and information provided meets the needs of low-income parents and parents of limited English proficient children;

(4) assist parents to—

(A) better understand the nature of their children's disabilities and their educational, developmental, and transitional needs;

(B) communicate effectively and work collaboratively with personnel responsible for providing special education, early intervention services, transition services, and related services;

(C) participate in decisionmaking processes and the development of individualized education programs under subchapter II and individualized family service plans under subchapter III;

(D) obtain appropriate information about the range, type, and quality of—

(i) options, programs, services, technologies, practices and interventions based on scientifically based research, to the extent practicable; and

(ii) resources available to assist children with disabilities and their families in school and at home;

(E) understand the provisions of this chapter for the education of, and the provision of early intervention services to, children with disabilities;

(F) participate in activities at the school level that benefit their children; and

(G) participate in school reform activities;

(5) in States where the State elects to contract with the parent training and information center, contract with State educational agencies to provide, consistent with subparagraphs (B) and (D) of section 1415(e)(2) of this title, individuals who meet with parents to explain the mediation process to the parents;

(6) assist parents in resolving disputes in the most expeditious and effective way possible, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in section 1415(e) of this title;

(7) assist parents and students with disabilities to understand their rights and responsibilities under this chapter, including those under section 1415(m) of this title upon the student's reaching the age of majority (as appropriate under State law);

(8) assist parents to understand the availability of, and how to effectively use, procedural safeguards under this chapter, including the resolution session described in section 1415(e) of this title;

(9) assist parents in understanding, preparing for, and participating in, the process described in section 1415(f)(1)(B) of this title;

(10) establish cooperative partnerships with community parent resource centers funded under section 1472 of this title;

(11) network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 1463 of this title and the Institute of Education Sciences, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities described in section 1401(3) of this title; and

(12) annually report to the Secretary on—

(A) the number and demographics of parents to whom the center provided information and training in the most recently concluded fiscal year;

(B) the effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities; and

(C) the number of parents served who have resolved disputes through alternative methods of dispute resolution.

(c) Optional activities

A parent training and information center that receives assistance under this section may provide information to teachers and other professionals to assist the teachers and professionals in improving results for children with disabilities.

(d) Application requirements

Each application for assistance under this section shall identify with specificity the special efforts that the parent organization will undertake—

(1) to ensure that the needs for training and information of underserved parents of children with disabilities in the area to be served are effectively met; and

(2) to work with community based organizations, including community based organizations that work with low-income parents and parents of limited English proficient children.

(e) Distribution of funds

(1) In general

The Secretary shall—

(A) make not less than 1 award to a parent organization in each State for a parent training and information center that is designated as the statewide parent training and information center; or

(B) in the case of a large State, make awards to multiple parent training and information centers, but only if the centers demonstrate that coordinated services and supports will occur among the multiple centers.

(2) Selection requirement

The Secretary shall select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

(f) Quarterly review

(1) Meetings

The board of directors of each parent organization that receives an award under this section shall meet not less than once in each calendar quarter to review the activities for which the award was made.

(2) Continuation award

When a parent organization requests a continuation award under this section, the board of directors shall submit to the Secretary a written review of the parent training and information program conducted by the parent organization during the preceding fiscal year.

(Pub. L. 91–230, title VI, § 671, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2788.)

PRIOR PROVISIONS

A prior section 1471, Pub. L. 91–230, title VI, § 671, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 135, related to congressional findings and purposes for subpart 1 of part B of former subchapter IV of this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1471, Pub. L. 91–230, title VI, § 671, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1145; amended Pub. L. 100–630, title I, § 108(a), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title IX, § 901(b)(158)–(161), Oct. 30, 1990, 104 Stat. 1149; Pub. L. 102–119, §§ 11, 25(a)(16), (b), Oct. 7, 1991, 105 Stat. 595, 606, 607, related to congressional findings and policy with regard to early intervention services for infants and toddlers with disabilities and their families, prior to repeal by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

§ 1472. Community parent resource centers

(a) Program authorized

(1) In general

The Secretary may award grants to, and enter into contracts and cooperative agreements with, local parent organizations to support community parent resource centers that will help ensure that underserved parents of children with disabilities, including low income parents, parents of limited English proficient children, and parents with disabilities, have the training and information the parents need to enable the parents to participate effectively in helping their children with disabilities—

(A) to meet developmental and functional goals, and challenging academic achievement goals that have been established for all children; and

(B) to be prepared to lead productive independent adult lives, to the maximum extent possible.

(2) Definition of local parent organization

In this section, the term ''local parent organization'' means a parent organization, as defined in section 1471(a)(2) of this title, that—

(A) has a board of directors the majority of whom are parents of children with disabilities ages birth through 26 from the community to be served; and

(B) has as its mission serving parents of children with disabilities who—

(i) are ages birth through 26; and

(ii) have the full range of disabilities described in section 1401(3) of this title.

(b) Required activities

Each community parent resource center assisted under this section shall—

(1) provide training and information that meets the training and information needs of parents of children with disabilities proposed to be served by the grant, contract, or cooperative agreement;

(2) carry out the activities required of parent training and information centers under paragraphs (2) through (9) of section 1471(b) of this title;

(3) establish cooperative partnerships with the parent training and information centers funded under section 1471 of this title; and

(4) be designed to meet the specific needs of families who experience significant isolation from available sources of information and support.

(Pub. L. 91–230, title VI, § 672, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2791.)

PRIOR PROVISIONS

A prior section 1472, Pub. L. 91–230, title VI, § 672, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 136, related to research and innovation to improve services and results for children with disabilities, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1472, Pub. L. 91–230, title VI, § 672, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1146; amended Pub. L. 100–630, title I, § 108(b), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title VIII, § 801, title IX, § 901(b)(162), (163), Oct. 30, 1990, 104 Stat. 1141, 1149; Pub. L. 102–119, §§ 12, 25(b), Oct. 7, 1991, 105 Stat. 595, 607, related to definitions, prior to repeal by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

§ 1473. Technical assistance for parent training and information centers

(a) Program authorized

(1) In general

The Secretary may, directly or through awards to eligible entities, provide technical assistance for developing, assisting, and coordinating parent training and information programs carried out by parent training and information centers receiving assistance under section 1471 of this title and community parent resource centers receiving assistance under section 1472 of this title.

(2) Definition of eligible entity

In this section, the term ''eligible entity'' has the meaning given the term in section 1461(b) of this title.

(b) Authorized activities

The Secretary may provide technical assistance to a parent training and information center or a community parent resource center under this section in areas such as—

(1) effective coordination of parent training efforts;

(2) dissemination of scientifically based research and information;

(3) promotion of the use of technology, including assistive technology devices and assistive technology services;

(4) reaching underserved populations, including parents of low-income and limited English proficient children with disabilities;

(5) including children with disabilities in general education programs;

(6) facilitation of transitions from—

(A) early intervention services to preschool;

(B) preschool to elementary school;

(C) elementary school to secondary school; and

(D) secondary school to postsecondary environments; and

(7) promotion of alternative methods of dispute resolution, including mediation.

(c) Collaboration with the resource centers

Each eligible entity receiving an award under subsection (a) shall develop collaborative agree-

ments with the geographically appropriate regional resource center and, as appropriate, the regional educational laboratory supported under section 9564 of this title, to further parent and professional collaboration.

(Pub. L. 91–230, title VI, § 673, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2791.)

PRIOR PROVISIONS

A prior section 1473, Pub. L. 91–230, title VI, § 673, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 139, related to personnel preparation to improve services and results for children with disabilities, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1473, Pub. L. 91–230, title VI, § 673, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1147; amended Pub. L. 101–476, title IX, § 901(b)(164), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to general authority of Secretary to make grants to States for development of system to provide early intervention services for infants and toddlers with disabilities and their families, prior to repeal by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

§ 1474. Technology development, demonstration, and utilization; media services; and instructional materials

(a) Program authorized

(1) In general

The Secretary, on a competitive basis, shall award grants to, and enter into contracts and cooperative agreements with, eligible entities to support activities described in subsections (b) and (c).

(2) Definition of eligible entity

In this section, the term ''eligible entity'' has the meaning given the term in section 1461(b) of this title.

(b) Technology development, demonstration, and use

(1) In general

In carrying out this section, the Secretary shall support activities to promote the development, demonstration, and use of technology.

(2) Authorized activities

The following activities may be carried out under this subsection:

(A) Conducting research on and promoting the demonstration and use of innovative, emerging, and universally designed technologies for children with disabilities, by improving the transfer of technology from research and development to practice.

(B) Supporting research, development, and dissemination of technology with universal design features, so that the technology is accessible to the broadest range of individuals with disabilities without further modification or adaptation.

(C) Demonstrating the use of systems to provide parents and teachers with information and training concerning early diagnosis of, intervention for, and effective teaching strategies for, young children with reading disabilities.

(D) Supporting the use of Internet-based communications for students with cognitive disabilities in order to maximize their academic and functional skills.

(c) Educational media services

(1) In general

In carrying out this section, the Secretary shall support—

(A) educational media activities that are designed to be of educational value in the classroom setting to children with disabilities;

(B) providing video description, open captioning, or closed captioning, that is appropriate for use in the classroom setting, of—

(i) television programs;

(ii) videos;

(iii) other materials, including programs and materials associated with new and emerging technologies, such as CDs, DVDs, video streaming, and other forms of multimedia; or

(iv) news (but only until September 30, 2006);

(C) distributing materials described in subparagraphs (A) and (B) through such mechanisms as a loan service; and

(D) providing free educational materials, including textbooks, in accessible media for visually impaired and print disabled students in elementary schools and secondary schools, postsecondary schools, and graduate schools.

(2) Limitation

The video description, open captioning, or closed captioning described in paragraph (1)(B) shall be provided only when the description or captioning has not been previously provided by the producer or distributor, or has not been fully funded by other sources.

(d) Applications

(1) In general

Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under subsection (b) or (c) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) Special rule

For the purpose of an application for an award to carry out activities described in subsection (c)(1)(D), such eligible entity shall—

(A) be a national, nonprofit entity with a proven track record of meeting the needs of students with print disabilities through services described in subsection (c)(1)(D);

(B) have the capacity to produce, maintain, and distribute in a timely fashion, up-to-date textbooks in digital audio formats to qualified students; and

(C) have a demonstrated ability to significantly leverage Federal funds through other public and private contributions, as well as through the expansive use of volunteers.

(e) National Instructional Materials Access Center

(1) In general

The Secretary shall establish and support, through the American Printing House for the

Blind, a center to be known as the ''National Instructional Materials Access Center'' not later than 1 year after December 3, 2004.

(2) Duties

The duties of the National Instructional Materials Access Center are the following:

(A) To receive and maintain a catalog of print instructional materials prepared in the National Instructional Materials Accessibility Standard, as established by the Secretary, made available to such center by the textbook publishing industry, State educational agencies, and local educational agencies.

(B) To provide access to print instructional materials, including textbooks, in accessible media, free of charge, to blind or other persons with print disabilities in elementary schools and secondary schools, in accordance with such terms and procedures as the National Instructional Materials Access Center may prescribe.

(C) To develop, adopt and publish procedures to protect against copyright infringement, with respect to the print instructional materials provided under sections 1412(a)(23) and 1413(a)(6) of this title.

(3) Definitions

In this subsection:

(A) Blind or other persons with print disabilities

The term ''blind or other persons with print disabilities'' means children served under this chapter and who may qualify in accordance with the Act entitled ''An Act to provide books for the adult blind'', approved March 3, 1931 (2 U.S.C. 135a; 46 Stat. 1487) to receive books and other publications produced in specialized formats.

(B) National Instructional Materials Accessibility Standard

The term ''National Instructional Materials Accessibility Standard'' means the standard established by the Secretary to be used in the preparation of electronic files suitable and used solely for efficient conversion into specialized formats.

(C) Print instructional materials

The term ''print instructional materials'' means printed textbooks and related printed core materials that are written and published primarily for use in elementary school and secondary school instruction and are required by a State educational agency or local educational agency for use by students in the classroom.

(D) Specialized formats

The term ''specialized formats'' has the meaning given the term in section 121(d)(3) of title 17.

(4) Applicability

This subsection shall apply to print instructional materials published after the date on which the final rule establishing the National Instructional Materials Accessibility Standard was published in the Federal Register.

(5) Liability of the Secretary

Nothing in this subsection shall be construed to establish a private right of action against the Secretary for failure to provide instructional materials directly, or for failure by the National Instructional Materials Access Center to perform the duties of such center, or to otherwise authorize a private right of action related to the performance by such center, including through the application of the rights of children and parents established under this chapter.

(6) Inapplicability

Subsections (a) through (d) shall not apply to this subsection.

(Pub. L. 91–230, title VI, § 674, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2792.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (e)(3)(A), (5), was in the original ''this Act'' and was translated as reading ''this title'', meaning title VI of Pub. L. 91–230, as amended, which enacted this chapter, to reflect the probable intent of Congress.

''An Act to provide books for the adult blind'', approved March 3, 1931, referred to in subsec. (e)(3)(A), is act Mar. 3, 1931, ch. 400, 46 Stat. 1487, as amended, which is classified generally to sections 135a and 135b of Title 2, The Congress. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1474, Pub. L. 91–230, title VI, § 674, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 143, related to studies and evaluations, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1474, Pub. L. 91–230, title VI, § 674, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1147, related to general eligibility, prior to repeal by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

§ 1475. Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 2005 through 2010.

(Pub. L. 91–230, title VI, § 675, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2795.)

PRIOR PROVISIONS

Prior sections 1475 to 1480 were repealed by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

Section 1475, Pub. L. 91–230, title VI, § 675, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1147; amended Pub. L. 100–630, title I, § 108(c), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title IX, § 901(b)(165), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–52, § 10, June 6, 1991, 105 Stat. 263; Pub. L. 102–119, §§ 19(c), 25(b), Oct. 7, 1991, 105 Stat. 601, 607, related to continuing eligibility.

Section 1476, Pub. L. 91–230, title VI, § 675, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1147; amended Pub. L. 100–630, title I, § 108(c), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title IX, § 901(b)(165), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–52, § 10, June 6, 1991, 105 Stat. 263; Pub. L. 102–119, §§ 19(c), 25(b), Oct. 7, 1991, 105 Stat. 601, 607, related to the minimum components for a statewide system providing early intervention services to infants and toddlers with disabilities and their families.

Section 1477, Pub. L. 91–230, title VI, § 677, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1149;

amended Pub. L. 100–630, title I, §108(f), Nov. 7, 1988, 102 Stat. 3301; Pub. L. 101–476, title IX, §901(b)(174)–(176), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§14, 25(b), Oct. 7, 1991, 105 Stat. 597, 607, related to the individualized family service plan.

Section 1478, Pub. L. 91–230, title VI, §678, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1150; amended Pub. L. 100–630, title I, §108(g), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, §901(b)(177), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§15, 25(b), Oct. 7, 1991, 105 Stat. 597, 607, related to contents of State application, statement of assurances, and approval process.

Section 1479, Pub. L. 91–230, title VI, §679, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1151; amended Pub. L. 100–630, title I, §108(h), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, §901(b)(178), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§16, 25(b), Oct. 7, 1991, 105 Stat. 598, 607, related to permissible uses of funds.

Section 1480, Pub. L. 91–230, title VI, §680, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1152; amended Pub. L. 100–630, title I, §108(i), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, §901(b)(179), (180), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§17, 25(b), Oct. 7, 1991, 105 Stat. 598, 607, related to procedural safeguards.

PART D—GENERAL PROVISIONS

§ 1481. Comprehensive plan for parts B and C

(a) Comprehensive plan

(1) In general

After receiving input from interested individuals with relevant expertise, the Secretary shall develop and implement a comprehensive plan for activities carried out under parts B and C in order to enhance the provision of early intervention services, educational services, related services, and transitional services to children with disabilities under subchapters II and III. To the extent practicable, the plan shall be coordinated with the plan developed pursuant to section 9567b(c) of this title[1] and shall include mechanisms to address early intervention, educational, related service and transitional needs identified by State educational agencies in applications submitted for State personnel development grants under part A and for grants under parts B and C.

(2) Public comment

The Secretary shall provide a public comment period of not less than 45 days on the plan.

(3) Distribution of funds

In implementing the plan, the Secretary shall, to the extent appropriate, ensure that funds awarded under parts B and C are used to carry out activities that benefit, directly or indirectly, children with the full range of disabilities and of all ages.

(4) Reports to Congress

The Secretary shall annually report to Congress on the Secretary's activities under parts B and C, including an initial report not later than 12 months after December 3, 2004.

(b) Assistance authorized

The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, eligible entities to enable the eligible entities to carry out the purposes of such parts in accordance with the comprehensive plan described in subsection (a).

(c) Special populations

(1) Application requirement

In making an award of a grant, contract, or cooperative agreement under part B or C, the Secretary shall, as appropriate, require an eligible entity to demonstrate how the eligible entity will address the needs of children with disabilities from minority backgrounds.

(2) Required outreach and technical assistance

Notwithstanding any other provision of this chapter, the Secretary shall reserve not less than 2 percent of the total amount of funds appropriated to carry out parts B and C for either or both of the following activities:

(A) Providing outreach and technical assistance to historically Black colleges and universities, and to institutions of higher education with minority enrollments of not less than 25 percent, to promote the participation of such colleges, universities, and institutions in activities under this part.

(B) Enabling historically Black colleges and universities, and the institutions described in subparagraph (A), to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities, if the historically Black colleges and universities and the institutions of higher education described in subparagraph (A) meet the criteria established by the Secretary under this part.

(d) Priorities

The Secretary, in making an award of a grant, contract, or cooperative agreement under part B or C, may, without regard to the rulemaking procedures under section 553 of title 5, limit competitions to, or otherwise give priority to—

(1) projects that address 1 or more—

(A) age ranges;

(B) disabilities;

(C) school grades;

(D) types of educational placements or early intervention environments;

(E) types of services;

(F) content areas, such as reading; or

(G) effective strategies for helping children with disabilities learn appropriate behavior in the school and other community based educational settings;

(2) projects that address the needs of children based on the severity or incidence of their disability;

(3) projects that address the needs of—

(A) low achieving students;

(B) underserved populations;

(C) children from low income families;

(D) limited English proficient children;

(E) unserved and underserved areas;

(F) rural or urban areas;

(G) children whose behavior interferes with their learning and socialization;

(H) children with reading difficulties;

(I) children in public charter schools;

[1] See References in Text note below.

(J) children who are gifted and talented; or

(K) children with disabilities served by local educational agencies that receive payments under title VIII of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7701 et seq.];

(4) projects to reduce inappropriate identification of children as children with disabilities, particularly among minority children;

(5) projects that are carried out in particular areas of the country, to ensure broad geographic coverage;

(6) projects that promote the development and use of technologies with universal design, assistive technology devices, and assistive technology services to maximize children with disabilities' access to and participation in the general education curriculum; and

(7) any activity that is authorized in part B or C.

(e) Eligibility for financial assistance

No State or local educational agency, or other public institution or agency, may receive a grant or enter into a contract or cooperative agreement under part B or C that relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, inclusive, unless the State is eligible to receive a grant under section 1419(b) of this title.

(Pub. L. 91–230, title VI, § 681, as added Pub. L. 108–446, title I, § 101, Dec. 3, 2004, 118 Stat. 2795.)

REFERENCES IN TEXT

Section 9567b(c) of this title, referred to in subsec. (a)(1), was in the original ''section 178(c) of the Education Sciences Reform Act of 2002'', meaning section 178(c) of Pub. L. 107–279, which was translated as reading section 177(c) of Pub. L. 107–279, to reflect the probable intent of Congress, because Pub. L. 107–279 does not contain a section 178 and section 177(c) of that Act requires development of a plan.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(3)(K), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Title VIII of the Act is classified generally to subchapter VIII (§ 7701 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 1481, Pub. L. 91–230, title VI, § 681, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 146, related to congressional findings and purposes for subpart 2 of part B of former subchapter IV of this chapter, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1481, Pub. L. 91–230, title VI, § 681, as added Pub. L. 99–457, title I, § 101(a), Oct. 8, 1986, 100 Stat. 1152; amended Pub. L. 100–630, title I, § 108(j), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, § 901(b)(181), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, § 25(b), Oct. 7, 1991, 105 Stat. 607, related to nonsubstitution of funds to pay for services which would have been paid for from another source and construction of such provisions so as not to reduce other benefits, prior to repeal by Pub. L. 105–17, title II, § 203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

§ 1482. Administrative provisions

(a) Applicant and recipient responsibilities

(1) Development and assessment of projects

The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under part B or C—

(A) involve individuals with disabilities or parents of individuals with disabilities ages birth through 26 in planning, implementing, and evaluating the project; and

(B) where appropriate, determine whether the project has any potential for replication and adoption by other entities.

(2) Additional responsibilities

The Secretary may require a recipient of a grant, contract, or cooperative agreement under part B or C to—

(A) share in the cost of the project;

(B) prepare any findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

(C) disseminate such findings and products; and

(D) collaborate with other such recipients in carrying out subparagraphs (B) and (C).

(b) Application management

(1) Standing panel

(A) In general

The Secretary shall establish and use a standing panel of experts who are qualified, by virtue of their training, expertise, or experience, to evaluate each application under part B or C that requests more than $75,000 per year in Federal financial assistance.

(B) Membership

The standing panel shall include, at a minimum—

(i) individuals who are representatives of institutions of higher education that plan, develop, and carry out high quality programs of personnel preparation;

(ii) individuals who design and carry out scientifically based research targeted to the improvement of special education programs and services;

(iii) individuals who have recognized experience and knowledge necessary to integrate and apply scientifically based research findings to improve educational and transitional results for children with disabilities;

(iv) individuals who administer programs at the State or local level in which children with disabilities participate;

(v) individuals who prepare parents of children with disabilities to participate in making decisions about the education of their children;

(vi) individuals who establish policies that affect the delivery of services to children with disabilities;

(vii) individuals who are parents of children with disabilities ages birth through 26 who are benefiting, or have benefited, from coordinated research, personnel preparation, and technical assistance; and

(viii) individuals with disabilities.

(C) Term

No individual shall serve on the standing panel for more than 3 consecutive years.

(2) Peer-review panels for particular competitions

(A) Composition

The Secretary shall ensure that each subpanel selected from the standing panel that reviews an application under part B or C includes—

(i) individuals with knowledge and expertise on the issues addressed by the activities described in the application; and

(ii) to the extent practicable, parents of children with disabilities ages birth through 26, individuals with disabilities, and persons from diverse backgrounds.

(B) Federal employment limitation

A majority of the individuals on each subpanel that reviews an application under part B or C shall be individuals who are not employees of the Federal Government.

(3) Use of discretionary funds for administrative purposes

(A) Expenses and fees of non-Federal panel members

The Secretary may use funds available under part B or C to pay the expenses and fees of the panel members who are not officers or employees of the Federal Government.

(B) Administrative support

The Secretary may use not more than 1 percent of the funds appropriated to carry out part B or C to pay non-Federal entities for administrative support related to management of applications submitted under part B or C, respectively.

(c) Program evaluation

The Secretary may use funds made available to carry out part B or C to evaluate activities carried out under part B or C, respectively.

(d) Minimum funding required

(1) In general

Subject to paragraph (2), the Secretary shall ensure that, for each fiscal year, not less than the following amounts are provided under parts B and C to address the following needs:

(A) $12,832,000 to address the educational, related services, transitional, and early intervention needs of children with deaf-blindness.

(B) $4,000,000 to address the postsecondary, vocational, technical, continuing, and adult education needs of individuals with deafness.

(C) $4,000,000 to address the educational, related services, and transitional needs of children with an emotional disturbance and those who are at risk of developing an emotional disturbance.

(2) Ratable reduction

If the sum of the amount appropriated to carry out parts B and C, and part E of the Education Sciences Reform Act of 2002 [20 U.S.C. 9567 et seq.] for any fiscal year is less than $130,000,000, the amounts listed in paragraph (1) shall be ratably reduced for the fiscal year.

(Pub. L. 91–230, title VI, §682, as added Pub. L. 108–446, title I, §101, Dec. 3, 2004, 118 Stat. 2797.)

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in subsec. (d)(2), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, as amended. Part E of the Act is classified generally to part E (§9567 et seq.) of subchapter I of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

PRIOR PROVISIONS

A prior section 1482, Pub. L. 91–230, title VI, §682, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 149, related to parent training and information centers, prior to the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1482, Pub. L. 91–230, title VI, §682, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1153; amended Pub. L. 100–630, title I, §108(k), Nov. 7, 1988, 102 Stat. 3302; Pub. L. 101–476, title IX, §901(b)(182), Oct. 30, 1990, 104 Stat. 1150; Pub. L. 102–119, §§18, 25(a)(18), (b), Oct. 7, 1991, 105 Stat. 599, 606, 607, related to establishment of State Interagency Coordinating Councils, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

A prior section 1483, Pub. L. 91–230, title VI, §683, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 151, which related to community parent resource centers, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1483, Pub. L. 91–230, title VI, §683, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1154; amended Pub. L. 101–476, title IX, §901(b)(183), (184), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 102–119, §25(b), Oct. 7, 1991, 105 Stat. 607, related to Federal administration, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

A prior section 1484, Pub. L. 91–230, title VI, §684, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 152, which related to technical assistance for parent training and information centers, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1484, Pub. L. 91–230, title VI, §684, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1154; amended Pub. L. 101–476, title IX, §901(b)(185), Oct. 30, 1990, 104 Stat. 1151; Pub. L. 102–119, §§19(a)(1), (b), 25(b), Oct. 7, 1991, 105 Stat. 600, 601, 607; Pub. L. 103–382, title III, §313(a), Oct. 20, 1994, 108 Stat. 3935, related to allocation of funds, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

A prior section 1484a, Pub. L. 91–230, title VI, §685, as added Pub. L. 102–119, §21(2), Oct. 7, 1991, 105 Stat. 602; amended Pub. L. 102–321, title I, §161, July 10, 1992, 106 Stat. 375; Pub. L. 103–448, title II, §204(w)(2)(B), Nov. 2, 1994, 108 Stat. 4746, related to establishment, composition, functions, etc., of the Federal Interagency Coordinating Council, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

A prior section 1485, Pub. L. 91–230, title VI, §685, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 152; amended Pub. L. 106–402, title IV, §401(b)(1), Oct. 30, 2000, 114 Stat. 1737, which related to coordinated technical assistance and dissemination, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Another prior section 1485, Pub. L. 91–230, title VI, §686, formerly §685, as added Pub. L. 99–457, title I, §101(a), Oct. 8, 1986, 100 Stat. 1155; renumbered §686 and amended Pub. L. 102–119, §§20, 21(1), Oct. 7, 1991, 105 Stat. 602, related to authorization of appropriations, prior to repeal by Pub. L. 105–17, title II, §203(b), June 4, 1997, 111 Stat. 157, effective July 1, 1998.

A prior section 1486, Pub. L. 91–230, title VI, §686, as added Pub. L. 105–17, title I, §101, June 4, 1997, 111 Stat. 154, which authorized appropriations, was omitted in

the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

A prior section 1487, Pub. L. 91–230, title VI, § 687, as added Pub. L. 105–17, title I, § 101, June 4, 1997, 111 Stat. 154, which related to technology development, demonstration, and utilization and media services, was omitted in the general amendment of subchapters I to IV of this chapter by Pub. L. 108–446.

Prior sections 1491 to 1491*o*, which comprised former subchapter IX of this chapter, were repealed by Pub. L. 105–17, title II, § 203(a), June 4, 1997, 111 Stat. 157, effective Oct. 1, 1998.

Section 1491, Pub. L. 91–230, title VI, § 701, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3937, provided that former subchapter IX of this chapter could be cited as the ''Families of Children With Disabilities Support Act of 1994''.

Section 1491a, Pub. L. 91–230, title VI, § 702, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3937, related to findings, purposes, and policy.

Section 1491b, Pub. L. 91–230, title VI, § 703, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3939, related to definitions.

Section 1491c, Pub. L. 91–230, title VI, § 704, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3943, related to grants to States.

Section 1491d, Pub. L. 91–230, title VI, § 705, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3944, related to information and assurances required in application for grant.

Section 1491e, Pub. L. 91–230, title VI, § 706, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3946, related to designation of lead entity by State desiring to receive grant.

Section 1491f, Pub. L. 91–230, title VI, § 707, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3946, related to designation or establishment by State of a State Policy Council for Families of Children with Disabilities and its composition, functions, etc.

Section 1491g, Pub. L. 91–230, title VI, § 708, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3949, related to activities authorized for use of grant funds.

Section 1491h, Pub. L. 91–230, title VI, § 709, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3951, related to creation and submission of strategic plan by lead entity of State in conjunction with State Policy Council.

Section 1491i, Pub. L. 91–230, title VI, § 710, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3952, related to progress criteria and reports.

Section 1491j, Pub. L. 91–230, title VI, § 711, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3952, related to administrative provisions.

Section 1491k, Pub. L. 91–230, title VI, § 712, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3953, related to technical assistance.

Section 1491*l*, Pub. L. 91–230, title VI, § 713, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3954, related to program evaluation by Secretary.

Section 1491m, Pub. L. 91–230, title VI, § 714, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3955, related to projects of national significance.

Section 1491n, Pub. L. 91–230, title VI, § 715, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3955, related to construction of provisions of subchapters I through VIII of this chapter as being inapplicable to subchapter IX of this chapter.

Section 1491*o*, Pub. L. 91–230, title VI, § 716, as added Pub. L. 103–382, title III, § 315, Oct. 20, 1994, 108 Stat. 3955, related to authorization of appropriations.

CHAPTER 34—NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Sec.

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§ 1501. Congressional statement of policy

The Congress hereby affirms that library and information services adequate to meet the needs of the people of the United States are essential to achieve national goals and to utilize most effectively the Nation's educational resources and that the Federal Government will cooperate with State and local governments and public and private agencies in assuring optimum provision of such services.

(Pub. L. 91–345, § 2, July 20, 1970, 84 Stat. 440.)

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–95, § 1, Aug. 14, 1991, 105 Stat. 479, provided that: ''This Act [amending sections 1502 to 1506 of this title] may be cited as the 'National Commission on Libraries and Information Science Act Amendments of 1991'.''

SHORT TITLE

Section 1 of Pub. L. 91–345 provided: ''That this Act [enacting this chapter] may be cited as the 'National Commission on Libraries and Information Science Act'.''

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

Pub. L. 100–382, Aug. 8, 1988, 102 Stat. 898, authorized President to call and conduct a White House Conference on Library and Information Services to be held not earlier than Sept. 1, 1989, and not later than Sept. 30, 1991, to develop recommendations for the further improvement of the library and information services of the Nation and their use by the public, with a final report of the Conference to be submitted to the President not later than 120 days following the close of the Conference and to be made public and transmitted to the Congress together with a statement of the President containing the recommendations of the President with respect to such report.

§ 1502. Establishment

(a) Independent agency within executive branch

There is hereby established as an independent agency within the executive branch, a National Commission on Libraries and Information Science (hereinafter referred to as the ''Commission'').

(b) Repealed. Pub. L. 102–95, § 2, Aug. 14, 1991, 105 Stat. 479

(Pub. L. 91–345, § 3, July 20, 1970, 84 Stat. 440; Pub. L. 102–95, § 2, Aug. 14, 1991, 105 Stat. 479.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–95 struck out subsec. (b) which related to provision of administrative services for Commission.

§ 1503. Contributions

The Commission is authorized to solicit, accept, hold, administer, invest in the name of the United States, and utilize gifts, bequests, and devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Commission.

(Pub. L. 91–345, § 4, July 20, 1970, 84 Stat. 441; Pub. L. 102–95, § 3, Aug. 14, 1991, 105 Stat. 479; Pub. L. 108–81, title IV, § 401, Sept. 25, 2003, 117 Stat. 1002.)

AMENDMENTS

2003—Pub. L. 108–81 substituted ''solicit, accept, hold, administer, invest in the name of the United States, and utilize gifts, bequests, and devises of services or property,'' for ''accept, hold, administer, and utilize gifts, bequests, and devises of property,''.

1991—Pub. L. 102–95 amended section generally. Prior to amendment, section read as follows: ''The Commission shall have authority to accept in the name of the United States grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or his representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.''

§ 1504. Functions and powers

(a) Advice to President and Congress; studies and surveys, plans; annual report

The Commission shall have the primary responsibility for developing or recommending overall plans for, and advising the appropriate governments and agencies on, the policy set forth in section 1501 of this title. In carrying out that responsibility, the Commission shall—

(1) advise the President and the Congress on the implementation of national policy by such statements, presentations, and reports as it deems appropriate;

(2) conduct studies, surveys, and analyses of the library and informational needs of the Nation, including the special library and informational needs of rural areas, of economically, socially, or culturally deprived persons, and of elderly persons, and the means by which these needs may be met through information centers, through the libraries of elementary and secondary schools and institutions of higher education, and through public, research, special, and other types of libraries;

(3) appraise the adequacies and deficiencies of current library and information resources and services and evaluate the effectiveness of current library and information science programs;

(4) develop overall plans for meeting national library and informational needs and for the coordination of activities at the Federal, State, and local levels, taking into consideration all of the library and informational resources of the Nation to meet those needs;

(5) be authorized to advise Federal, State, local, and private agencies regarding library and information sciences;

(6) promote research and development activities which will extend and improve the Nation's library and information-handling capability as essential links in national and international communications and cooperative networks;

(7) submit to the President and the Congress (not later than January 31 of each year) a report on its activities during the preceding fiscal year; and

(8) make and publish such additional reports as it deems to be necessary, including, but not limited to, reports of consultants, transcripts of testimony, summary reports, and reports of other Commission findings, studies, and recommendations.

(b) Contract authority

The Commission is authorized to contract with Federal agencies and other public and private agencies to carry out any of its functions under subsection (a) of this section and to publish and disseminate such reports, findings, studies, and records as it deems appropriate.

(c) Hearings

The Commission is further authorized to conduct such hearings at such times and places as it deems appropriate for carrying out the purposes of this chapter.

(d) Cooperation with other agencies

The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out the purposes of this chapter.

(Pub. L. 91–345, § 5, July 20, 1970, 84 Stat. 441; Pub. L. 93–29, title VIII, § 802(a), May 3, 1973, 87 Stat. 59; Pub. L. 102–95, § 4, Aug. 14, 1991, 105 Stat. 479; Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 703(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–306; Pub. L. 108–81, title V, § 505(a), Sept. 25, 2003, 117 Stat. 1004.)

AMENDMENTS

2003—Subsecs. (b) to (f). Pub. L. 108–81 redesignated subsecs. (d) to (f) as (b) to (d), respectively, and struck out former subsecs. (b) and (c) which related to Commission advising Director of Institute of Museum and Library Services on general policies with respect to duties, powers, and authority of Institute of Museum and Library Services, and provided for joint meetings between Commission and National Museum Services Board for the purpose of providing advice on general policy with respect to financial assistance for projects described in section 9162(a)(4) of this title.

1996—Subsecs. (b) to (f). Pub. L. 104–208 added subsecs. (b) and (c) and redesignated former subsecs. (b) to (d) as (d) to (f), respectively.

1991—Subsec. (a)(6). Pub. L. 102–95 substituted ''national and international communications and cooperative networks'' for ''the national communications networks''.

1973—Subsec. (a)(2). Pub. L. 93–29 required the Commission to conduct studies, surveys, and analyses of the special library and informational needs of elderly persons.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a)(7) of this section relating to submitting

annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 181 of House Document No. 103–7.

§ 1505. Membership

(a) Appointment; terms of office; Chairman; vacancies

The Commission shall be composed of the Librarian of Congress, the Director of the Institute of Museum and Library Services (who shall serve as an ex officio, nonvoting member), and fourteen members appointed by the President, by and with the advice and consent of the Senate. Five members of the Commission shall be professional librarians or information specialists, and the remainder shall be persons having special competence in or knowledge of the needs of our society for library and information services, at least one of whom shall be knowledgeable with respect to the technological aspects of library and information services and sciences, and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly. One of the appointive members of the Commission shall be designated by the President as Chairman of the Commission. A majority of members of the Commission who have taken office and are serving on the Commission shall constitute a quorum for conduct of business at official meetings of the Commission[1] The terms of office of the appointive members of the Commission shall be five years, except that—

(1) a member of the Commission appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed, shall be appointed only for the remainder of such term; and

(2) any member of the Commission may continue to serve after an expiration of the member's term of office until such member's successor is appointed, has taken office, and is serving on the Commission.

(b) Compensation; travel expenses

Members of the Commission who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Commission or otherwise engaged in the business of the Commission, be entitled to receive compensation at a rate fixed by the Chairman, but not exceeding the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, for each day (including traveltime) during which the members are engaged in the business of the Commission. While so serving on the business of the Commission away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons employed intermittently in the Government service.

(c) Professional and technical personnel

(1) The Commission is authorized to appoint, without regard to the provisions of title 5 covering appointments in the competitive service, such professional and technical personnel as may be necessary to enable it to carry out its function under this chapter.

(2) The Commission may procure, without regard to the civil service or classification laws, temporary and intermittent services of such personnel as is necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, including traveltime, and while so serving on the business of the Commission away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons employed intermittently in the Government service.

(Pub. L. 91–345, § 6, July 20, 1970, 84 Stat. 442; Pub. L. 93–29, title VIII, § 802(b), May 3, 1973, 87 Stat. 59; Pub. L. 102–95, § 5, Aug. 14, 1991, 105 Stat. 479; Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 703(b)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–307; Pub. L. 108–81, title IV, § 402, Sept. 25, 2003, 117 Stat. 1002.)

REFERENCES IN TEXT

The provisions of title 5 covering appointments in the competitive service, referred to in subsec. (c)(1), are classified to sections 3301 et seq. of Title 5, Government Organization and Employees.

The civil service laws, referred to in subsec. (c)(2), are set forth in Title 5. See, particularly, section 3301 et seq. of Title 5.

The classification laws, referred to in subsec. (c)(2), are set forth in chapter 51 (§ 5101 et seq.) and subchapter III (§ 5331 et seq.) of chapter 53 of Title 5.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–81, § 402(2), (3), substituted ''A majority of members of the Commission who have taken office and are serving on the Commission shall constitute a quorum for conduct of business at official meetings of the Commission'' for ''A majority of members of the Commission shall constitute a quorum for conduct of business at official meetings of the Commission.'' in fourth sentence and ''five years, except that—'' and pars. (1) and (2) for ''five years, except that (1) the term of office of any member of the Commission shall continue until the earlier of (A) the date on which the member's successor has been appointed by the President; or (B) July 19 of the year succeeding the year in which the member's appointed term of office shall expire, and (2) a member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.'' in fifth sentence.

Pub. L. 108–81, § 402(1), struck out after ''services and sciences,'' in second sentence ''and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly'', which appeared twice.

1996—Subsec. (a). Pub. L. 104–208, § 101(e) [title VII, § 703(b)(1)(A), (B)(ii), (C)], in first sentence, substituted ''Librarian of Congress, the Director of the Institute of Museum and Library Services (who shall serve as an ex officio, nonvoting member),'' for ''Librarian of Congress'', in second sentence, inserted ''and at least one other of whom shall be knowledgeable with respect to the library and information service and science needs of the elderly'' before period at end, and in third sentence, inserted ''appointive'' before ''members of the Commission''.

Pub. L. 104–208, § 101(e) [title VII, § 703(b)(1)(B)(i)], substituted ''special competence in or knowledge of'' for

[1] So in original. Probably should be followed by a period.

''special competence or interest in''. The substitution was made to reflect the probable intent of Congress, in the absence of closing quotations designating the provisions to be inserted.

Pub. L. 104–208, §101(e) [title VII, §703(b)(1)(D)], which directed that ''term.'' be substituted for ''term and at least'' and all that follows in last sentence of subsec. (a), could not be executed because the phrase ''term and at least'' did not appear in subsec. (a).

Subsec. (b). Pub. L. 104–208, §101(e) [title VII, §703(b)(2)], substituted ''the daily equivalent of the maximum rate authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, for each day (including traveltime) during which the members are engaged in the business of the Commission. While'' for ''the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, including traveltime, and while''.

1991—Subsec. (a). Pub. L. 102–95 inserted after third sentence ''A majority of members of the Commission shall constitute a quorum for conduct of business at official meetings of the Commission.'' and substituted ''(1) the term of office of any member of the Commission shall continue until the earlier of (A) the date on which the member's successor has been appointed by the President; or (B) July 19 of the year succeeding the year in which the member's appointed term of office shall expire,'' for ''(1) the terms of office of the members first appointed shall commence on July 20, 1970, and shall expire two at the end of one year, three at the end of two years, three at the end of three years, three at the end of four years, and three at the end of five years, as designated by the President at the time of appointment'' in fourth sentence.

1973—Subsec. (a). Pub. L. 93–29 required that one of the appointees be knowledgeable with respect to the library and information service and science needs of the elderly.

§ 1506. Authorization of appropriations

There are authorized to be appropriated $911,000 for fiscal year 1992 and such sums as may be necessary for each succeeding fiscal year thereafter to carry out the provisions of this chapter.

(Pub. L. 91–345, §7, July 20, 1970, 84 Stat. 442; Pub. L. 102–95, §6, Aug. 14, 1991, 105 Stat. 479.)

AMENDMENTS

1991—Pub. L. 102–95 amended section generally. Prior to amendment, section read as follows: ''There are hereby authorized to be appropriated $500,000 for the fiscal year ending June 30, 1970, and $750,000 for the fiscal year ending June 30, 1971, and for each succeeding year, for the purpose of carrying out the provisions of this chapter.''

CHAPTER 35—ENVIRONMENTAL EDUCATION

CODIFICATION

The Environmental Education Act, which comprised this chapter, contained appropriation authorizations for fiscal years 1971 to 1977. The Act was superseded by part H of title III of Pub. L. 89–10, as added by Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2217, known as the Environmental Education Act of 1978, which was classified to section 3011 et seq. of this title, prior to repeal by Pub. L. 97–35, §587(a)(1).

§§ 1531 to 1536. Omitted

CODIFICATION

Section 1531, Pub. L. 91–516, §2, Oct. 30, 1970, 84 Stat. 1312; Pub. L. 93–278, §4, May 10, 1974, 88 Stat. 121, set forth Congressional declaration of findings and purpose of Environmental Education Act.

Section 1532, Pub. L. 91–516, §3, Oct. 30, 1970, 84 Stat. 1312; Pub. L. 93–278, §§2, 5, 6, May 10, 1974, 88 Stat. 121; Pub. L. 94–273, §3(15), Apr. 21, 1976, 90 Stat. 376, established an office of environmental education, authorized grants and contracts, and established an Advisory Council on Environmental Education.

Section 1533, Pub. L. 91–516, §4, Oct. 30, 1970, 84 Stat. 1315, related to technical assistance to eligible agencies and organizations.

Section 1534, Pub. L. 91–516, §5, Oct. 30, 1970, 84 Stat. 1315, authorized grants to nonprofit organizations.

Section 1535, Pub. L. 91–516, §6, Oct. 30, 1970, 84 Stat. 1315, related to administration of the Act.

Section 1536, Pub. L. 91–516, §7, Oct. 30, 1970, 84 Stat. 1315; Pub. L. 93–278, §3, May 10, 1974, 88 Stat. 121, authorized appropriations to carry out the purposes of the Act.

CHAPTER 36—EMERGENCY SCHOOL AID

§§ 1601 to 1619. Repealed. Pub. L. 95–561, title VI, § 601(b)(2), Nov. 1, 1978, 92 Stat. 2268

Section 1601, Pub. L. 92–318, title VII, §702, June 23, 1972, 86 Stat. 354, related to Congressional findings and purpose with respect to this chapter.

Section 1602, Pub. L. 92–318, title VII, §703, June 23, 1972, 86 Stat. 354, related to policy of the United States with respect to application of certain provisions of Federal laws.

Section 1603, Pub. L. 92–318, title VII, §704, June 23, 1972, 86 Stat. 355; Pub. L. 93–380, title VI, §§641(a), 642(a), Aug. 21, 1974, 88 Stat. 587; Pub. L. 94–482, title III, §321(a)–(c)(1), Oct. 12, 1976, 90 Stat. 2216; Pub. L. 95–561, title VI, §601(b)(1), Nov. 1, 1978, 92 Stat. 2268, authorized appropriations for purpose of carrying out this chapter.

Section 1604, Pub. L. 92–318, title VII, §705, June 23, 1972, 86 Stat. 355, related to apportionment to States of sums appropriated pursuant to section 1603(a) of this title for grants and contracts.

Section 1605, Pub. L. 92–318, title VII, §706, June 23, 1972, 86 Stat. 356; Pub. L. 93–380, title VI, §643(a), (b), Aug. 21, 1974, 88 Stat. 587; S. Res. 4, Feb. 4, 1977, related to eligibility for assistance.

Section 1606, Pub. L. 92–318, title VII, §707, June 23, 1972, 86 Stat. 359; Pub. L. 94–482, title III, §321(c)(2), Oct. 12, 1976, 90 Stat. 2217, related to authorized activities with respect to financial assistance.

Section 1607, Pub. L. 92–318, title VII, §708, June 23, 1972, 86 Stat. 360; Pub. L. 93–380, title VI, §§644, 645, Aug. 21, 1974, 88 Stat. 588; Pub. L. 94–482, title V, §501(a)(12), Oct. 12, 1976, 90 Stat. 2235, related to special programs and projects with respect to financial assistance.

Section 1608, Pub. L. 92–318, title VII, §709, June 23, 1972, 86 Stat. 361; Pub. L. 93–380, title II, §222, title VI, §642(b), Aug. 21, 1974, 88 Stat. 519, 587; Pub. L. 94–482, title V, §501(i), Oct. 12, 1976, 90 Stat. 2237, related to availability of sums for metropolitan area projects.

Section 1609, Pub. L. 92–318, title VII, §710, June 23, 1972, 86 Stat. 362; Pub. L. 93–380, title VI, §643(c), Aug. 21, 1974, 88 Stat. 587; Pub. L. 94–482, title III, §323(a)(5), Oct. 12, 1976, 90 Stat. 2218, related to applications for assistance.

Section 1610, Pub. L. 92–318, title VII, §711, June 23, 1972, 86 Stat. 366, related to availability of funds for educational television.

Section 1611, Pub. L. 92–318, title VII, §712, June 23, 1972, 86 Stat. 366, related to payment of assistance to applicant.

Section 1612, Pub. L. 92–318, title VII, §713, June 23, 1972, 86 Stat. 367, related to evaluation of programs and projects assisted under this chapter.

Section 1613, Pub. L. 92–318, title VII, §714, June 23, 1972, 86 Stat. 368; S. Res. 4, Feb. 4, 1977, related to reports to President and Congressional committees.

Section 1614, Pub. L. 92–318, title VII, §715, June 23, 1972, 86 Stat. 368, related to administration of joint funding with respect to programs and projects under this chapter.

Section 1615, Pub. L. 92–318, title VII, §716, June 23, 1972, 86 Stat. 368; Pub. L. 93–380, title VIII, §845(e), Aug. 21, 1974, 88 Stat. 612; Pub. L. 94–43, §3, June 28, 1975, 89

Stat. 233; Pub. L. 94–482, title III, §321(d), Oct. 12, 1976, 90 Stat. 2217, related to establishment of National Advisory Council on Equality of Educational Opportunity.

Section 1616, Pub. L. 92–318, title VII, §717(a), June 23, 1972, 86 Stat. 369, related to applicability of General Education Provisions Act to this chapter.

Section 1617, Pub. L. 92–318, title VII, §718, June 23, 1972, 86 Stat. 369, related to allowance of reasonable attorney's fees respecting a final order by a court against an educational agency, a State, etc., for failure to comply with provisions of this chapter, discrimination on basis of race, etc.

Section 1618, Pub. L. 92–318, title VII, §719, June 23, 1972, 86 Stat. 369, related to effect of this chapter on method of student assignment.

Section 1619, Pub. L. 92–318, title VII, §720, June 23, 1972, 86 Stat. 369; Pub. L. 93–380, title VI, §643(d), Aug. 21, 1974, 88 Stat. 587; Pub. L. 94–482, title III, §321(c)(3), Oct. 12, 1976, 90 Stat. 2217, defined terms used in this chapter.

EFFECTIVE DATE OF REPEAL

Section 601(b)(2) of Pub. L. 95–561 provided that the repeal is effective Sept. 30, 1979.

CHAPTER 37—ASSIGNMENT OR TRANSPORTATION OF STUDENTS

Sec.

1651. Prohibition against assignment or transportation of students to overcome racial imbalance.
1652. Prohibition against busing.
(a) Use of appropriated funds for busing.
(b) Rules, regulations, orders, etc., for busing.
(c) ''Applicable program'' defined.
1653. Omitted.
1654. Intervention authorization in implementation of court orders.
1655. Uniform rules of evidence of racial discrimination.
1656. Prohibition against official or court orders to achieve racial balance or insure compliance with constitutional standards applicable to entire United States.

§ 1651. Prohibition against assignment or transportation of students to overcome racial imbalance

No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(Pub. L. 92–318, title VIII, §801, June 23, 1972, 86 Stat. 371.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended, known as the Education Amendments of 1972. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

§ 1652. Prohibition against busing

(a) Use of appropriated funds for busing

No funds appropriated for the purpose of carrying out any applicable program may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except on the express written voluntary request of appropriate local school officials. No such funds shall be made available for transportation when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process of such children, or where the educational opportunities available at the school to which it is proposed that any such student be transported will be substantially inferior to those opportunities offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(b) Rules, regulations, orders, etc., for busing

No officer, agent, or employee of the Department of Education, the Department of Justice, or any other Federal agency shall, by rule, regulation, order, guideline, or otherwise (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution, or organization to use any funds derived from any State or local sources for any purpose, unless constitutionally required, for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee. No officer, agent, or employee of the Department of Education or any other Federal agency shall urge, persuade, induce, or require any local education agency to undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

(c) "Applicable program" defined

An applicable program means a program to which the General Education Provisions Act [20 U.S.C. 1221 et seq.] applies.

(Pub. L. 92–318, title VIII, §802, June 23, 1972, 86 Stat. 371; Pub. L. 96–88, title III, §301, title V, §507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (c), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

TRANSFER OF FUNCTIONS

''Department of Education'' substituted for ''Department of Health, Education, and Welfare (including the Office of Education)'' in subsec. (b) pursuant to sections

301 and 507 of Pub. L. 96–88, which are classified to sections 3441 and 3507 of this title and which transferred functions and offices (relating to education) of Department of Health, Education, and Welfare, including Office of Education, to Department of Education.

§ 1653. Omitted

CODIFICATION

Section, Pub. L. 92–318, title VIII, § 803, June 23, 1972, 86 Stat. 372, provided that the effectiveness of orders of district courts requiring transfer or transportation of students for purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, be postponed until all appeals in connection with such orders have been exhausted or until expiration of the time for such appeals, expired at midnight on Jan. 1, 1974.

§ 1654. Intervention authorization in implementation of court orders

A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

(Pub. L. 92–318, title VIII, § 804, June 23, 1972, 86 Stat. 372.)

§ 1655. Uniform rules of evidence of racial discrimination

The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

(Pub. L. 92–318, title VIII, § 805, June 23, 1972, 86 Stat. 372.)

§ 1656. Prohibition against official or court orders to achieve racial balance or insure compliance with constitutional standards applicable to entire United States

The proviso of section 407(a) of the Civil Rights Act of 1964 [42 U.S.C. 2000c–6(a)] providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV [42 U.S.C. 2000c et seq.], under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

(Pub. L. 92–318, title VIII, § 806, June 23, 1972, 86 Stat. 373.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title IV of the Civil Rights Act of 1964 is classified generally to subchapter IV (§ 2000c et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

CHAPTER 38—DISCRIMINATION BASED ON SEX OR BLINDNESS

Sec.
1681. Sex.
(a) Prohibition against discrimination; exceptions.
(b) Preferential or disparate treatment because of imbalance in participation or receipt of Federal benefits; statistical evidence of imbalance.
(c) ''Educational institution'' defined.
1682. Federal administrative enforcement; report to Congressional committees.
1683. Judicial review.
1684. Blindness or visual impairment; prohibition against discrimination.
1685. Authority under other laws unaffected.
1686. Interpretation with respect to living facilities.
1687. Interpretation of ''program or activity''.
1688. Neutrality with respect to abortion.

§ 1681. Sex

(a) Prohibition against discrimination; exceptions

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that:

(1) Classes of educational institutions subject to prohibition

in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

(2) Educational institutions commencing planned change in admissions

in regard to admissions to educational institutions, this section shall not apply (A) for one year from June 23, 1972, nor for six years after June 23, 1972, in the case of an educational institution which has begun the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Secretary of Education or (B) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of only one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Secretary of Education, whichever is the later;

(3) Educational institutions of religious organizations with contrary religious tenets

this section shall not apply to an educational institution which is controlled by a

religious organization if the application of this subsection would not be consistent with the religious tenets of such organization;

(4) Educational institutions training individuals for military services or merchant marine

this section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine;

(5) Public educational institutions with traditional and continuing admissions policy

in regard to admissions this section shall not apply to any public institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only students of one sex;

(6) Social fraternities or sororities; voluntary youth service organizations

this section shall not apply to membership practices—

(A) of a social fraternity or social sorority which is exempt from taxation under section 501(a) of title 26, the active membership of which consists primarily of students in attendance at an institution of higher education, or

(B) of the Young Men's Christian Association, Young Women's Christian Association, Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are so exempt, the membership of which has traditionally been limited to persons of one sex and principally to persons of less than nineteen years of age;

(7) Boy or Girl conferences

this section shall not apply to—

(A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(B) any program or activity of any secondary school or educational institution specifically for—

(i) the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(ii) the selection of students to attend any such conference;

(8) Father-son or mother-daughter activities at educational institutions

this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex; and

(9) Institution of higher education scholarship awards in "beauty" pageants

this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.

(b) Preferential or disparate treatment because of imbalance in participation or receipt of Federal benefits; statistical evidence of imbalance

Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this chapter of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.

(c) "Educational institution" defined

For purposes of this chapter an educational institution means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department.

(Pub. L. 92–318, title IX, § 901, June 23, 1972, 86 Stat. 373; Pub. L. 93–568, § 3(a), Dec. 31, 1974, 88 Stat. 1862; Pub. L. 94–482, title IV, § 412(a), Oct. 12, 1976, 90 Stat. 2234; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original ''this title'', meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Short Title note below and Tables.

AMENDMENTS

1986—Subsec. (a)(6)(A). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1976—Subsec. (a)(6) to (9). Pub. L. 94–482 substituted ''this'' for ''This'' in par. (6) and added pars. (7) to (9).

1974—Subsec. (a)(6). Pub. L. 93–568 added par. (6).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 412(b) of Pub. L. 94–482 provided that: ''The amendment made by subsection (a) [amending this sec-

tion] shall take effect upon the date of enactment of this Act [Oct. 12, 1976].''

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3(b) of Pub. L. 93–568 provided that: ''The provisions of the amendment made by subsection (a) [amending this section] shall be effective on, and retroactive to, July 1, 1972.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–259, § 1, Mar. 22, 1988, 102 Stat. 28, provided that: ''This Act [enacting sections 1687 and 1688 of this title and section 2000d–4a of Title 42, The Public Health and Welfare, amending sections 706 and 794 of Title 29, Labor, and section 6107 of Title 42, and enacting provisions set out as notes under sections 1687 and 1688 of this title] may be cited as the 'Civil Rights Restoration Act of 1987'.''

SHORT TITLE

Pub. L. 107–255, Oct. 29, 2002, 116 Stat. 1734, provided ''That title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.; Public Law 92–318) [title IX of Pub. L. 92–318, enacting this chapter and amending sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare] may be cited as the 'Patsy Takemoto Mink Equal Opportunity in Education Act'.''

TRANSFER OF FUNCTIONS

''Secretary'' substituted for ''Commissioner'' in subsec. (a)(2) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

COORDINATION OF IMPLEMENTATION AND ENFORCEMENT OF PROVISIONS

For provisions relating to the coordination of implementation and enforcement of the provisions of this chapter by the Attorney General, see section 1–201(b) of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out under section 2000d–1 of Title 42, The Public Health and Welfare.

REGULATIONS; NATURE OF PARTICULAR SPORTS: INTERCOLLEGIATE ATHLETIC ACTIVITIES

Pub. L. 93–380, title VIII, § 844, Aug. 21, 1974, 88 Stat. 612, directed Secretary to prepare and publish, not more than 30 days after Aug. 21, 1974, proposed regulations implementing the provisions of this chapter regarding prohibition of sex discrimination in federally assisted programs, including reasonable regulations for intercollegiate athletic activities considering the nature of the particular sports.

§ 1682. Federal administrative enforcement; report to Congressional committees

Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 1681 of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however*, That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

(Pub. L. 92–318, title IX, § 902, June 23, 1972, 86 Stat. 374.)

DELEGATION OF FUNCTIONS

Functions of President relating to approval of rules, regulations, and orders of general applicability under this section, delegated to Attorney General, see section 1–102 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out under section 2000d–1 of Title 42, The Public Health and Welfare.

§ 1683. Judicial review

Any department or agency action taken pursuant to section 1682 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 1682 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title.

(Pub. L. 92–318, title IX, § 903, June 23, 1972, 86 Stat. 374.)

CODIFICATION

''Section 1682 of this title'', where first appearing, substituted in text for ''section 1002'' as conforming to intent of Congress as Pub. L. 92–318 was enacted without any section 1002 and subsequent text refers to ''section 902'', which is classified to section 1682 of this title.

§ 1684. Blindness or visual impairment; prohibition against discrimination

No person in the United States shall, on the ground of blindness or severely impaired vision,

be denied admission in any course of study by a recipient of Federal financial assistance for any education program or activity, but nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.

(Pub. L. 92–318, title IX, § 904, June 23, 1972, 86 Stat. 375.)

§ 1685. Authority under other laws unaffected

Nothing in this chapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

(Pub. L. 92–318, title IX, § 905, June 23, 1972, 86 Stat. 375.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

§ 1686. Interpretation with respect to living facilities

Notwithstanding anything to the contrary contained in this chapter, nothing contained herein shall be construed to prohibit any educational institution receiving funds under this Act, from maintaining separate living facilities for the different sexes.

(Pub. L. 92–318, title IX, § 907, June 23, 1972, 86 Stat. 375.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

This Act, referred to in text, is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended, known as the Education Amendments of 1972. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

§ 1687. Interpretation of "program or activity"

For the purposes of this chapter, the term ''program or activity'' and ''program'' mean all of the operations of—

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 7801 of this title), system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance, except that such term does not include any operation of an entity which is controlled by a religious organization if the application of section 1681 of this title to such operation would not be consistent with the religious tenets of such organization.

(Pub. L. 92–318, title IX, § 908, as added Pub. L. 100–259, § 3(a), Mar. 22, 1988, 102 Stat. 28; amended Pub. L. 103–382, title III, § 391(g), Oct. 20, 1994, 108 Stat. 4023; Pub. L. 107–110, title X, § 1076(j), Jan. 8, 2002, 115 Stat. 2091.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

AMENDMENTS

2002—Par. (2)(B). Pub. L. 107–110 substituted ''7801'' for ''8801''.

1994—Par. (2)(B). Pub. L. 103–382 substituted ''section 8801'' for ''section 2854(a)(10)''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

FINDINGS OF CONGRESS

Section 2 of Pub. L. 100–259 provided that: ''The Congress finds that—

''(1) certain aspects of recent decisions and opinions of the Supreme Court have unduly narrowed or cast doubt upon the broad application of title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], and title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.]; and

''(2) legislative action is necessary to restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered.''

CONSTRUCTION

Section 7 of Pub. L. 100–259 provided that: ''Nothing in the amendments made by this Act [see Short Title

of 1988 Amendment note under section 1681 of this title] shall be construed to extend the application of the Acts so amended [Education Amendments of 1972, Pub. L. 92–318, see Short Title of 1972 Amendment, set out as a note under section 1001 of this title, Rehabilitation Act of 1973, 29 U.S.C. 701 et seq., Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq., and Civil Rights Act of 1964, 42 U.S.C. 2000a et seq.] to ultimate beneficiaries of Federal financial assistance excluded from coverage before the enactment of this Act [Mar. 22, 1988].''

ABORTION NEUTRALITY

This section not to be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion, see section 8 of Pub. L. 100–259, set out as a note under section 1688 of this title.

§ 1688. Neutrality with respect to abortion

Nothing in this chapter shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.

(Pub. L. 92–318, title IX, § 909, as added Pub. L. 100–259, § 3(b), Mar. 22, 1988, 102 Stat. 29.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title IX of Pub. L. 92–318 which enacted this chapter and amended sections 203 and 213 of Title 29, Labor, and sections 2000c, 2000c–6, 2000c–9, and 2000h–2 of Title 42, The Public Health and Welfare. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

CONSTRUCTION

This section not to be construed to extend application of Education Amendments of 1972, Pub. L. 92–318, to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100–259, set out as a note under section 1687 of this title.

ABORTION NEUTRALITY

Section 8 of Pub. L. 100–259 provided that: ''No provision of this Act or any amendment made by this Act [see Short Title of 1988 Amendment note under section 1681 of this title] shall be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal Funds [sic] to perform or pay for an abortion.''

CHAPTER 39—EQUAL EDUCATIONAL OPPORTUNITIES AND TRANSPORTATION OF STUDENTS

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SUBCHAPTER I—EQUAL EDUCATIONAL OPPORTUNITIES

PART 1—POLICY AND PURPOSE

§ 1701. Congressional declaration of policy

(a) Entitlement to equal educational opportunity; neighborhood as appropriate basis

The Congress declares it to be the policy of the United States that—

(1) all children enrolled in public schools are entitled to equal educational opportunity without regard to race, color, sex, or national origin; and

(2) the neighborhood is the appropriate basis for determining public school assignments.

(b) Purpose

In order to carry out this policy, it is the purpose of this subchapter to specify appropriate remedies for the orderly removal of the vestiges of the dual school system.

(Pub. L. 93–380, title II, § 202, Aug. 21, 1974, 88 Stat. 514.)

EFFECTIVE DATE

Chapter effective on and after sixtieth day after Aug. 21, 1974, see section 2(c) of Pub. L. 93–380, set out as a note under section 1221–1 of this title.

SHORT TITLE

Section 201 of title II of Pub. L. 93–380 provided that: ''This title [enacting this chapter and section 1228 of this title and amending section 1608 of this title] may be cited as the 'Equal Educational Opportunities Act of 1974'.''

§ 1702. Congressional findings

(a) Dual school systems as denial of equal protection; depletion of financial resources of local educational agencies; transportation of students; inadequacy of guidelines

The Congress finds that—

(1) the maintenance of dual school systems in which students are assigned to schools solely on the basis of race, color, sex, or national origin denies to those students the equal protection of the laws guaranteed by the fourteenth amendment;

(2) for the purpose of abolishing dual school systems and eliminating the vestiges thereof, many local educational agencies have been required to reorganize their school systems, to reassign students, and to engage in the extensive transportation of students;

(3) the implementation of desegregation plans that require extensive student transportation has, in many cases, required local educational agencies to expend large amounts of funds, thereby depleting their financial resources available for the maintenance or improvement of the quality of educational facilities and instruction provided;

(4) transportation of students which creates serious risks to their health and safety, disrupts the educational process carried out with respect to such students, and impinges significantly on their educational opportunity, is excessive;

(5) the risks and harms created by excessive transportation are particularly great for children enrolled in the first six grades; and

(6) the guidelines provided by the courts for fashioning remedies to dismantle dual school systems have been, as the Supreme Court of the United States has said, ''incomplete and imperfect,'' and have not established, a clear, rational, and uniform standard for determining the extent to which a local educational agency is required to reassign and transport its students in order to eliminate the vestiges of a dual school system.

(b) Necessity of Congress to specify appropriate remedies for elimination of dual school systems

For the foregoing reasons, it is necessary and proper that the Congress, pursuant to the powers granted to it by the Constitution of the United States, specify appropriate remedies for the elimination of the vestiges of dual school systems, except that the provisions of this chapter are not intended to modify or diminish the authority of the courts of the United States to enforce fully the fifth and fourteenth amendments to the Constitution of the United States.

(Pub. L. 93–380, title II, § 203, Aug. 21, 1974, 88 Stat. 514.)

PART 2—UNLAWFUL PRACTICES

§ 1703. Denial of equal educational opportunity prohibited

No State shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin, by—

(a) the deliberate segregation by an educational agency of students on the basis of race, color, or national origin among or within schools;

(b) the failure of an educational agency which has formerly practiced such deliberate segregation to take affirmative steps, consistent with part 4 of this subchapter, to remove the vestiges of a dual school system;

(c) the assignment by an educational agency of a student to a school, other than the one closest to his or her place of residence within the school district in which he or she resides, if the assignment results in a greater degree of segregation of students on the basis of race, color, sex, or national origin among the schools of such agency than would result if such student were assigned to the school closest to his or her place of residence within the school district of such agency providing the appropriate grade level and type of education for such student;

(d) discrimination by an educational agency on the basis of race, color, or national origin in the employment, employment conditions, or assignment to schools of its faculty or staff, except to fulfill the purposes of subsection (f) below;

(e) the transfer by an educational agency, whether voluntary or otherwise, of a student

from one school to another if the purpose and effect of such transfer is to increase segregation of students on the basis of race, color, or national origin among the schools of such agency; or

(f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

(Pub. L. 93–380, title II, § 204, Aug. 21, 1974, 88 Stat. 515.)

§ 1704. Balance not required

The failure of an educational agency to attain a balance, on the basis of race, color, sex, or national origin, of students among its schools shall not constitute a denial of equal educational opportunity, or equal protection of the laws.

(Pub. L. 93–380, title II, § 205, Aug. 21, 1974, 88 Stat. 515.)

§ 1705. Assignment on neighborhood basis not a denial of equal educational opportunity

Subject to the other provisions of this subchapter, the assignment by an educational agency of a student to the school nearest his place of residence which provides the appropriate grade level and type of education for such student is not a denial of equal educational opportunity or of equal protection of the laws unless such assignment is for the purpose of segregating students on the basis of race, color, sex, or national origin, or the school to which such student is assigned was located on its site for the purpose of segregating students on such basis.

(Pub. L. 93–380, title II, § 206, Aug. 21, 1974, 88 Stat. 515.)

PART 3—ENFORCEMENT

§ 1706. Civil actions by individuals denied equal educational opportunities or by Attorney General

An individual denied an equal educational opportunity, as defined by this subchapter may institute a civil action in an appropriate district court of the United States against such parties, and for such relief, as may be appropriate. The Attorney General of the United States (hereinafter in this chapter referred to as the ''Attorney General''), for or in the name of the United States, may also institute such a civil action on behalf of such an individual.

(Pub. L. 93–380, title II, § 207, Aug. 21, 1974, 88 Stat. 516.)

§ 1707. Population changes without effect, per se, on school population changes

When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, such school population changes so occurring shall not, per se, constitute a cause for civil action for a new plan of desegregation or for modification of the court approved plan.

(Pub. L. 93–380, title II, § 208, Aug. 21, 1974, 88 Stat. 516.)

§ 1708. Jurisdiction of district courts

The appropriate district court of the United States shall have and exercise jurisdiction of proceedings instituted under section 1706 of this title.

(Pub. L. 93–380, title II, § 209, Aug. 21, 1974, 88 Stat. 516.)

§ 1709. Intervention by Attorney General

Whenever a civil action is instituted under section 1706 of this title by an individual, the Attorney General may intervene in such action upon timely application.

(Pub. L. 93–380, title II, § 210, Aug. 21, 1974, 88 Stat. 516.)

§ 1710. Civil actions by Attorney General; notice of violations; certification respecting undertaking appropriate remedial action

The Attorney General shall not institute a civil action under section 1706 of this title before he—

(a) gives to the appropriate educational agency notice of the condition or conditions which, in his judgment, constitute a violation of part 2 of this subchapter; and

(b) certifies to the appropriate district court of the United States that he is satisfied that such educational agency has not, within a reasonable time after such notice, undertaken appropriate remedial action.

(Pub. L. 93–380, title II, § 211, Aug. 21, 1974, 88 Stat. 516.)

PART 4—REMEDIES

§ 1712. Formulating remedies; applicability

In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws.

(Pub. L. 93–380, title II, § 213, Aug. 21, 1974, 88 Stat. 516.)

§ 1713. Priority of remedies

In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, which may involve directly or indirectly the transportation of students, a court, department, or agency of the United States shall consider and make specific findings on the efficacy in correcting such denial of the following remedies and shall require implementation of the first of the remedies set out below, or of the first combination thereof which would remedy such denial:

(a) assigning students to the schools closest to their places of residence which provide the

appropriate grade level and type of education for such students, taking into account school capacities and natural physical barriers;

(b) assigning students to the schools closest to their places of residence which provide the appropriate grade level and type of education for such students, taking into account only school capacities;

(c) permitting students to transfer from a school in which a majority of the students are of their race, color, or national origin to a school in which a minority of the students are of their race, color, or national origin;

(d) the creation or revision of attendance zones or grade structures without requiring transportation beyond that described in section 1714 of this title;

(e) the construction of new schools or the closing of inferior schools;

(f) the construction or establishment of magnet schools; or

(g) the development and implementation of any other plan which is educationally sound and administratively feasible, subject to the provisions of sections 1714 and 1715 of this title.

(Pub. L. 93–380, title II, § 214, Aug. 21, 1974, 88 Stat. 517.)

§ 1714. Transportation of students

(a) Limitation to school closest or next closest to place of residence

No court, department, or agency of the United States shall, pursuant to section 1713 of this title, order the implementation of a plan that would require the transportation of any student to a school other than the school closest or next closest to his place of residence which provides the appropriate grade level and type of education for such student.

(b) Health risks; impingement on educational process

No court, department, or agency of the United States shall require directly or indirectly the transportation of any student if such transportation poses a risk to the health of such student or constitutes a significant impingement on the educational process with respect to such student.

(c) School population changes resulting from population changes

When a court of competent jurisdiction determines that a school system is desegregated, or that it meets the constitutional requirements, or that it is a unitary system, or that it has no vestiges of a dual system, and thereafter residential shifts in population occur which result in school population changes in any school within such a desegregated school system, no educational agency because of such shifts shall be required by any court, department, or agency of the United States to formulate, or implement any new desegregation plan, or modify or implement any modification of the court approved desegregation plan, which would require transportation of students to compensate wholly or in part for such shifts in school population so occurring.

(Pub. L. 93–380, title II, § 215, Aug. 21, 1974, 88 Stat. 517.)

§ 1715. District lines

In the formulation of remedies under section 1712 or 1713 of this title the lines drawn by a State, subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn for the purpose, and had the effect, of segregating children among public schools on the basis of race, color, sex, or national origin.

(Pub. L. 93–380, title II, § 216, Aug. 21, 1974, 88 Stat. 518.)

§ 1716. Voluntary adoption of remedies

Nothing in this subchapter prohibits an educational agency from proposing, adopting, requiring, or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this subchapter nor shall any court, department, or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this subchapter, if such plan is voluntarily proposed by the appropriate educational agency.

(Pub. L. 93–380, title II, § 217, Aug. 21, 1974, 88 Stat. 518.)

§ 1717. Reopening proceedings

A parent or guardian of a child, or parents or guardians of children similarly situated, transported to a public school in accordance with a court order, or an educational agency subject to a court order or a desegregation plan under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] in effect on August 21, 1974, and intended to end segregation of students on the basis of race, color, or national origin, may seek to reopen or intervene in the further implementation of such court order, currently in effect, if the time or distance of travel is so great as to risk the health of the student or significantly impinge on his or her educational process.

(Pub. L. 93–380, title II, § 218, Aug. 21, 1974, 88 Stat. 518.)

References in Text

The Civil Rights Act of 1964, referred to in text, is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

§ 1718. Limitation on court orders; termination of orders conditioned upon compliance with fifth and fourteenth amendments; statement of basis for termination orders; stay of termination orders

Any court order requiring, directly or indirectly, the transportation of students for the purpose of remedying a denial of the equal protection of the laws may, to the extent of such transportation, be terminated if the court finds the defendant educational agency has satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable, and will continue to be in compliance with the requirements thereof. The court

of initial jurisdiction shall state in its order the basis for any decision to terminate an order pursuant to this section, and the termination of any order pursuant to this section shall be stayed pending a final appeal or, in the event no appeal is taken, until the time for any such appeal has expired. No additional order requiring such educational agency to transport students for such purpose shall be entered unless such agency is found not to have satisfied the requirements of the fifth or fourteenth amendments to the Constitution, whichever is applicable.

(Pub. L. 93–380, title II, § 219, Aug. 21, 1974, 88 Stat. 518.)

PART 5—DEFINITIONS

§ 1720. Definitions

For the purposes of this subchapter—

(a) The term ''educational agency'' means a local educational agency or a ''State educational agency'' as defined by section 801(k)[1] of the Elementary and Secondary Education Act of 1965.

(b) The term ''local educational agency'' means a local educational agency as defined by section 801(f)[1] of the Elementary and Secondary Education Act of 1965.

(c) The term ''segregation'' means the operation of a school system in which students are wholly or substantially separated among the schools of an educational agency on the basis of race, color, sex, or national origin or within a school on the basis of race, color, or national origin.

(d) The term ''desegregation'' means desegregation as defined by section 2000c(b) of title 42.

(e) An educational agency shall be deemed to transport a student if any part of the cost of such student's transportation is paid by such agency.

(Pub. L. 93–380, title II, § 221, Aug. 21, 1974, 88 Stat. 518.)

REFERENCES IN TEXT

Section 801 of the Elementary and Secondary Education Act of 1965, referred to in subsecs. (a) and (b), is section 801, title VIII, of Pub. L. 89–10, which was formerly classified to section 881 of this title. Section 801 of that Act was renumbered section 1001 of title X by Pub. L. 95–561, title VIII, § 801(1), (2), Nov. 1, 1978, 92 Stat. 2284, and was reclassified to section 3381 of this title. Section 1001 was subsequently renumbered section 8001 and amended generally by Pub. L. 100–297, title I, § 1002, Apr. 28, 1988, 102 Stat. 293, and, as so amended, did not contain subsections or specific definitions. Section 8001 was subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. For definitions, see section 7801 of this title.

PART 6—MISCELLANEOUS PROVISIONS

§ 1721. Separability

If any provision of this subchapter or of any amendment made by this subchapter, or the application of any such provision to any person or circumstance, is held invalid, the remainder of the provisions of this subchapter and of the amendments made by this subchapter and the application of such provision to other persons or circumstances shall not be affected thereby.

(Pub. L. 93–380, title II, § 223, Aug. 21, 1974, 88 Stat. 519.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this part'', meaning part A of title II of Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 519, which is classified generally to this subchapter.

SUBCHAPTER II—ASSIGNMENT AND TRANSPORTATION OF STUDENTS

§ 1751. Prohibition against assignment or transportation of students to overcome racial imbalance

No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

(Pub. L. 93–380, title II, § 251, Aug. 21, 1974, 88 Stat. 519.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484, as amended, known as the Education Amendments of 1974. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 6301 of this title and Tables.

§ 1752. Appeals from Federal district court transfer or transportation orders affecting school attendance areas and achieving balancing of students; postponement of Federal court orders pending exercise of appellate remedy; expiration of section

Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall expire at midnight on June 30, 1978.

(Pub. L. 93–380, title II, § 253, Aug. 21, 1974, 88 Stat. 519.)

§ 1753. Uniform rules of evidence requirement

The rules of evidence required to prove that State or local authorities are practicing racial discrimination in assigning students to public schools shall be uniform throughout the United States.

(Pub. L. 93–380, title II, § 254, Aug. 21, 1974, 88 Stat. 520.)

[1] See References in Text note below.

§ 1754. Provisions respecting transportation of pupils to achieve racial balance and judicial power to insure compliance with constitutional standards applicable to the entire United States

The proviso of section 407(a) of the Civil Rights Act of 1964 [42 U.S.C. 2000c–6(a)] providing in substance that no court or official of the United States shall be empowered to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards shall apply to all public school pupils and to every public school system, public school and public school board, as defined by title IV [42 U.S.C. 2000c et seq.], under all circumstances and conditions and at all times in every State, district, territory, Commonwealth, or possession of the United States, regardless of whether the residence of such public school pupils or the principal offices of such public school system, public school or public school board is situated in the northern, eastern, western, or southern part of the United States.

(Pub. L. 93–380, title II, § 255, Aug. 21, 1974, 88 Stat. 520.)

§ 1755. Additional priority of remedies after finding of de jure segregation

Notwithstanding any other provision of law, after June 30, 1974 no court of the United States shall order the implementation of any plan to remedy a finding of de jure segregation which involves the transportation of students, unless the court first finds that all alternative remedies are inadequate.

(Pub. L. 93–380, title II, § 256, Aug. 21, 1974, 88 Stat. 520.)

§ 1756. Remedies with respect to school district lines

In the formulation of remedies under this chapter the lines drawn by a State subdividing its territory into separate school districts, shall not be ignored or altered except where it is established that the lines were drawn, or maintained or crossed for the purpose, and had the effect of segregating children among public schools on the basis of race, color, sex, or national origin, or where it is established that, as a result of discriminatory actions within the school districts, the lines have had the effect of segregating children among public schools on the basis of race, color, sex, or national origin.

(Pub. L. 93–380, title II, § 257, Aug. 21, 1974, 88 Stat. 520.)

§ 1757. Prohibition of forced busing during school year

(a) Congressional findings

The Congress finds that—

(1) the forced transportation of elementary and secondary school students in implementation of the constitutional requirement for the desegregation of such schools is controversial and difficult under the best planning and administration; and

(2) the forced transportation of elementary and secondary school students after the commencement of an academic school year is educationally unsound and administratively inefficient.

(b) Student transportation orders incidental to student transfers pursuant to school desegregation plans effective beginning with academic school year

Notwithstanding any other provisions of law, no order of a court, department, or agency of the United States, requiring the transportation of any student incident to the transfer of that student from one elementary or secondary school to another such school in a local educational agency pursuant to a plan requiring such transportation for the racial desegregation of any school in that agency, shall be effective until the beginning of an academic school year.

(c) "Academic school year" defined

For the purpose of this section, the term ''academic school year'' means, pursuant to regulations promulgated by the Secretary, the customary beginning of classes for the school year at an elementary or secondary school of a local educational agency for a school year that occurs not more often than once in any twelve-month period.

(d) Orders subject to provisions of section

The provisions of this section apply to any order which was not implemented at the beginning of the 1974–1975 academic year.

(Pub. L. 93–380, title II, § 258, Aug. 21, 1974, 88 Stat. 520; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

''Secretary'', meaning the Secretary of Education, substituted for ''Commissioner'' in subsec. (c) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§ 1758. Reasonable time for developing voluntary school desegregation plans following detailed notice of violations

Notwithstanding any other law or provision of law, no court or officer of the United States shall enter, as a remedy for a denial of equal educational opportunity or a denial of equal protection of the laws, any order for enforcement of a plan of desegregation or modification of a court-approved plan, until such time as the local educational agency to be affected by such order has been provided notice of the details of the violation and given a reasonable opportunity to develop a voluntary remedial plan. Such time shall permit the local educational agency sufficient opportunity for community participation in the development of a remedial plan.

(Pub. L. 93–380, title II, § 259, Aug. 21, 1974, 88 Stat. 521.)

CHAPTER 40—CONSOLIDATION OF EDUCATION PROGRAMS

SUBCHAPTER I—LIBRARIES, LEARNING RESOURCES, EDUCATIONAL INNOVATION, AND SUPPORT

PART A—GENERAL PROVISIONS

§§ 1801 to 1806. Omitted

CODIFICATION

Sections were omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143.

Section 1801, Pub. L. 89–10, title IV, §401, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 535; amended Pub. L. 94–482, title III, §328, Oct. 12, 1976, 90 Stat. 2220; Pub. L. 95–112, §2(d), Sept. 24, 1977, 91 Stat. 911, authorized appropriations for making grants for libraries and library resources for fiscal years ending prior to Oct. 1, 1979.

Section 1802, Pub. L. 89–10, title IV, §402, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 537, provided for allotments to States.

Section 1803, Pub. L. 89–10, title IV, §403, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 538; amended Pub. L. 94–482, title III, §323(a)(3), title V, §501(e)(1), Oct. 12, 1976, 90 Stat. 2217, 2237, provided for structure and function of State plans.

Section 1804, Pub. L. 89–10, title IV, §404, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 540, directed Commissioner to afford the State educational agency reasonable notice and opportunity for a hearing prior to final disapproval of a State plan.

Section 1805, Pub. L. 89–10, title IV, §405, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 541, related to payments to States.

Section 1806, Pub. L. 89–10, title IV, §406, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 541; amended Pub. L. 94–482, title III, §324, title V, §501(r), Oct. 12, 1976, 90 Stat. 2220, 2238, related to participation of children enrolled in private schools.

PART B—LIBRARIES AND LEARNING RESOURCES

§ 1821. Omitted

CODIFICATION

Section, Pub. L. 89–10, title IV, §421, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 542, which authorized a program of grants relating to libraries and learning resources, was omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143.

PART C—EDUCATIONAL INNOVATION AND SUPPORT

§§ 1831, 1832. Omitted

CODIFICATION

Section 1831, Pub. L. 89–10, title IV, §431, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 543; amended Pub. L. 94–482, title V, §501(e)(2), Oct. 12, 1976, 90 Stat. 2237, which authorized a program of educational innovation and support, was omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143.

Section 1832, Pub. L. 89–10, title IV, §432, as added Pub. L. 93–380, title IV, §401, Aug. 21, 1974, 88 Stat. 544, which provided for the use of cultural and educational resources, was omitted in the general revision of the Elementary and Secondary Education Act of 1965, titles I to IX of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143.

SUBCHAPTER II—SPECIAL PROJECTS

§§ 1851 to 1853. Repealed. Pub. L. 95–561, title III, §301(b)(2), Nov. 1, 1978, 92 Stat. 2228

Section 1851, act July 26, 1954, ch. 576, §2, as added Aug. 21, 1974, Pub. L. 93–380, title IV, §402(a)(1), 88 Stat. 544, set out Congressional statement of purpose in making provision for special projects to experiment with new educational and administrative methods, techniques, and practices, to meet special or unique educational needs or problems, and to place special emphasis on national education priorities.

Section 1852, act July 26, 1954, ch. 576, §3, as added Aug. 21, 1974, Pub. L. 93–380, title IV, §402(a)(1), 88 Stat. 544; amended Apr. 21, 1976, Pub. L. 94–273, §2(14), 90 Stat. 375, authorized Commissioner to contract with public and private groups in carrying out special projects.

Section 1853, act July 26, 1954, ch. 576, §4, as added Aug. 21, 1974, Pub. L. 93–380, title IV, §402(a)(1), 88 Stat. 545; amended Oct. 12, 1976, Pub. L. 94–482, title IV, §409(c), 90 Stat. 2233; S. Res. 4, Feb. 4, 1977, authorized appropriations for section 1852 contracts and development of plans for succeeding year.

EFFECTIVE DATE OF REPEAL

Section 301(b)(2) of Pub. L. 95–561 provided that the repeal is effective Sept. 30, 1979.

SUBCHAPTER III—PREFERENTIAL PROGRAMS

§§ 1861 to 1864. Repealed. Pub. L. 95–561, title III, §301(b)(1)(A)–(D), Nov. 1, 1978, 92 Stat. 2228

Section 1861, Pub. L. 93–380, title IV, §402(b), Aug. 21, 1974, 88 Stat. 545, related to reservation and apportionment of funds for certain authorized and described programs.

Section 1862, Pub. L. 93–380, title IV, §403, Aug. 21, 1974, 88 Stat. 546, related to education for use of metric system of measurement.

Section 1863, Pub. L. 93–380, title IV, §404, Aug. 21, 1974, 88 Stat. 547, related to education of gifted and talented children.

Section 1864, Pub. L. 93–380, title IV, §405, Aug. 21, 1974, 88 Stat. 549; Pub. L. 94–482, title V, §501(a)(5), Oct. 12, 1976, 90 Stat. 2235, related to Community schools.

EFFECTIVE DATE OF REPEAL

Section 301(b)(1) of Pub. L. 95–561 provided that the repeal is effective Sept. 30, 1979.

§ 1865. Transferred

CODIFICATION

Section, Pub. L. 93–380, title IV, §406, Aug. 21, 1974, 88 Stat. 551; Pub. L. 94–273, §2(15), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–482, title V, §501(a)(6), (7), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 95–207, §13(e), Dec. 13, 1977, 91 Stat. 1472; Pub. L. 95–561, title III, §301(b)(1)(E), (3), Nov. 1, 1978, 92 Stat. 2228, which related to career education and establishment of Office of Career Education and National Advisory Council for Career Education, was transferred to section 2612a of this title and subsequently omitted from the Code.

§§ 1866, 1867. Repealed. Pub. L. 95–561, title III, §301(b)(1)(G), (H), Nov. 1, 1978, 92 Stat. 2228

Section 1866, Pub. L. 93–380, title IV, §408, Aug. 21, 1974, 88 Stat. 554; Pub. L. 94–482, title III, §325, title V, §501(a)(8), Oct. 12, 1976, 90 Stat. 2220, 2235, related to educational equity for women.

Section 1867, Pub. L. 93–380, title IV, §409, Aug. 21, 1974, 88 Stat. 556; Pub. L. 94–273, §2(15), Apr. 21, 1976, 90

Stat. 375; Pub. L. 94–462, title V, § 501, Oct. 8, 1976, 90 Stat. 1981, provided for a program of elementary and secondary school education in the arts.

EFFECTIVE DATE OF REPEAL

Section 301(b)(1) of Pub. L. 95–561 provided that the repeal is effective Sept. 30, 1979.

CHAPTER 41—NATIONAL READING IMPROVEMENT PROGRAM

§ 1901. Repealed. Pub. L. 95–561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section, Pub. L. 93–380, title VII, § 701, Aug. 21, 1974, 88 Stat. 588, set forth statement of purpose for provisions respecting national reading improvement program.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER I—READING IMPROVEMENT PROJECTS

§ 1921. Repealed. Pub. L. 95–561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section, Pub. L. 93–380, title VII, § 705, Aug. 21, 1974, 88 Stat. 589; Pub. L. 94–194, §§ 1(a), (b)(3), 2, 3, Dec. 31, 1975, 89 Stat. 1103, 1104, set forth requirements for agreements for reading deficiencies projects with State and local educational agencies.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER II—STATE READING IMPROVEMENT PROGRAMS

§§ 1941 to 1944. Repealed. Pub. L. 95–561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section 1941, Pub. L. 93–380, title VII, § 711, Aug. 21, 1974, 88 Stat. 591, set forth provisions respecting statement of purpose for State reading improvement programs.

Section 1942, Pub. L. 93–380, title VII, § 712, Aug. 21, 1974, 88 Stat. 591, set forth applicability and effective date of provisions respecting State reading improvement programs.

Section 1943, Pub. L. 93–380, title VII, § 713, Aug. 21, 1974, 88 Stat. 591, set forth requirements for allotments and reallotments for States.

Section 1944, Pub. L. 93–380, title VII, § 714, Aug. 21, 1974, 88 Stat. 592; Pub. L. 94–194, § 4, Dec. 31, 1975, 89 Stat. 1104, set forth provisions respecting requirements for grants for State reading improvement programs.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER III—OTHER READING IMPROVEMENT PROGRAMS

§§ 1961 to 1966. Repealed. Pub. L. 95–561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section 1961, Pub. L. 93–380, title VII, § 721, Aug. 21, 1974, 88 Stat. 594; Pub. L. 94–194, § 10, Dec. 31, 1975, 89 Stat. 1107, set forth provisions relating to contracting requirements for special emphasis projects.

Section 1962, Pub. L. 93–380, title VII, § 722, Aug. 21, 1974, 88 Stat. 595, set forth provisions relating to granting and contracting requirements for reading training on public television.

Section 1963, Pub. L. 93–380, title VII, § 723, Aug. 21, 1974, 88 Stat. 595; Pub. L. 94–194, § 5, Dec. 31, 1975, 89 Stat. 1104, set forth provisions relating to granting and contracting requirements for reading academies.

Section 1964, Pub. L. 93–380, title VII, § 724, as added Pub. L. 94–194, § 1(b)(1), Dec. 31, 1975, 89 Stat. 1103, set forth provisions relating to scope, authority, etc., with respect to State leadership and training activity agreements.

Section 1965, Pub. L. 93–380, title VII, § 725, as added and amended Pub. L. 94–194, § 6(a), (b)(1), Dec. 31, 1975, 89 Stat. 1104, 1105, set forth provisions relating to granting and contracting requirements for national impact reading programs.

Section 1966, Pub. L. 93–380, title VII, § 726, as added Pub. L. 94–194, § 9(a), Dec. 31, 1975, 89 Stat. 1105, set forth provisions relating to contracting requirements for an inexpensive book distribution program for reading motivation.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

§§ 1981 to 1983. Repealed. Pub. L. 95–561, title XV, § 1529, Nov. 1, 1978, 92 Stat. 2380

Section 1981, Pub. L. 93–380, title VII, § 731, Aug. 21, 1974, 88 Stat. 596; Pub. L. 94–194, § 7, Dec. 31, 1975, 89 Stat. 1105; S. Res. 4, Feb. 4, 1977, set forth evaluation requirements for programs.

Section 1982, Pub. L. 93–380, title VII, § 732, Aug. 21, 1974, 88 Stat. 596; Pub. L. 94–194, §§ 1(c), 6(c), 9(b), Dec. 31, 1975, 89 Stat. 1104–1106, set forth provisions authorizing appropriations for covered programs.

Section 1983, Pub. L. 93–380, title VII, § 733, as added Pub. L. 94–194, § 8, Dec. 31, 1975, 89 Stat. 1105, set forth provisions relating to acceptance of gifts or donations by the Commissioner.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as an Effective Date of 1978 Amendment note under section 1221e–3 of this title.

CHAPTER 42—HARRY S TRUMAN MEMORIAL SCHOLARSHIPS

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§ 2001. Congressional statement of findings

The Congress finds that—

because a high regard for the public trust and a lively exercise of political talents were outstanding characteristics of the thirty-third President of the United States;

because a special interest of the man from Independence in American history and a broad knowledge and understanding of the American political and economic system gained by study and experience in county and National Government culminated in the leadership of America remembered for the quality of his character, courage, and commonsense;

because of the desirability of encouraging young people to recognize and provide service in the highest and best traditions of the American political system at all levels of government, it is especially appropriate to honor former President Harry S Truman through the creation of a perpetual education scholarship program to develop increased opportunities for young Americans to prepare and pursue careers in public service.

(Pub. L. 93–642, § 2, Jan. 4, 1975, 88 Stat. 2276.)

SHORT TITLE

Section 1 of Pub. L. 93–642 provided: ''That this Act [enacting this chapter] may be cited as the 'Harry S Truman Memorial Scholarship Act'.''

§ 2002. Definitions

As used in this chapter, the term—

(1) ''Board'' means the Board of Trustees of the Harry S Truman Scholarship Foundation;

(2) ''Foundation'' means the Harry S Truman Scholarship Foundation;

(3) ''fund'' means the Harry S Truman Memorial Scholarship Fund;

(4) ''institution of higher education'' means any such institution as defined by section 1001 of this title;

(5) ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands; and

(6) ''Secretary'' means the Secretary of the Treasury.

(Pub. L. 93–642, § 3, Jan. 4, 1975, 88 Stat. 2276; Pub. L. 105–244, title I, § 102(a)(6)(D), Oct. 7, 1998, 112 Stat. 1618.)

AMENDMENTS

1998—Par. (4). Pub. L. 105–244 substituted ''section 1001'' for ''section 1141(a)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2003. Other Federal memorials prohibited

The Harry S Truman Scholarship Program as authorized by this chapter shall be the sole Federal memorial to President Harry S Truman.

(Pub. L. 93–642, § 4, Jan. 4, 1975, 88 Stat. 2277.)

§ 2004. Harry S Truman Scholarship Foundation

(a) Establishment

There is established, as an independent establishment of the executive branch of the United States Government, the Harry S Truman Scholarship Foundation.

(b) Board of Trustees; membership

(1)[1] The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) two Members of the Senate, one from each political party, to be appointed by the President of the Senate;

(B) two Members of the House of Representatives, one from each political party, to be appointed by the Speaker;

(C) eight members, not more than four of whom shall be of the same political party, to be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, one a chief executive officer of a city or county, one a member of a Federal court, one a member of a State court, one a person active in postsecondary education, and three representatives of the general public; and

(D) the Secretary of Education or his designate, who shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(c) Term of office

The term of office of each member of the Board shall be six years; except that (1) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) Compensation

Members of the Board shall serve without pay, but shall be entitled to reimbursement for trav-

[1] So in original. No par. (2) has been enacted.

el, subsistence, and other necessary expenses incurred in the performance of their duties.

(Pub. L. 93–642, § 5, Jan. 4, 1975, 88 Stat. 2277; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Commissioner of Education'' in subsec. (b)(1)(D) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§ 2005. Truman scholars

(a) Basis for award

The Foundation is authorized to award scholarships to persons who demonstrate outstanding potential for and who plan to pursue a career in public service. Award recipients shall be known as Truman scholars.

(b) Maximum period of award

Scholarships under this chapter shall be awarded for such periods as the Foundation may prescribe but not to exceed four academic years.

(c) Recipient's choice of institution

A student awarded a scholarship under this chapter may attend any institution of higher education offering courses of study, training, or other educational activities designed to prepare persons for a career in public service as determined pursuant to criteria established by the Foundation.

(d) Encouragement of recipient to pursue public service career

Each student awarded a scholarship under this chapter must have indicated a serious intent to enter the public service upon the completion of his or her educational program. Each institution of higher education at which such a student is in attendance will make reasonable continuing efforts to encourage such a student to enter the public service upon completing his or her educational program.

(Pub. L. 93–642, § 6, Jan. 4, 1975, 88 Stat. 2278.)

§ 2006. Selection of scholars

(a) Nationwide competition

The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the purpose of selecting Truman scholars.

(b) Procedures

The Foundation shall adopt selection procedures which shall assure that at least one Truman scholar shall be selected each year from each State in which there is at least one resident applicant who meets the minimum criteria established by the Foundation.

(Pub. L. 93–642, § 7, Jan. 4, 1975, 88 Stat. 2278.)

§ 2007. Stipends

Each student awarded a scholarship under this chapter shall receive a stipend which shall not exceed the cost to such student for tuition, fees, books, room and board, or $10,000 (adjusted annually to reflect increases, if any, in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics) whichever is less for each academic year of study.

(Pub. L. 93–642, § 8, Jan. 4, 1975, 88 Stat. 2278; Pub. L. 99–159, title V, § 501, Nov. 22, 1985, 99 Stat. 904.)

AMENDMENTS

1985—Pub. L. 99–159 increased amount from $5,000 to $10,000 with provision for annual adjustments.

§ 2008. Scholarship conditions

(a) Satisfactory proficiency and devotion of full time to study or research; unapproved employment

A student awarded a scholarship under the provisions of this chapter shall continue to receive the payments provided in this chapter only during such periods as the Foundation finds that he or she is maintaining satisfactory proficiency and devoting full time to study or research designed to prepare him or her for a career in public service and is not otherwise engaging in gainful employment other than employment approved by the Foundation pursuant to regulation.

(b) Reports; certification by official of institution

The Foundation is authorized to require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any student awarded a scholarship under the provisions of this chapter. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in, and is devoting essentially full time to, study or research, except as otherwise provided in subsection (a) of this section.

(Pub. L. 93–642, § 9, Jan. 4, 1975, 88 Stat. 2278.)

§ 2009. Harry S Truman Memorial Scholarship Trust Fund

(a) Establishment

There is established in the Treasury of the United States a trust fund to be known as the Harry S Truman Memorial Scholarship Trust Fund. The fund shall consist of amounts appropriated to it by section 2013 of this title.

(b) Investment in interest bearing obligations

It shall be the duty of the Secretary to invest in full the amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar

month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Sale and redemption of obligations

Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Credit to the fund of interest and proceeds of sale or redemption

The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(Pub. L. 93–642, § 10, Jan. 4, 1975, 88 Stat. 2279.)

CODIFICATION

In subsec. (b), ''chapter 31 of title 31'' substituted for ''the Second Liberty Bond Act, as amended'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

§ 2010. Expenditures and audit of Trust Fund

(a) Authorization of funding

The Secretary is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of this chapter.

(b) Access to books, records, etc., by Government Accountability Office

The activities of the Foundation under this chapter may be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 93–642, § 11, Jan. 4, 1975, 88 Stat. 2279; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in two places.

§ 2011. Executive Secretary of Foundation

(a) Appointment; functions

There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this chapter as the Board shall delegate.

(b) Compensation

The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade 18 of the General Schedule set forth in section 5332 of title 5.

(Pub. L. 93–642, § 12, Jan. 4, 1975, 88 Stat. 2280.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 2012. Administrative provisions

(a) Powers of Foundation

In order to carry out the provisions of this chapter, the Foundation is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade 15 of the General Schedule set forth in section 5332 of title 5;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of such title;

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 5 of title 41;

(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 3324(a) and (b) of title 31;

(8) rent office space in the District of Columbia; and

(9) make other necessary expenditures.

(b) Annual report to Congress

The Foundation shall submit to the President and to the Congress an annual report of its operations under this chapter.

(Pub. L. 93–642, § 13, Jan. 4, 1975, 88 Stat. 2280.)

CODIFICATION

In subsec. (a)(7), ''section 3324(a) and (b) of title 31'' substituted for ''section 3648 of the Revised Statutes, as amended (31 U.S.C. 529)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to submitting annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 193 of House Document No. 103–7.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 2013. Authorization of appropriations

There are authorized to be appropriated $30,000,000 to the fund.

(Pub. L. 93–642, § 14, Jan. 4, 1975, 88 Stat. 2280.)

CHAPTER 43—AMERICAN FOLKLIFE PRESERVATION

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SUBCHAPTER I—GENERAL PROVISIONS

§ 2101. Congressional declaration of findings and purpose

(a) The Congress hereby finds and declares—

(1) that the diversity inherent in American folklife has contributed greatly to the cultural richness of the Nation and has fostered a sense of individuality and identity among the American people;

(2) that the history of the United States effectively demonstrates that building a strong nation does not require the sacrifice of cultural differences;

(3) that American folklife has a fundamental influence on the desires, beliefs, values, and character of the American people;

(4) that it is appropriate and necessary for the Federal Government to support research and scholarship in American folklife in order to contribute to an understanding of the complex problems of the basic desires, beliefs, and values of the American people in both rural and urban areas;

(5) that the encouragement and support of American folklife, while primarily a matter for private and local initiative, is also an appropriate matter of concern to the Federal Government; and

(6) that it is in the interest of the general welfare of the Nation to preserve, support, revitalize, and disseminate American folklife traditions and arts.

(b) It is therefore the purpose of this subchapter to establish in the Library of Congress an American Folklife Center to preserve and present American folklife.

(Pub. L. 94–201, § 2, Jan. 2, 1976, 89 Stat. 1129.)

SHORT TITLE

Pub. L. 94–201, § 1, Jan. 2, 1976, 89 Stat. 1129, provided: ''That this Act [enacting this subchapter] may be cited as the 'American Folklife Preservation Act'.''

Pub. L. 106–380, § 1, Oct. 27, 2000, 114 Stat. 1447, provided that: ''This Act [enacting subchapter II of this chapter] may be cited as the 'Veterans' Oral History Project Act'.''

FINDINGS AND PURPOSE OF 1998 AMENDMENT

Pub. L. 105–275, title III, § 312(a), Oct. 21, 1998, 112 Stat. 2457, provided that:

''(1) FINDINGS.—Congress makes the following findings:

''(A) The American Folklife Center in the Library of Congress was created by Congress in 1976, building on the vast expertise and archival material existing at the Library since 1928.

''(B) As an instrumentality of the Congress, it is fitting that the American Folklife Center should have a direct and close relationship with the representatives of the people, who are best able to oversee the ongoing activities of the Center to preserve and promote the cultural traditions of the people, and to ensure that the resources of the Center be readily available to all Americans.

''(C) In over 20 years since its creation, the American Folklife Center in the Library of Congress has—

''(i) increased the size of the Archive of Folk Culture from 500,000 to 1,500,000 multi-format ethnographic items;

''(ii) engaged in 15 cultural surveys and field documentation projects in all regions of the country;

''(iii) provided publications, documentary equipment on loan, and advisory and reference service to persons and institutions in all 50 States;

''(iv) produced exhibitions and other educational programs on American Folklife at the Library and around the country;

''(v) begun sharing its unique collections in digital form via the Internet; and

''(vi) served as a national center for the professions of folklore, ethnomusicology, and cultural studies.

''(D) Congress has consistently provided encouragement and support of American Folklife as an appropriate matter of concern to the Federal Government, passing legislation to reauthorize the Center eight times since its creation in 1976.

''(E) The American Folklife Center is the only unit in the Library of Congress which is not permanently authorized. Since its establishment in 1976, the Center's collections and activities have been fully and successfully integrated into the Library of Congress. It is useful to statutorily conform the American Folklife Center with the rest of the Library of Congress.

''(2) PURPOSE.—It is the purpose of this section [amending sections 2103, 2106, and 2107 of this title and enacting provisions set out as a note under section 2103 of this title] to authorize permanently the American Folklife Center in the Library of Congress to preserve and present American Folklife.''

§ 2102. Definitions

As used in this subchapter—

(1) the term ''American folklife'' means the traditional expressive culture shared within the various groups in the United States: familial, ethnic, occupational, religious, regional; expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, handicraft; these expressions are mainly learned orally, by imitation, or in performance, and are generally maintained without benefit of formal instruction or institutional direction;

(2) the term ''Board'' means the Board of Trustees of the Center;

(3) the term ''Center'' means the American Folklife Center established under this subchapter;

(4) the term ''group'' includes any State or public agency or institution and any nonprofit society, institution, organization, association, or establishment in the United States;

(5) the term ''Librarian'' means the Librarian of Congress;

(6) the term ''State'' includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, and the Virgin Islands; and

(7) the term ''workshop'' means an activity the primary purpose of which is to encourage the development of skills, appreciation, or enjoyment of American folklife among amateur, student, or nonprofessional participants, or to promote scholarship or teaching among the participants.

(Pub. L. 94–201, § 3, Jan. 2, 1976, 89 Stat. 1129.)

§ 2103. American Folklife Center

(a) Establishment

There is hereby established in the Library of Congress an American Folklife Center.

(b) Board of Trustees; composition; regional balance

(1) The Center shall be under the direction of a Board of Trustees. The Board shall be composed as follows:

(A) four members appointed by the President from among individuals who are officials of Federal departments and agencies concerned with some aspect of American Folklife traditions and arts;

(B) four members appointed by the President pro tempore of the Senate from among individuals from private life who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American Folklife traditions and arts, and four members appointed by the Speaker of the House of Representatives from among such individuals;

(C) four members appointed by the Librarian of Congress from among individuals who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American folklife traditions and arts; and

(D) seven ex officio members including—

(i) the Librarian of Congress;

(ii) the Secretary of the Smithsonian Institution;

(iii) the Chairman of the National Endowment for the Arts;

(iv) the Chairman of the National Endowment for the Humanities;

(v) the President of the American Folklore Society;

(vi) the President of the Society for Ethnomusicology; and

(vii) the Director of the Center.

(2) In making appointments from private life under paragraph (1)(B) and (C), the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Librarian of Congress shall give due consideration to the appointment of individuals who collectively will provide appropriate diversity and regional balance on the Board. Not more than three of the members appointed by the President pro tempore of the Senate or by the Speaker of the House of Representatives may be affiliated with the same political party.

(3) In making appointments under paragraph (1)(C), the Librarian of Congress shall include at least two members who direct or are members of the boards of major American folklife organizations other than the American Folklore Society and the Society for Ethnomusicology.

(c) Term of office

The term of office of each appointed member of the Board shall be six years; except that

(1)(A) the members first appointed under clause (1) of subsection (b) of this section shall serve as designated by the President, one for a term of two years, two for a term of four years, and one for a term of six years, and (B) the members first appointed under clause (2) of subsection (b) of this section shall serve as jointly designated by the President pro tempore of the Senate and the Speaker of the House of Representatives, two for terms of two years, four for terms of four years, and two for terms of six years; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed for the remainder of such term. Members appointed by the President under clause (1) of subsection (b) of this section shall serve only during the time they are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts.

(d) Reimbursement for expenses

Members of the Board shall serve without pay, but members who are not regular full-time employees of the United States may, at the discretion of the Librarian, be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Board.

(e) Chairman; Vice Chairman; election; vacancies; quorum; annual meeting

(1) The Librarian shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve for a term of one year. Thereafter each Chairman and Vice Chairman shall be elected for a term of two years. The Vice Chairman shall perform the duties of the Chairman in his absence. In case of a vacancy occurring in the chairmanship or vice-chairmanship, the Board shall elect a member to fill the vacancy for the remainder of the unexpired term.

(2) A majority of the members of the Board currently serving shall constitute a quorum.

(3) The Board shall meet at least once each fiscal year.

(f) Director; appointment and compensation

After consultation with the Board, the Librarian shall appoint the Director of the Center. The basic pay of the Director shall be at an annual rate that is not less than an amount equal to 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule nor more than an amount equal to the pay payable under level IV of the Executive Schedule under section 5315 of title 5.

(g) Duties of Director

The Director shall be the chief executive officer of the Center. Subject to the direction of the Board and the general supervision of the Librarian, the Director shall have responsibility for carrying out functions of the Center, and shall have authority over all personnel and activities of the Center.

(Pub. L. 94–201, § 4, Jan. 2, 1976, 89 Stat. 1130; Pub. L. 95–259, § 2, Apr. 17, 1978, 92 Stat. 196; Pub. L. 105–275, title III, § 312(b)(1), Oct. 21, 1998, 112 Stat. 2458.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (f), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–275, § 312(b)(1)(A), added subsec. (b) and struck out former subsec. (b) which read as follows: ''The Center shall be under the direction of a Board of Trustees. The Board shall be composed as follows—

''(1) four members appointed by the President from among individuals who are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts;

''(2) four members appointed by the President pro tempore of the Senate from among individuals from private life who are widely recognized by virtue of their scholarship, experience, creativity, or interest in American folklife traditions and arts, and four members appointed by the Speaker of the House of Representatives from among such individuals;

''(3) the Librarian of Congress;

''(4) the Secretary of the Smithsonian Institution;

''(5) the Chairman of the National Endowment for the Arts;

''(6) the Chairman of the National Endowment for the Humanities; and

''(7) the Director of the Center.

In making appointments from private life under clause 2, the President pro tempore of the Senate and the Speaker of the House of Representatives shall give due consideration to the appointment of individuals who collectively will provide appropriate regional balance on the Board. Not more than three of the members appointed by the President pro tempore of the Senate or by the Speaker of the House of Representatives may be affiliated with the same political party.''

Subsec. (d). Pub. L. 105–275, § 312(b)(1)(B), added subsec. (d) and struck out former subsec. (d) which read as follows: ''Members of the Board who are not regular full-time employees of the United States shall be entitled, while serving on business of the Center, to receive compensation at rates fixed by the Librarian, but not exceeding $100 per diem, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in Government service employed intermittently.''

Subsec. (e)(2). Pub. L. 105–275, § 312(b)(1)(C)(i), inserted ''currently serving'' after ''Board''.

Subsec. (e)(3). Pub. L. 105–275, § 312(b)(1)(C)(ii), added par. (3).

Subsec. (f). Pub. L. 105–275, § 312(b)(1)(D), added subsec. (f) and struck out former subsec. (f) which read as follows: ''After consultation with the Board, the Librarian shall appoint the Director of the Center. The basic pay of the Director shall be at a per year rate not to exceed GS–18 of the General Schedule under section 5332 of title 5. The Librarian upon the recommendation of the Director shall appoint a Deputy Director of the Center. The basic pay of the Deputy Director shall be fixed at a rate not to exceed GS–16 of the General Schedule under section 5332 of such title.''

Subsec. (g). Pub. L. 105–275, § 312(b)(1)(E), struck out ''(1)'' before ''The Director'' and struck out par. (2) which read as follows: ''The Deputy Director shall perform such functions as the Director, with the approval of the Librarian, may prescribe, and shall serve as Acting Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.''

1978—Subsec. (c). Pub. L. 95–259 inserted provision limiting time of service of members appointed by the President to the time they are officials of Federal departments and agencies concerned with some aspect of American folklife traditions and arts.

BOARD OF TRUSTEES, TRANSITION PERIOD

Pub. L. 105–275, title III, § 312(d), Oct. 21, 1998, 112 Stat. 2460, provided that: ''The term of office of members of the Board of Trustees appointed by the Librarian of Congress under the amendments made by subsection (b)(1) [amending this section] shall be 6 years, except that of the four members first appointed by the Librarian, one shall serve for a term of 2 years, two for a term of 4 years, and one for a term of 6 years.''

§ 2104. Functions of Center

(a) Contracts; national archive and center for American folklife; loan of items in archive; procurement, display, etc., of items in archive; miscellaneous programs

The Librarian is authorized to—

(1) enter into, in conformity with Federal procurement statutes and regulations, contracts with individuals and groups for programs for the—

(A) initiation, encouragement, support, organization, and promotion of research, scholarship, and training in American folklife;

(B) initiation, promotion, support, organization, and production of live performances, festivals, exhibits, and workshops related to American folklife;

(C) purchase, receipt, production, arrangement for, and support of the production of exhibitions, displays, publications, and presentations (including presentations by still and motion picture films, and audio and visual magnetic tape recordings) which represent or illustrate some aspect of American folklife; and

(D) purchase, production, arrangement for, and support of the production of exhibitions, projects, presentations, and materials specially designed for classroom use representing or illustrating some aspect of American folklife;

(2) establish and maintain in conjunction with any Federal department, agency, or institution a national archive and center for American folklife;

(3) procure, receive, purchase, and collect for preservation or retention in an appropriate archive creative works, exhibitions, presentations, objects, materials, artifacts, manuscripts, publications, and audio and visual records (including still and motion picture film records, audio and visual magnetic tape recordings, written records, and manuscripts) which represent or illustrate some aspect of American folklife;

(4) loan, or otherwise make available, through Library of Congress procedures, any item in the archive established under this subchapter to any individual or group;

(5) present, display, exhibit, disseminate, communicate, and broadcast to local, regional, State, or National audiences any exhibition, display, or presentation referred to in clause (3) of this section or any item in the archive established pursuant to clause (2) of this section, by making appropriate arrangements, including contracts with public, nonprofit, and private radio and television broadcasters, museums, educational institutions, and such other individuals and organizations, including corporations, as the Board deems appropriate;

(6) loan, lease, or otherwise make available to public, private, and nonprofit educational institutions, and State arts councils established pursuant to the National Foundation on the Arts and the Humanities Act of 1965 [20 U.S.C. 951 et seq.], such exhibitions, programs, presentations, and material developed pursuant to clause (1)(D) of this subsection as the Board deems appropriate; and

(7) develop and implement other appropriate programs to preserve, support, revitalize, and disseminate American folklife.

(b) Functions carried out through Center

The Librarian shall carry out his functions under this subchapter through the Center.

(Pub. L. 94–201, § 5, Jan. 2, 1976, 89 Stat. 1131.)

REFERENCES IN TEXT

The National Foundation on the Arts and the Humanities Act of 1965, referred to in subsec. (a)(6), is Pub. L. 89–209, Sept. 29, 1965, 79 Stat. 845, as amended, which is classified principally to subchapter I (§ 951 et seq.) of chapter 26 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 951 of this title and Tables.

§ 2105. Limitations on contracts

(a) Time

No payment shall be made pursuant to this subchapter to carry out any research or training over a period in excess of two years, except that with the concurrence of at least two-thirds of the members of the Board of the Center such research or training may be carried out over a period of not to exceed five years.

(b) Items excluded

Assistance pursuant to this subchapter shall not cover the cost of land acquisition, construction, building acquisitions, or acquisition of major equipment.

(c) Former Government employees

No individual formerly in the employment of the Federal Government shall be eligible to receive any assistance pursuant to this subchapter, or to serve as a trustee of the Center in the two-year period following the termination of such employment.

(Pub. L. 94–201, § 6, Jan. 2, 1976, 89 Stat. 1132.)

§ 2106. Administration

(a) Regulations; receipt of money and other property; compensation of personnel; services of experts and consultants; contracts; payments

In addition to any authority vested in it by other provisions of this subchapter, the Librarian of Congress, in carrying out the Center's functions, is authorized to—

(1) prescribe such regulations as he deems necessary;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be for the purposes of the Center and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions, without reference to Federal property disposal statutes;

(3) in the discretion of the Board of Trustees, receive (and use, sell, or otherwise dispose of, in accordance with clause (2)) money and other property donated, bequeathed, or devised to the Center with a condition or restriction, including a condition that the Center use other funds of the Center for the purpose of the gift;

(4) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this subchapter in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that the Librarian of Congress may appoint and fix the compensation of a reasonable number of personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates;

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5;

(6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(7) enter into contracts to carry out the provisions of this subchapter, and such contracts may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds and in conformity with section 5 of title 41; and

(8) make advances, progress, and other payments which the Board deems necessary under this subchapter in conformity with the provisions of section 3324(a) and (b) of title 31.

(b) Annual report to Congress

The Director shall submit to the Librarian for inclusion in the annual report of the Library of Congress to the Congress an annual report of the operations of the Center under this subchapter, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as the Center deems appropriate.

(Pub. L. 94–201, § 7, Jan. 2, 1976, 89 Stat. 1133; Pub. L. 105–275, § 312(b)(2), Oct. 21, 1998, 112 Stat. 2459.)

REFERENCES IN TEXT

For Federal property disposal statutes, referred to in subsec. (a)(2), see, generally, subtitle I of Title 40, Public Buildings, Property, and Works.

CODIFICATION

In subsec. (a)(8), ''section 3324(a) and (b) of title 31'' substituted for ''section 3648 of the Revised Statutes, as amended (31 U.S.C. 529)'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1998—Subsec. (a)(4). Pub. L. 105–275 struck out before semicolon at end '', but no individual so appointed shall receive compensation in excess of the rate received by the Deputy Director of the Center''.

§ 2107. Authorization of appropriations

There are authorized to be appropriated to the Center to carry out this subchapter such sums as may be necessary for each fiscal year.

(Pub. L. 94–201, § 8, Jan. 2, 1976, 89 Stat. 1134; Pub. L. 95–259, § 1, Apr. 17, 1978, 92 Stat. 196; Pub. L. 96–522, Dec. 12, 1980, 94 Stat. 3038; Pub. L. 98–392, §§ 1, 2, Aug. 21, 1984, 98 Stat. 1362; Pub. L. 99–473, Oct. 16, 1986, 100 Stat. 1212; Pub. L. 101–99, Sept. 26, 1989, 103 Stat. 637; Pub. L. 102–399, Oct. 7, 1992, 106 Stat. 1954; Pub. L. 103–101, § 1, Oct. 8, 1993, 107 Stat. 1020; Pub. L. 104–197, title II, § 209, Sept. 16, 1996, 110 Stat. 2410; Pub. L. 105–275, title III, § 312(c), Oct. 21, 1998, 112 Stat. 2459.)

AMENDMENTS

1998—Pub. L. 105–275 reenacted section catchline without change and amended text generally. Prior to amendment, text read as follows: ''There are authorized to be appropriated to the Center to carry out this subchapter such sums as may be necessary for each of the fiscal years 1997 and 1998.''

1996—Pub. L. 104–197 substituted ''Authorization of appropriations'' for ''Authorization'' in section catchline and amended text generally. Prior to amendment, text read as follows: ''There are authorized to be appropriated to the Center to carry out the provisions of this subchapter $133,500 for the fiscal year 1976 and for the period from July 1 through September 30, 1976, $295,000 for the fiscal year 1977, $349,000 for the fiscal year 1978, $685,000 for the fiscal year ending September 30, 1979, $1,065,000 for the fiscal year ending September 30, 1980, $1,355,000 for the fiscal year ending September 30, 1981, $740,000 for the fiscal year ending September 30, 1982, $890,000 for the fiscal year ending September 30, 1983, $990,000 for the fiscal year ending September 30, 1984, $838,549 for the fiscal year ending September 30, 1985, $867,898 for the fiscal year ending September 30, 1986, $867,900 for the fiscal year ending September 30, 1987, $919,974 for the fiscal year ending September 30, 1988, $975,172 for the fiscal year ending September 30, 1989, $998,000 for the fiscal year ending September 30, 1990, $1,050,100 for the fiscal year ending September 30, 1991, $1,120,000 for the fiscal year ending September 30, 1992, $1,120,000 for the fiscal year ending September 30, 1993, $1,120,000 for the fiscal year ending September 30, 1994, and $1,120,000 for the fiscal year ending September 30, 1995.''

1993—Pub. L. 103–101 struck out ''and'' after ''September 30, 1992,'' and inserted before period at end '', $1,120,000 for the fiscal year ending September 30, 1994, and $1,120,000 for the fiscal year ending September 30, 1995''.

1992—Pub. L. 102–399 substituted ''1991,'' for ''1991, and'' and inserted '', and $1,120,000 for the fiscal year ending September 30, 1993'' after ''September 30, 1992''.

1989—Pub. L. 101–99 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1990, Sept. 30, 1991, and Sept. 30, 1992, of $998,000, $1,050,100, and $1,120,000, respectively. Direction to strike out ''and'' after ''1988'' was executed by striking ''and'' after ''1988,'' to reflect the probable intent of Congress.

1986—Pub. L. 99–473 struck out subsec. designation ''(a)'' before ''There are authorized'' and ''and'' after ''1985,'', inserted '', $867,900 for the fiscal year ending September 30, 1987, $919,974 for the fiscal year ending September 30, 1988, and $975,172 for the fiscal year ending September 30, 1989'', and struck out subsec. (b) which provided that no amount authorized by subsec. (a) of this section for fiscal years ending Sept. 30, 1985, or Sept. 30, 1986, be used for pay, benefits, or other expenses of any personnel position established after Aug. 21, 1984.

1984—Pub. L. 98–392 designated existing provisions as subsec. (a), in subsec. (a), as so designated, inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1985, and Sept. 30, 1986, of $838,549 and $867,898, respectively, and added subsec. (b).

1980—Pub. L. 96–522 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, of $740,000, $890,000, and $990,000, respectively.

1978—Pub. L. 95–259 inserted provisions for the appropriation of $685,000, $1,065,000 and $1,355,000 for the fiscal years ending Sept. 30, 1979, 1980 and 1981, respectively.

SUBCHAPTER II—VETERANS' ORAL HISTORY

§ 2141. Findings; purpose

(a) Findings

Congress finds as follows:

(1) Military service during a time of war is the highest sacrifice a citizen may make for his or her country.

(2) 4,700,000 Americans served in World War I, 16,500,000 Americans served in World War II, 6,800,000 Americans served in the Korean Conflict, 9,200,000 Americans served in the Vietnam Conflict, 3,800,000 Americans served in the Persian Gulf War, and countless other Americans served in military engagements overseas throughout the 20th century.

(3) The Department of Veterans Affairs reports that there are almost 19,000,000 war veterans living in this Nation today.

(4) Today there are only approximately 3,400 living veterans of World War I, and of the some 6,000,000 veterans of World War II alive today, almost 1,500 die each day.

(5) Oral histories are of immeasurable value to historians, researchers, authors, journalists, film makers, scholars, students, and citizens of all walks of life.

(6) War veterans possess an invaluable resource in their memories of the conflicts in which they served, and can provide a rich history of our Nation and its people through the retelling of those memories, yet frequently those who served during times of conflict are reticent to family and friends about their experiences.

(7) It is in the Nation's best interest to collect and catalog oral histories of American war veterans so that future generations will have original sources of information regarding the lives and times of those who served in war and the conditions under which they endured, so that Americans will always remember those who served in war and may learn first-hand of the heroics, tediousness, horrors, and triumphs of war.

(8) The Library of Congress, as the Nation's oldest Federal cultural institution and largest and most inclusive library in human history (with nearly 119,000,000 items in its multimedia collection)[1] is an appropriate repository to collect, preserve, and make available to the public an archive of these oral histories. The Library's American Folklife Center has expertise in the management of documentation projects and experience in the development of cultural and educational programs for the public.

(b) Purpose

It is the purpose of this subchapter to create a new federally sponsored, authorized, and funded program that will coordinate at a national level the collection of video and audio recordings of personal histories and testimonials of American war veterans, and to assist and encourage local efforts to preserve the memories of this Nation's war veterans so that Americans of all current and future generations may hear directly from veterans and better appreciate the realities of war and the sacrifices made by those who served in uniform during wartime.

(Pub. L. 106–380, § 2, Oct. 27, 2000, 114 Stat. 1447.)

SHORT TITLE

For short title of this subchapter as the ''Veterans' Oral History Project Act'', see section 1 of Pub. L. 106–380, set out as a note under section 2101 of this title.

§ 2142. Establishment of program at American Folklife Center to collect video and audio recordings of histories of veterans

(a) In general

The Director of the American Folklife Center at the Library of Congress shall establish an oral history program—

(1) to collect video and audio recordings of personal histories and testimonials of veterans of the Armed Forces who served during a period of war;

(2) to create a collection of the recordings obtained (including a catalog and index) which will be available for public use through the National Digital Library of the Library of Congress and such other methods as the Director considers appropriate to the extent feasible subject to available resources; and

(3) to solicit, reproduce, and collect written materials (such as letters and diaries) relevant to the personal histories of veterans of the Armed Forces who served during a period of war and to catalog such materials in a manner the Director considers appropriate, consistent with and complimentary[1] to the efforts described in paragraphs (1) and (2).

(b) Use of and consultation with other entities

The Director may carry out the activities described in paragraphs (1) and (3) of subsection (a) of this section through agreements and partnerships entered into with other government and private entities, and may otherwise consult with interested persons (within the limits of available resources) and develop appropriate guidelines and arrangements for soliciting, acquiring, and making available recordings under the program under this subchapter.

(c) Timing

As soon as practicable after October 27, 2000, the Director shall begin collecting video and audio recordings under subsection (a)(1) of this section, and shall attempt to collect the first such recordings from the oldest veterans.

(Pub. L. 106–380, § 3, Oct. 27, 2000, 114 Stat. 1448.)

§ 2143. Private support

(a) Acceptance of donations

The Librarian of Congress may solicit and accept donations of funds and in-kind contributions to carry out the oral history program under section 2142 of this title.

(b) Establishment of separate gift account

There is established in the Treasury (among the accounts of the Library of Congress) a gift

[1] So in original. Probably should be followed by a comma.

[1] So in original. Probably should be complementary.

account for the oral history program under section 2142 of this title.

(c) Dedication of funds

Notwithstanding any other provision of law—

(1) any funds donated to the Librarian of Congress to carry out the oral history program under section 2142 of this title shall be deposited entirely into the gift account established under subsection (b) of this section;

(2) the funds contained in such account shall be used solely to carry out the oral history program under section 2142 of this title; and

(3) the Librarian of Congress may not deposit into such account any funds donated to the Librarian which are not donated for the exclusive purpose of carrying out the oral history program under section 2142 of this title.

(Pub. L. 106–380, § 4, Oct. 27, 2000, 114 Stat. 1448.)

§ 2144. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter—

(1) $250,000 for fiscal year 2001; and

(2) such sums as may be necessary for each succeeding fiscal year.

(Pub. L. 106–380, § 5, Oct. 27, 2000, 114 Stat. 1449.)

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CODIFICATION

The Carl D. Perkins Vocational and Technical Education Act of 1998, comprising this chapter, was originally enacted as part A of Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, known as the Vocational Education Act of 1963, and classified to sections 35 to 35n of this title. Part A of Pub. L. 88–210 was subsequently redesignated as title I and amended generally by Pub. L. 90–576, title I, §101, Oct. 16, 1968, 82 Stat. 1064, further amended by Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 93–567, Dec. 31, 1974, 88 Stat. 1845; Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 713; Pub. L. 94–273, Apr. 21, 1976, 90 Stat. 375, and reclassified to chapter 32 (§§1241–1393f) of this title. Title I of Pub. L. 88–210 was subsequently amended generally by Pub. L. 94–482, title II, §202(a), Oct. 12, 1976, 90 Stat. 2169, and reclassified to this chapter. Pub. L. 88–210 was subsequently amended by Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2435, by striking out all after the enacting clause and inserting in lieu thereof titles I to V (§§1–521), to be cited as the Carl D. Perkins Vocational Education Act, and further amended by Pub. L. 99–159, Nov. 22, 1985, 99 Stat. 887; Pub. L. 99–357, July 8, 1986, 100 Stat. 761; Pub. L. 100–202, Dec. 22, 1987, 101 Stat. 1329; Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130; Pub. L. 100–418, Aug. 23, 1988, 102 Stat. 1107. Pub. L. 88–210 was subsequently extensively amended by Pub. L. 101–392, Sept. 25, 1990, 104 Stat. 753, including an amendment to provide that the Act be cited as the Carl D. Perkins Vocational and Applied Technology Education Act, and was further amended by Pub. L. 101–476, Oct. 30, 1990, 104 Stat. 1103; Pub. L. 102–103, Aug. 17, 1991, 105 Stat. 497; Pub. L. 102–367, Sept. 7, 1992, 106 Stat. 1021; Pub. L. 103–208, Dec. 20, 1993, 107 Stat. 2457; Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125; Pub. L. 103–239, May 4, 1994, 108 Stat. 568; Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518; Pub. L. 104–66, Dec. 21, 1995, 109 Stat. 707; Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2105; Pub. L. 105–244, Oct. 7, 1998, 112 Stat. 1581. Pub. L. 88–210 was subsequently amended generally by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076, including an amendment to provide that the Act be cited as the Carl D. Perkins Vocational and Technical Education Act of 1998. Pub. L. 88–210 is shown herein, however, as having been added by Pub. L. 105–332 without reference to the intervening amendments listed above because of the extensive revision of Pub. L. 88–210 by Pub. L. 105–332.

§ 2301. Purpose

The purpose of this chapter is to develop more fully the academic, vocational, and technical skills of secondary students and postsecondary students who elect to enroll in vocational and technical education programs, by—

(1) building on the efforts of States and localities to develop challenging academic standards;

(2) promoting the development of services and activities that integrate academic, vocational, and technical instruction, and that link secondary and postsecondary education for participating vocational and technical education students;

(3) increasing State and local flexibility in providing services and activities designed to develop, implement, and improve vocational and technical education, including tech-prep education; and

(4) disseminating national research, and providing professional development and technical assistance, that will improve vocational and technical education programs, services, and activities.

(Pub. L. 88–210, §2, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3077.)

PRIOR PROVISIONS

A prior section 2301, Pub. L. 88–210, §2, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2437; amended Pub. L. 101–392, §2, Sept. 25, 1990, 104 Stat. 756, stated purpose of this chapter, prior to the general amendment of this chapter by Pub. L. 105–332.

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–332, §1(a), Oct. 31, 1998, 112 Stat. 3076, provided that: ''This Act [see Tables for classification]

may be cited as the 'Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–392, § 1(a), Sept. 25, 1990, 104 Stat. 753, provided that: ''This Act [see Tables for classification] may be cited as the 'Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990'.''

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–576, § 1, Oct. 16, 1968, 82 Stat. 1064, provided that: ''This Act [enacting sections 6, 1119c to 1119c–4, 1226, 1241 to 1248, 1261 to 1264, 1281 to 1284, 1301 to 1305, 1321 to 1323, 1341, 1351 to 1355, 1371 to 1374, and 1391 of this title, amending sections 237, 237 note, 238, 239, 240, 241, 403, 421, 422, 423, 423 note, 425, 425 note, 426, 441, 442, 442 note, 443, 444, 462, 464, 481, 482, 482 note, 483, 484, 491, 511, 521, 541, 551, 561, 563, 588, 589, 611, 633, 644, 645, 1202, and 1221 of this title, repealing sections 15i, 15i note, 15j to 15q, 15aa to 15jj, 15aaa to 15ggg, 30, 31 to 33, and 34 of this title and section 1667 of Title 48, Territories and Insular Possessions, and enacting provisions set out as notes under sections 6, 11, 240, 886, 1202, 1321, and 2301 of this title and section 2809 of Title 42, The Public Health and Welfare may be cited as the 'Vocational Education Amendments of 1968'.''

SHORT TITLE

Pub. L. 88–210, § 1(a), as added by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076, provided that: ''This Act [enacting this chapter] may be cited as the 'Carl D. Perkins Vocational and Technical Education Act of 1998'.''

Pub. L. 88–210, title II, § 201, as added by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3117, provided that: ''This title [enacting subchapter II of this chapter] may be cited as the 'Tech-Prep Education Act'.''

VOCATIONAL EDUCATION POLICY

Section 6 of Pub. L. 98–524 provided that: ''It is the sense of the Congress that effective vocational education programs are essential to our future as a free and democratic society; that such programs are best administered by local communities, and community colleges school boards, where the primacy of parental control can be emphasized with a minimum of Federal interference; and that as a means to strengthening vocational education and training programs, nongovernmental alternatives promoting links between public school needs and private sector sources of support should be encouraged and implemented.''

§ 2302. Definitions

In this chapter:

(1) Administration

The term ''administration'', when used with respect to an eligible agency or eligible recipient, means activities necessary for the proper and efficient performance of the eligible agency or eligible recipient's duties under this chapter, including supervision, but does not include curriculum development activities, personnel development, or research activities.

(2) All aspects of an industry

The term ''all aspects of an industry'' means strong experience in, and comprehensive understanding of, the industry that the individual is preparing to enter.

(3) Area vocational and technical education school

The term ''area vocational and technical education school'' means—

(A) a specialized public secondary school used exclusively or principally for the provision of vocational and technical education to individuals who are available for study in preparation for entering the labor market;

(B) the department of a public secondary school exclusively or principally used for providing vocational and technical education in not fewer than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

(C) a public or nonprofit technical institution or vocational and technical education school used exclusively or principally for the provision of vocational and technical education to individuals who have completed or left secondary school and who are available for study in preparation for entering the labor market, if the institution or school admits as regular students both individuals who have completed secondary school and individuals who have left secondary school; or

(D) the department or division of an institution of higher education, that operates under the policies of the eligible agency and that provides vocational and technical education in not fewer than five different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if the department or division admits as regular students both individuals who have completed secondary school and individuals who have left secondary school.

(4) Career guidance and academic counseling

The term ''career guidance and academic counseling'' means providing access to information regarding career awareness and planning with respect to an individual's occupational and academic future that shall involve guidance and counseling with respect to career options, financial aid, and postsecondary options.

(5) Charter school

The term ''charter school'' has the meaning given the term in section 7221i[1] of this title.

(6) Cooperative education

The term ''cooperative education'' means a method of instruction of education for individuals who, through written cooperative arrangements between a school and employers, receive instruction, including required academic courses and related vocational and technical education instruction, by alternation of study in school with a job in any occupational field, which alternation shall be planned and supervised by the school and employer so that each contributes to the education and employability of the individual, and may include an arrangement in which work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

(7) Displaced homemaker

The term ''displaced homemaker'' means an individual who—

[1] See References in Text note below.

(A)(i) has worked primarily without remuneration to care for a home and family, and for that reason has diminished marketable skills;

(ii) has been dependent on the income of another family member but is no longer supported by that income; or

(iii) is a parent whose youngest dependent child will become ineligible to receive assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) not later than 2 years after the date on which the parent applies for assistance under this chapter;[1] and

(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(8) Educational service agency

The term ''educational service agency'' has the meaning given the term in section 7801 of this title.

(9) Eligible agency

The term ''eligible agency'' means a State board designated or created consistent with State law as the sole State agency responsible for the administration of vocational and technical education or for supervision of the administration of vocational and technical education in the State.

(10) Eligible institution

The term ''eligible institution'' means—

(A) an institution of higher education;

(B) a local educational agency providing education at the postsecondary level;

(C) an area vocational and technical education school providing education at the postsecondary level;

(D) a postsecondary educational institution controlled by the Bureau of Indian Affairs or operated by or on behalf of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452 et seq.);

(E) an educational service agency; or

(F) a consortium of 2 or more of the entities described in subparagraphs (A) through (E).

(11) Eligible recipient

The term ''eligible recipient'' means—

(A) a local educational agency, an area vocational and technical education school, an educational service agency, or a consortium, eligible to receive assistance under section 2351 of this title; or

(B) an eligible institution or consortium of eligible institutions eligible to receive assistance under section 2352 of this title.

(12) Governor

The term ''Governor'' means the chief executive officer of a State or an outlying area.

(13) Individual with limited English proficiency

The term ''individual with limited English proficiency'' means a secondary school student, an adult, or an out-of-school youth, who has limited ability in speaking, reading, writing, or understanding the English language, and—

(A) whose native language is a language other than English; or

(B) who lives in a family or community environment in which a language other than English is the dominant language.

(14) Individual with a disability

(A) In general

The term ''individual with a disability'' means an individual with any disability (as defined in section 12102 of title 42).

(B) Individuals with disabilities

The term ''individuals with disabilities'' means more than 1 individual with a disability.

(15) Institution of higher education

The term ''institution of higher education'' has the meaning given the term in section 1001 of this title.

(16) Local educational agency

The term ''local educational agency'' has the meaning given the term in section 7801 of this title.

(17) Nontraditional training and employment

The term ''nontraditional training and employment'' means occupations or fields of work, including careers in computer science, technology, and other emerging high skill occupations, for which individuals from one gender comprise less than 25 percent of the individuals employed in each such occupation or field of work.

(18) Outlying area

The term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(19) Postsecondary educational institution

The term ''postsecondary educational institution'' means—

(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;

(B) a tribally controlled college or university; or

(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

(20) School dropout

The term ''school dropout'' means an individual who is no longer attending any school and who has not received a secondary school diploma or its recognized equivalent.

(21) Secondary school

The term ''secondary school'' has the meaning given the term in section 7801 of this title.

(22) Secretary

The term ''Secretary'' means the Secretary of Education.

(23) Special populations

The term ''special populations'' means—

(A) individuals with disabilities;

(B) individuals from economically disadvantaged families, including foster children;

(C) individuals preparing for nontraditional training and employment;

(D) single parents, including single pregnant women;

(E) displaced homemakers; and

(F) individuals with other barriers to educational achievement, including individuals with limited English proficiency.

(24) State

The term ''State'', unless otherwise specified, means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and each outlying area.

(25) Support services

The term ''support services'' means services related to curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

(26) Tech-prep program

The term ''tech-prep program'' means a program of study that—

(A) combines at least 2 years of secondary education (as determined under State law) and 2 years of postsecondary education in a nonduplicative sequential course of study;

(B) strengthens the applied academic component of vocational and technical education through the integration of academic, and vocational and technical, instruction;

(C) provides technical preparation in an area such as engineering technology, applied science, a mechanical, industrial, or practical art or trade, agriculture, a health occupation, business, or applied economics;

(D) builds student competence in mathematics, science, and communications (including through applied academics) in a coherent sequence of courses; and

(E) leads to an associate degree or a certificate in a specific career field, and to high skill, high wage employment, or further education.

(27) Tribally controlled college or university

The term ''tribally controlled college or university'' has the meaning given such term in section 1801 of title 25.

(28) Tribally controlled postsecondary vocational and technical institution

The term ''tribally controlled postsecondary vocational and technical institution'' means an institution of higher education (as defined in section 1001 of this title, except that paragraph (2)[2] of such section shall not be applicable and the reference to Secretary in paragraph (5)(A)[2] of such section shall be deemed to refer to the Secretary of the Interior) that—

(A) is formally controlled, or has been formally sanctioned or chartered, by the governing body of an Indian tribe or Indian tribes;

(B) offers a technical degree or certificate granting program;

(C) is governed by a board of directors or trustees, a majority of whom are Indians;

(D) demonstrates adherence to stated goals, a philosophy, or a plan of operation, that fosters individual Indian economic and self-sufficiency opportunity, including programs that are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

(E) has been in operation for at least 3 years;

(F) holds accreditation with or is a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational and technical education; and

(G) enrolls the full-time equivalent of not less than 100 students, of whom a majority are Indians.

(29) Vocational and technical education

The term ''vocational and technical education'' means organized educational activities that—

(A) offer a sequence of courses that provides individuals with the academic and technical knowledge and skills the individuals need to prepare for further education and for careers (other than careers requiring a baccalaureate, master's, or doctoral degree) in current or emerging employment sectors; and

(B) include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, of an individual.

(30) Vocational and technical student organization

(A) In general

The term ''vocational and technical student organization'' means an organization for individuals enrolled in a vocational and technical education program that engages in vocational and technical activities as an integral part of the instructional program.

(B) State and national units

An organization described in subparagraph (A) may have State and national units that aggregate the work and purposes of instruction in vocational and technical education at the local level.

(Pub. L. 88–210, § 3, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3077; amended Pub. L. 107–110, title X, § 1076(k), Jan. 8, 2002, 115 Stat. 2091.)

REFERENCES IN TEXT

Section 7221i of this title, referred to in par. (5), was in the original ''section 5206 of the Elementary and Secondary Education Act of 1965'' and was translated as reading section 5210 of that Act to reflect the probable intent of Congress, because section 5206 does not contain definitions and section 5210 defines ''charter school''.

[2] See References in Text note below.

The Social Security Act, referred to in par. (7)(A)(iii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

This chapter, referred to in par. (7)(A)(iii), was in the original ''this title'' and was translated as reading ''this Act'', meaning the Carl D. Perkins Vocational and Technical Education Act of 1998, which enacted this chapter, to reflect the probable intent of Congress, because this section is not contained in a title of the Act.

The Indian Self-Determination Act, referred to in par. (10)(D), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

Act of April 16, 1934, referred to in par. (10)(D), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 452 of Title 25 and Tables.

Section 1001 of this title, referred to in par. (28), contains a paragraph (2) in both subsecs. (a) and (b) and does not contain a paragraph (5)(A).

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2471 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2302, Pub. L. 88–210, § 3, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2437; amended Pub. L. 100–418, title VI, §§ 6131(b), 6134(b), Aug. 23, 1988, 102 Stat. 1511, 1512; Pub. L. 101–392, § 3, Sept. 25, 1990, 104 Stat. 756, authorized appropriations for fiscal years 1991 to 1995 to carry out former subchapters I to IV of this chapter, prior to the general amendment of this chapter by Pub. L. 105–332.

AMENDMENTS

2002—Par. (5). Pub. L. 107–110, § 1076(k)(1), substituted ''7221i'' for ''8066''.

Pars. (8), (16), (21). Pub. L. 107–110, § 1076(k)(2), (3), substituted ''7801'' for ''8801''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 2303. Transition provisions

The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to the authority of this chapter from any authority under provisions of the Carl D. Perkins Vocational and Applied Technology Education Act, as such Act was in effect on the day before October 31, 1998.

(Pub. L. 88–210, § 4, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3082.)

REFERENCES IN TEXT

The Carl D. Perkins Vocational and Applied Technology Education Act, as such Act was in effect on the day before October 31, 1998, referred to in text, means Pub. L. 88–210, as amended, which was classified generally to this chapter, prior to being amended generally and renamed the Carl D. Perkins Vocational and Technical Education Act of 1998 by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076.

PRIOR PROVISIONS

A prior section 2303, Pub. L. 101–392, § 4, Sept. 25, 1990, 104 Stat. 758; Pub. L. 104–66, title I, § 1041(f), Dec. 21, 1995, 109 Stat. 715, which related to the Interdepartmental Task Force on Vocational Education and Related Programs, was transferred to section 2308 of this title.

§ 2304. Privacy

(a) Construction

Nothing in this chapter shall be construed to supersede the privacy protections afforded parents and students under section 1232g of this title.

(b) Prohibition on development of national database

Nothing in this chapter shall be construed to permit the development of a national database of personally identifiable information on individuals receiving services under this chapter.

(Pub. L. 88–210, § 5, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3082.)

§ 2305. Limitation

All of the funds made available under this chapter shall be used in accordance with the requirements of this chapter. None of the funds made available under this chapter may be used to provide funding under the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6101 et seq.) or to carry out, through programs funded under this chapter, activities that were funded under the School-To-Work Opportunities Act of 1994, unless the programs funded under this chapter serve only those participants eligible to participate in the programs under this chapter.

(Pub. L. 88–210, § 6, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3082.)

REFERENCES IN TEXT

The School-to-Work Opportunities Act of 1994, referred to in text, is Pub. L. 103–239, May 4, 1994, 108 Stat. 568, as amended, which is classified principally to chapter 69 (§ 6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

§ 2306. Special rule

In the case of a local community in which no employees are represented by a labor organization, for purposes of this chapter the term ''representatives of employees'' shall be substituted for ''labor organization''.

(Pub. L. 88–210, § 7, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3083.)

§ 2307. Authorization of appropriations

There is authorized to be appropriated to carry out this chapter (other than sections 2324, 2327, and 2328 of this title, and subchapter II) such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 88–210, § 8, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3083.)

§ 2308. Interdepartmental Task Force on Vocational Education and Related Programs

(a) Establishment

There is established the Interdepartmental Task Force on Vocational Education and Re-

lated Programs (in this section referred to as the ''Task Force'').

(b) Membership

The Task Force shall consist of the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, and such other personnel of the Department of Education, the Department of Labor, and the Department of Health and Human Services as the Secretaries consider appropriate.

(c) Duties

The Task Force shall—

(1) examine principal data required for programs under the Adult Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act, the Job Training Partnership Act, the Rehabilitation Act of 1973, and the Wagner-Peyser Act [29 U.S.C. 49 et seq.];

(2) examine possible common objectives, definitions, measures, and standards for such programs; and

(3) consider integration of research and development conducted with Federal assistance in the area of vocational education and related areas, including areas of emerging technologies.

(Pub. L. 101–392, §4, Sept. 25, 1990, 104 Stat. 758; Pub. L. 104–66, title I, §1041(f), Dec. 21, 1995, 109 Stat. 715.)

REFERENCES IN TEXT

The Adult Education Act, referred to in subsec. (c)(1), was title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1216, as amended, which was classified generally to chapter 30 (§1201 et seq.) of this title, prior to repeal by Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079. For complete classification of this Act to the Code, see Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (c)(1), was Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which was classified generally to this chapter, prior to being amended generally and renamed the Carl D. Perkins Vocational and Technical Education Act of 1998 by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076. For complete classification of Pub. L. 88–210 to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Job Training Partnership Act, referred to in subsec. (c)(1), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor, and was repealed by Pub. L. 105–220, title I, §199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Job Training Partnership Act to the Code, see Tables. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (c)(1), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to chapter 16 (§701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Wagner-Peyser Act, referred to in subsec. (c)(1), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified principally to chapter 4B (§49 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

CODIFICATION

Section was enacted as part of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, and not as part of the Carl D. Perkins Vocational and Technical Education Act of 1998 which comprises this chapter.

Section was formerly classified to section 2303 of this title.

PRIOR PROVISIONS

Prior sections 2311 to 2313 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2311, Pub. L. 88–210, title I, §101, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2438; amended Pub. L. 99–159, title VII, §701, Nov. 22, 1985, 99 Stat. 904; Pub. L. 99–357, July 8, 1986, 100 Stat. 761; Pub. L. 101–392, title I, §101(a), Sept. 25, 1990, 104 Stat. 759, related to allotments to States. See section 2321 of this title.

Section 2311a, Pub. L. 88–210, title I, §101A, as added Pub. L. 101–392, title I, §101(b), Sept. 25, 1990, 104 Stat. 760; amended Pub. L. 103–208, §3, Dec. 20, 1993, 107 Stat. 2487; Pub. L. 103–382, title III, §369, Oct. 20, 1994, 108 Stat. 3976, related to grants to the territories. See section 2325 of this title.

Section 2312, Pub. L. 88–210, title I, §102, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2440; amended Pub. L. 99–159, title VII, §702, Nov. 22, 1985, 99 Stat. 904; Pub. L. 101–392, title I, §102, Sept. 25, 1990, 104 Stat. 761; Pub. L. 102–103, title III, §311(a), Aug. 17, 1991, 105 Stat. 505, related to within State allocations. See section 2322 of this title.

Section 2313, Pub. L. 88–210, title I, §103, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2440; amended Pub. L. 101–392, title I, §103, Sept. 25, 1990, 104 Stat. 762; Pub. L. 102–103, title III, §311(b), Aug. 17, 1991, 105 Stat. 505, related to Indian and Hawaiian natives programs.

AMENDMENTS

1995—Subsec. (d). Pub. L. 104–66 struck out heading and text of subsec. (d). Text read as follows: ''The Task Force shall, every 2 years, submit a report on its findings to the appropriate committees of the Congress.''

SUBCHAPTER I—VOCATIONAL AND TECHNICAL EDUCATION ASSISTANCE TO THE STATES

PART A—ALLOTMENT AND ALLOCATION

§ 2321. Reservations and State allotment

(a) Reservations and State allotment

(1) Reservations

From the sum appropriated under section 2307 of this title for each fiscal year, the Secretary shall reserve—

(A) 0.2 percent to carry out section 2325 of this title;

(B) 1.50 percent to carry out section 2326 of this title, of which—

(i) 1.25 percent of the sum shall be available to carry out section 2326(b) of this title; and

(ii) 0.25 percent of the sum shall be available to carry out section 2326(h) of this title; and

(C) in the case of each of the fiscal years 2001 through 2003, 0.54 percent to carry out section 9273 of this title.

(2) State allotment formula

Subject to paragraphs (3) and (4), from the remainder of the sums appropriated under sec-

tion 2307 of this title and not reserved under paragraph (1) for a fiscal year, the Secretary shall allot to a State for the fiscal year—

(A) an amount that bears the same ratio to 50 percent of the sums being allotted as the product of the population aged 15 to 19 inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount that bears the same ratio to 20 percent of the sums being allotted as the product of the population aged 20 to 24, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount that bears the same ratio to 15 percent of the sums being allotted as the product of the population aged 25 to 65, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount that bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under subparagraphs (A), (B), and (C) for such years bears to the sum of the amounts allotted to all the States under subparagraphs (A), (B), and (C) for such year.

(3) Minimum allotment

(A) In general

Notwithstanding any other provision of law and subject to subparagraphs (B) and (C), and paragraph (4), no State shall receive for a fiscal year under this subsection less than ½ of 1 percent of the amount appropriated under section 2307 of this title and not reserved under paragraph (1) for such fiscal year. Amounts necessary for increasing such payments to States to comply with the preceding sentence shall be obtained by ratably reducing the amounts to be paid to other States.

(B) Requirement

No State, by reason of the application of subparagraph (A), shall receive for a fiscal year more than 150 percent of the amount the State received under this subsection for the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before October 31, 1998).

(C) Special rule

(i) In general

Subject to paragraph (4), no State, by reason of the application of subparagraph (A), shall be allotted for a fiscal year more than the lesser of—

(I) 150 percent of the amount that the State received in the preceding fiscal year (or in the case of fiscal year 1999 only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before October 31, 1998); and

(II) the amount calculated under clause (ii).

(ii) Amount

The amount calculated under this clause shall be determined by multiplying—

(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

(II) 150 percent of the national average per pupil payment made with funds available under this section for that year (or in the case of fiscal year 1999, only, under section 101 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before October 31, 1998).

(4) Hold harmless

(A) In general

No State shall receive an allotment under this section for a fiscal year that is less than the allotment the State received under part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act (as such part was in effect on the day before October 31, 1998) for fiscal year 1998.

(B) Ratable reduction

If for any fiscal year the amount appropriated for allotments under this section is insufficient to satisfy the provisions of subparagraph (A), the payments to all States under such subparagraph shall be ratably reduced.

(b) Reallotment

If the Secretary determines that any amount of any State's allotment under subsection (a) of this section for any fiscal year will not be required for such fiscal year for carrying out the activities for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which the funds were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of the State's allotment for the year in which the amount is obligated.

(c) Allotment ratio

(1) In general

The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of the Commonwealth of Puerto Rico and the United States Virgin Islands), except that—

(i) the allotment ratio in no case shall be more than 0.60 or less than 0.40; and

(ii) the allotment ratio for the Commonwealth of Puerto Rico and the United States Virgin Islands shall be 0.60.

(2) Promulgation

The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the 3 most recent consecutive fiscal years for which satisfactory data are available.

(3) "Per capita income" defined

For the purpose of this section, the term ''per capita income'' means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) Population determination

For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department of Education.

(d) "State" defined

For the purpose of this section, the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

(Pub. L. 88–210, title I, §111, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3083; amended Pub. L. 106–246, div. B, title II, §2403(b), July 13, 2000, 114 Stat. 555.)

REFERENCES IN TEXT

Section 101 and part A of title I of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section and part were in effect on the day before October 31, 1998, referred to in subsec. (a)(3)(B), (C), (4)(A), means section 101 and part A of title I of Pub. L. 88–210, as added by Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2438, as amended, which were classified, respectively, to section 2311 of this title and part A (§2311 et seq.) of subchapter I of this chapter prior to the general amendment of this chapter by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2311 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2321, Pub. L. 88–210, title I, §111, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2441; amended Pub. L. 101–392, title I, §111, Sept. 25, 1990, 104 Stat. 763; Pub. L. 103–382, title III, §391(s)(1), Oct. 20, 1994, 108 Stat. 4024, related to State administration, prior to the general amendment of this chapter by Pub. L. 105–332. See section 2341 of this title.

AMENDMENTS

2000—Subsec. (a)(1)(C). Pub. L. 106–246 substituted ''fiscal years 2001'' for ''fiscal years 2000''.

§ 2322. Within State allocation

(a) In general

From the amount allotted to each State under section 2321 of this title for a fiscal year, the State board (hereinafter referred to as the ''eligible agency'') shall make available—

(1) not less than 85 percent for distribution under section 2351 or 2352 of this title, of which not more than 10 percent of the 85 percent may be used in accordance with subsection (c) of this section;

(2) not more than 10 percent to carry out State leadership activities described in section 2344 of this title, of which—

(A) an amount equal to not more than 1 percent of the amount allotted to the State under section 2321 of this title for the fiscal year shall be available to serve individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

(B) not less than $60,000 and not more than $150,000 shall be available for services that prepare individuals for nontraditional training and employment; and

(3) an amount equal to not more than 5 percent, or $250,000, whichever is greater, for administration of the State plan, which may be used for the costs of—

(A) developing the State plan;

(B) reviewing the local plans;

(C) monitoring and evaluating program effectiveness;

(D) assuring compliance with all applicable Federal laws; and

(E) providing technical assistance.

(b) Matching requirement

Each eligible agency receiving funds made available under subsection (a)(3) of this section shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds received under subsection (a)(3) of this section.

(c) Reserve

(1) In general

From amounts made available under subsection (a)(1) of this section to carry out this subsection, an eligible agency may award grants to eligible recipients for vocational and technical education activities described in section 2355 of this title in—

(A) rural areas;

(B) areas with high percentages of vocational and technical education students;

(C) areas with high numbers of vocational and technical students; and

(D) communities negatively impacted by changes resulting from the amendments made by the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998 to the within State allocation under section 231 of the Carl D. Perkins Vocational and Applied Technology Education Act (as such section 231 was in effect on the day before October 31, 1998).

(2) Special rule

Each eligible agency awarding a grant under this subsection shall use the grant funds to serve at least 2 of the categories described in subparagraphs (A) through (D) of paragraph (1).

(Pub. L. 88–210, title I, §112, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3086.)

REFERENCES IN TEXT

The Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998, referred to in

subsec. (c)(1)(D), is Pub. L. 105–332, Oct. 31, 1998, 112 Stat. 3076. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 2301 of this title and Tables.

Section 231 of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day before October 31, 1998, referred to in subsec. (c)(1)(D), means section 231 of Pub. L. 88–210, as added by Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 779, as amended, which was classified to section 2341 of this title prior to the general amendment of this chapter by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2312 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2322, Pub. L. 88–210, title I, § 112, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2443; amended Pub. L. 99–159, title VII, § 703, Nov. 22, 1985, 99 Stat. 905; Pub. L. 101–392, title I, § 112, Sept. 25, 1990, 104 Stat. 765; Pub. L. 102–367, title VI, § 601(b)(1), Sept. 7, 1992, 106 Stat. 1102, related to State councils on vocational education, prior to the general amendment of this chapter by Pub. L. 105–332.

§ 2323. Accountability

(a) Purpose

The purpose of this section is to establish a State performance accountability system, comprised of the activities described in this section, to assess the effectiveness of the State in achieving statewide progress in vocational and technical education, and to optimize the return of investment of Federal funds in vocational and technical education activities.

(b) State performance measures

(1) In general

Each eligible agency, with input from eligible recipients, shall establish performance measures for a State that consist of—

(A) the core indicators of performance described in paragraph (2)(A);

(B) any additional indicators of performance (if any) identified by the eligible agency under paragraph (2)(B); and

(C) a State adjusted level of performance described in paragraph (3)(A) for each core indicator of performance, and State levels of performance described in paragraph (3)(B) for each additional indicator of performance.

(2) Indicators of performance

(A) Core indicators of performance

Each eligible agency shall identify in the State plan core indicators of performance that include, at a minimum, measures of each of the following:

(i) Student attainment of challenging State established academic, and vocational and technical, skill proficiencies.

(ii) Student attainment of a secondary school diploma or its recognized equivalent, a proficiency credential in conjunction with a secondary school diploma, or a postsecondary degree or credential.

(iii) Placement in, retention in, and completion of, postsecondary education or advanced training, placement in military service, or placement or retention in employment.

(iv) Student participation in and completion of vocational and technical education programs that lead to nontraditional training and employment.

(B) Additional indicators of performance

An eligible agency, with input from eligible recipients, may identify in the State plan additional indicators of performance for vocational and technical education activities authorized under the[1] subchapter.

(C) Existing indicators

If a State previously has developed State performance measures that meet the requirements of this section, the State may use such performance measures to measure the progress of vocational and technical education students.

(D) State role

Indicators of performance described in this paragraph shall be established solely by each eligible agency with input from eligible recipients.

(3) Levels of performance

(A) State adjusted levels of performance for core indicators of performance

(i) In general

Each eligible agency, with input from eligible recipients, shall establish in the State plan submitted under section 2342 of this title, levels of performance for each of the core indicators of performance described in paragraph (2)(A) for vocational and technical education activities authorized under this subchapter. The levels of performance established under this subparagraph shall, at a minimum—

(I) be expressed in a percentage or numerical form, so as to be objective, quantifiable, and measurable; and

(II) require the State to continually make progress toward improving the performance of vocational and technical education students.

(ii) Identification in the State plan

Each eligible agency shall identify, in the State plan submitted under section 2342 of this title, levels of performance for each of the core indicators of performance for the first 2 program years covered by the State plan.

(iii) Agreement on State adjusted levels of performance for first 2 years

The Secretary and each eligible agency shall reach agreement on the levels of performance for each of the core indicators of performance, for the first 2 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (vi). The levels of performance agreed to under this clause shall be considered to be the State adjusted level of performance for the State for such years and shall be incorporated into the

[1] So in original. Probably should be ''this''.

State plan prior to the approval of such plan.

(iv) Role of the Secretary

The role of the Secretary in the agreement described in clauses (iii) and (v) is limited to reaching agreement on the percentage or number of students who attain the State adjusted levels of performance.

(v) Agreement on State adjusted levels of performance for 3rd, 4th, and 5th years

Prior to the third program year covered by the State plan, the Secretary and each eligible agency shall reach agreement on the State adjusted levels of performance for each of the core indicators of performance for the third, fourth, and fifth program years covered by the State plan, taking into account the factors described in clause (vi). The State adjusted levels of performance agreed to under this clause shall be considered to be the State adjusted levels of performance for the State for such years and shall be incorporated into the State plan.

(vi) Factors

The agreement described in clause (iii) or (v) shall take into account—

(I) how the levels of performance involved compare with the State adjusted levels of performance established for other States taking into account factors including the characteristics of participants when the participants entered the program and the services or instruction to be provided; and

(II) the extent to which such levels of performance promote continuous improvement on the indicators of performance by such State.

(vii) Revisions

If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (vi)(II), the eligible agency may request that the State adjusted levels of performance agreed to under clause (iii) or (vi) be revised. The Secretary shall issue objective criteria and methods for making such revisions.

(B) Levels of performance for additional indicators

Each eligible agency shall identify in the State plan, State levels of performance for each of the additional indicators of performance described in paragraph (2)(B). Such levels shall be considered to be the State levels of performance for purposes of this subchapter.

(c) Report

(1) In general

Each eligible agency that receives an allotment under section 2321 of this title shall annually prepare and submit to the Secretary a report regarding—

(A) the progress of the State in achieving the State adjusted levels of performance on the core indicators of performance; and

(B) information on the levels of performance achieved by the State with respect to the additional indicators of performance, including the levels of performance for special populations.

(2) Special populations

The report submitted by the eligible agency in accordance with paragraph (1) shall include a quantifiable description of the progress special populations participating in vocational and technical education programs have made in meeting the State adjusted levels of performance established by the eligible agency.

(3) Information dissemination

The Secretary—

(A) shall make the information contained in such reports available to the general public;

(B) shall disseminate State-by-State comparisons of the information; and

(C) shall provide the appropriate committees of Congress copies of such reports.

(Pub. L. 88–210, title I, § 113, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3087.)

PRIOR PROVISIONS

A prior section 2323, Pub. L. 88–210, title I, § 113, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2445; amended Pub. L. 99–159, title VII, §§ 704, 713(a)(1), (2), Nov. 22, 1985, 99 Stat. 905, 907; Pub. L. 101–392, title I, § 113, Sept. 25, 1990, 104 Stat. 766; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 103–382, title III, § 391(s)(2), Oct. 20, 1994, 108 Stat. 4024, required submission of State plans, prior to the general amendment of this chapter by Pub. L. 105–332. See section 2342 of this title.

§ 2324. National activities

(a) Program performance information

(1) In general

The Secretary shall collect performance information about, and report on, the condition of vocational and technical education and on the effectiveness of State and local programs, services, and activities carried out under this subchapter in order to provide the Secretary and Congress, as well as Federal, State, local, and tribal agencies, with information relevant to improvement in the quality and effectiveness of vocational and technical education. The Secretary annually shall report to Congress on the Secretary's aggregate analysis of performance information collected each year pursuant to this subchapter, including an analysis of performance data regarding special populations.

(2) Compatibility

The Secretary shall, to the extent feasible, ensure that the performance information system is compatible with other Federal information systems.

(3) Assessments

As a regular part of its assessments, the National Center for Education Statistics shall collect and report information on vocational and technical education for a nationally representative sample of students. Such assessment may include international comparisons.

(b) Miscellaneous provisions

(1) Collection of information at reasonable cost

The Secretary shall take such action as may be necessary to secure at reasonable cost the

information required by this subchapter. To ensure reasonable cost, the Secretary, in consultation with the National Center for Education Statistics, the Office of Vocational and Adult Education, and an entity assisted under section 2328 of this title shall determine the methodology to be used and the frequency with which information is to be collected.

(2) Cooperation of States

All eligible agencies receiving assistance under this chapter shall cooperate with the Secretary in implementing the information systems developed pursuant to this chapter.

(c) Research, development, dissemination, evaluation and assessment

(1) Single plan

(A) In general

The Secretary may, directly or through grants, contracts, or cooperative agreements, carry out research, development, dissemination, evaluation and assessment, capacity building, and technical assistance with regard to the vocational and technical education programs under this chapter. The Secretary shall develop a single plan for such activities.

(B) Plan

Such plan shall—

(i) identify the vocational and technical education activities described in subparagraph (A) the Secretary will carry out under this section;

(ii) describe how the Secretary will evaluate such vocational and technical education activities in accordance with paragraph (3); and

(iii) include such other information as the Secretary determines to be appropriate.

(2) Independent advisory panel

The Secretary shall appoint an independent advisory panel, consisting of vocational and technical education administrators, educators, researchers, and representatives of labor organizations, businesses, parents, guidance and counseling professionals, and other relevant groups, to advise the Secretary on the implementation of the assessment described in paragraph (3), including the issues to be addressed, the methodology of the studies involved, and the findings and recommendations resulting from the assessment. The panel shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary an independent analysis of the findings and recommendations resulting from the assessment described in paragraph (3). The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel established under this subsection.

(3) Evaluation and assessment

(A) In general

From amounts made available under paragraph (8), the Secretary shall provide for the conduct of an independent evaluation and assessment of vocational and technical education programs under this chapter through studies and analyses conducted independently through grants, contracts, and cooperative agreements that are awarded on a competitive basis.

(B) Contents

The assessment required under paragraph (1) shall include descriptions and evaluations of—

(i) the extent to which State, local, and tribal entities have developed, implemented, or improved State and local vocational and technical education programs and the effect of programs assisted under this chapter on that development, implementation, or improvement, including the capacity of State, tribal, and local vocational and technical education systems to achieve the purpose of this chapter;

(ii) the extent to which expenditures at the Federal, State, tribal, and local levels address program improvement in vocational and technical education, including the impact of Federal allocation requirements (such as within-State allocation formulas) on the delivery of services;

(iii) the preparation and qualifications of teachers of vocational and technical, and academic, curricula in vocational and technical education programs, as well as shortages of such teachers;

(iv) participation of students in vocational and technical education programs;

(v) academic and employment outcomes of vocational and technical education, including analyses of—

(I) the number of vocational and technical education students and tech-prep students who meet State adjusted levels of performance;

(II) the extent and success of integration of academic, and vocational and technical, education for students participating in vocational and technical education programs; and

(III) the extent to which vocational and technical education programs prepare students for subsequent employment in high-wage, high-skill careers or participation in postsecondary education;

(vi) employer involvement in, and satisfaction with, vocational and technical education programs;

(vii) the use and impact of educational technology and distance learning with respect to vocational and technical education and tech-prep programs; and

(viii) the effect of State adjusted levels of performance and State levels of performance on the delivery of vocational and technical education services.

(C) Reports

(i) In general

The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

(I) an interim report regarding the assessment on or before January 1, 2002; and

(II) a final report, summarizing all studies and analyses that relate to the assessment and that are completed after the assessment, on or before July 1, 2002.

(ii) Prohibition

Notwithstanding any other provision of law, the reports required by this subsection shall not be subject to any review outside the Department of Education before their transmittal to the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the Secretary, but the President, the Secretary, and the independent advisory panel established under paragraph (2) may make such additional recommendations to Congress with respect to the assessment as the President, the Secretary, or the panel determine to be appropriate.

(4) Collection of State information and report

(A) In general

The Secretary may collect and disseminate information from States regarding State efforts to meet State adjusted levels of performance described in section 2323 of this title.

(B) Report

The Secretary shall gather any information collected pursuant to subparagraph (A) and submit a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(5) Research

(A) In general

The Secretary, after consulting with the States, shall award grants, contracts, or cooperative agreements on a competitive basis to an institution of higher education, a public or private nonprofit organization or agency, or a consortium of such institutions, organizations, or agencies to establish a national research center or centers—

(i) to carry out research for the purpose of developing, improving, and identifying the most successful methods for successfully addressing the education, employment, and training needs of participants in vocational and technical education programs, including research and evaluation in such activities as—

(I) the integration of vocational and technical instruction, and academic, secondary and postsecondary instruction;

(II) education technology and distance learning approaches and strategies that are effective with respect to vocational and technical education;

(III) State adjusted levels of performance and State levels of performance that serve to improve vocational and technical education programs and student achievement; and

(IV) academic knowledge and vocational and technical skills required for employment or participation in postsecondary education;

(ii) to carry out research to increase the effectiveness and improve the implementation of vocational and technical education programs, including conducting research and development, and studies, providing longitudinal information or formative evaluation with respect to vocational and technical education programs and student achievement;

(iii) to carry out research that can be used to improve teacher training and learning in the vocational and technical education classroom, including—

(I) effective inservice and preservice teacher education that assists vocational and technical education systems; and

(II) dissemination and training activities related to the applied research and demonstration activities described in this subsection, which may also include serving as a repository for information on vocational and technical skills, State academic standards, and related materials; and

(iv) to carry out such other research as the Secretary determines appropriate to assist State and local recipients of funds under this chapter.

(B) Report

The center or centers conducting the activities described in subparagraph (A) shall annually prepare a report of key research findings of such center or centers and shall submit copies of the report to the Secretary, the Committee on Education and the Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, the Library of Congress, and each eligible agency.

(C) Dissemination

The center or centers shall conduct dissemination and training activities based upon the research described in subparagraph (A).

(6) Demonstrations and dissemination

(A) Demonstration program

The Secretary is authorized to carry out demonstration vocational and technical education programs, to replicate model vocational and technical education programs, to disseminate best practices information, and to provide technical assistance upon request of a State, for the purposes of developing, improving, and identifying the most successful methods and techniques for providing vocational and technical education programs assisted under this chapter.

(B) Demonstration partnership

(i) In general

The Secretary shall carry out a demonstration partnership project involving a 4-year, accredited postsecondary institution, in cooperation with local public education organizations, volunteer groups, and private sector business participants to

provide program support, and facilities for education, training, tutoring, counseling, employment preparation, specific skills training in emerging and established professions, and for retraining of military medical personnel, individuals displaced by corporate or military restructuring, migrant workers, as well as other individuals who otherwise do not have access to such services, through multisite, multistate distance learning technologies.

(ii) Program

Such program may be carried out directly or through grants, contracts, cooperative agreements, or through the national center or centers established under paragraph (5).

(7) Definition

In this section, the term ''institution of higher education'' has the meaning given the term in section 1001 of this title.

(8) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

(Pub. L. 88–210, title I, §114, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3089.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (c)(2), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 2324, Pub. L. 88–210, title I, §114, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2449; amended Pub. L. 101–392, title I, §114, Sept. 25, 1990, 104 Stat. 769, related to development and approval of State plans, prior to the general amendment of this chapter by Pub. L. 105–332.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

§ 2325. Assistance for outlying areas

(a) Outlying areas

From funds reserved pursuant to section 2321(a)(1)(A) of this title, the Secretary shall—

(1) make a grant in the amount of $500,000 to Guam; and

(2) make a grant in the amount of $190,000 to each of American Samoa and the Commonwealth of the Northern Mariana Islands.

(b) Remainder

Subject to the provisions of subsection (a) of this section, the Secretary shall make a grant of the remainder of funds reserved pursuant to section 2321(a)(1)(A) of this title to the Pacific Region Educational Laboratory in Honolulu, Hawaii, to make grants for vocational and technical education and training in Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, for the purpose of providing direct vocational and technical educational services, including—

(1) teacher and counselor training and retraining;

(2) curriculum development; and

(3) the improvement of vocational and technical education and training programs in secondary schools and institutions of higher education, or improving cooperative education programs involving both secondary schools and institutions of higher education.

(c) Limitation

The Pacific Region Educational Laboratory may use not more than 5 percent of the funds received under subsection (b) of this section for administrative costs.

(d) Restriction

Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subchapter for any fiscal year that begins after September 30, 2001.

(Pub. L. 88–210, title I, §115, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3094.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2311a of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2325, Pub. L. 88–210, title I, §115, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2449; amended Pub. L. 101–392, title I, §115, Sept. 25, 1990, 104 Stat. 770; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 103–382, title III, §391(s)(3), Oct. 20, 1994, 108 Stat. 4024, related to State and local standards and measures, prior to the general amendment of this chapter by Pub. L. 105–332.

§ 2326. Native American program

(a) Definitions

In this section:

(1) Alaska Native

The term ''Alaska Native'' means a Native as such term is defined in section 1602 of title 43.

(2) Bureau funded school

The term ''Bureau funded school'' has the meaning given the term in section 2026 of title 25.[1]

(3) Indian, Indian tribe, and tribal organization

The terms ''Indian'', ''Indian tribe'', and ''tribal organization'' have the meanings given the terms in section 450b of title 25.

(4) Native Hawaiian

The term ''Native Hawaiian'' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

(5) Native Hawaiian organization

The term ''Native Hawaiian organization'' has the meaning given the term in section 7517 of this title.

[1] See References in Text note below.

(b) Program authorized

(1) Authority

From funds reserved under section 2321(a)(1)(B)(i) of this title, the Secretary shall make grants to and enter into contracts with Indian tribes, tribal organizations, and Alaska Native entities to carry out the authorized programs described in subsection (d)[2] of this section, except that such grants or contracts shall not be awarded to secondary school programs in Bureau funded schools.

(2) Indian tribes and tribal organizations

The grants or contracts described in this section (other than in subsection (i)[3] of this section) that are awarded to any Indian tribe or tribal organization shall be subject to the terms and conditions of section 450f of title 25 and shall be conducted in accordance with the provisions of sections 455, 456, and 457 of title 25, which are relevant to the programs administered under this subsection.

(3) Special authority relating to secondary schools operated or supported by the Bureau of Indian Affairs

An Indian tribe, a tribal organization, or an Alaska Native entity, that receives funds through a grant made or contract entered into under paragraph (1) may use the funds to provide assistance to a secondary school operated or supported by the Bureau of Indian Affairs to enable such school to carry out vocational and technical education programs.

(4) Matching

If sufficient funding is available, the Bureau of Indian Affairs shall expend an amount equal to the amount made available under this subsection, relating to programs for Indians, to pay a part of the costs of programs funded under this subsection. During each fiscal year the Bureau of Indian Affairs shall expend not less than the amount expended during the prior fiscal year on vocational and technical education programs, services, and technical activities administered either directly by, or under contract with, the Bureau of Indian Affairs, except that in no year shall funding for such programs, services, and activities be provided from accounts and programs that support other Indian education programs. The Secretary and the Assistant Secretary of the Interior for Indian Affairs shall prepare jointly a plan for the expenditure of funds made available and for the evaluation of programs assisted under this subsection. Upon the completion of a joint plan for the expenditure of the funds and the evaluation of the programs, the Secretary shall assume responsibility for the administration of the program, with the assistance and consultation of the Bureau of Indian Affairs.

(5) Regulations

If the Secretary promulgates any regulations applicable to subsection (b)(2) of this section, the Secretary shall—

(A) confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members; and

(B) promulgate the regulations under subchapter III of chapter 5 of title 5, commonly known as the ''Negotiated Rulemaking Act of 1990''.

(6) Application

Any Indian tribe, tribal organization, or Bureau funded school eligible to receive assistance under subsection (b) of this section may apply individually or as part of a consortium with another such Indian tribe, tribal organization, or Bureau funded school.

(c) Authorized activities

(1) Authorized programs

Funds made available under this section shall be used to carry out vocational and technical education programs consistent with the purpose of this chapter.

(2) Stipends

(A) In general

Funds received pursuant to grants or contracts awarded under subsection (b) of this section may be used to provide stipends to students who are enrolled in vocational and technical education programs and who have acute economic needs which cannot be met through work-study programs.

(B) Amount

Stipends described in subparagraph (A) shall not exceed reasonable amounts as prescribed by the Secretary.

(d) Grant or contract application

In order to receive a grant or contract under this section an organization, tribe, or entity described in subsection (b) of this section shall submit an application to the Secretary that shall include an assurance that such organization, tribe, or entity shall comply with the requirements of this section.

(e) Restrictions and special considerations

The Secretary may not place upon grants awarded or contracts entered into under subsection (b) of this section any restrictions relating to programs other than restrictions that apply to grants made to or contracts entered into with States pursuant to allotments under section 2321(a) of this title. The Secretary, in awarding grants and entering into contracts under this paragraph, shall ensure that the grants and contracts will improve vocational and technical education programs, and shall give special consideration to—

(1) programs that involve, coordinate with, or encourage tribal economic development plans; and

(2) applications from tribally controlled colleges or universities that—

(A) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational and technical education; or

(B) operate vocational and technical education programs that are accredited or are candidates for accreditation by a nationally

[2] So in original. Probably should be subsection ''(c)''.

[3] So in original. This section does not contain a subsection (i).

recognized accreditation organization and issue certificates for completion of vocational and technical education programs.

(f) Consolidation of funds

Each organization, tribe, or entity receiving assistance under this section may consolidate such assistance with assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).

(g) Nonduplicative and nonexclusive services

Nothing in this section shall be construed—

(1) to limit the eligibility of any organization, tribe, or entity described in subsection (b) of this section to participate in any activity offered by an eligible agency or eligible recipient under this subchapter; or

(2) to preclude or discourage any agreement, between any organization, tribe, or entity described in subsection (b) of this section and any eligible agency or eligible recipient, to facilitate the provision of services by such eligible agency or eligible recipient to the population served by such eligible agency or eligible recipient.

(h) Native Hawaiian programs

From the funds reserved pursuant to section 2321(a)(1)(B)(ii) of this title, the Secretary shall award grants to or enter into contracts with organizations primarily serving and representing Native Hawaiians which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this section for the benefit of Native Hawaiians.

(Pub. L. 88–210, title I, §116, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3094; amended Pub. L. 107–110, title VII, §702(b), (c), Jan. 8, 2002, 115 Stat. 1946, 1947.)

REFERENCES IN TEXT

Section 2026 of title 25, referred to in subsec. (a)(2), was omitted in the general amendment of chapter 22 (§2001 et seq.) of Title 25, Indians, by Pub. L. 107–110, title X, §1042, Jan. 8, 2002, 115 Stat. 2007. For definition of ''Bureau-funded school'', see section 2021 of Title 25.

The Indian Employment, Training and Related Services Demonstration Act of 1992, referred to in subsec. (f), is Pub. L. 102–477, Oct. 23, 1992, 106 Stat. 2302, which is classified generally to chapter 36 (§3401 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 25 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2313 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2326, Pub. L. 88–210, title I, §116, as added Pub. L. 101–392, title I, §116, Sept. 25, 1990, 104 Stat. 772, related to State assessments of program quality, prior to the general amendment of this chapter by Pub. L. 105–332.

AMENDMENTS

2002—Subsec. (a)(5). Pub. L. 107–110, §702(c), which directed amendment of subsec. (a)(5) by substituting ''section 7517 of this title'' for ''section 7912 of this title.'', could not be executed subsequent to amendment by Pub. L. 107–110, §702(b), see below.

Pub. L. 107–110, §702(b), substituted ''section 7517 of this title'' for ''section 7912 of this title''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§2327. Tribally controlled postsecondary vocational and technical institutions

(a) Grants authorized

The Secretary shall, subject to the availability of appropriations, make grants pursuant to this section to tribally controlled postsecondary vocational and technical institutions that are not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.) to provide basic support for the education and training of Indian students.

(b) Use of grants

Amounts made available pursuant to this section shall be used for institutional support of vocational and technical education programs.

(c) Amount of grants

(1) In general

If the sums appropriated for any fiscal year for grants under this section are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this section for such fiscal year, the Secretary shall first allocate to each such applicant who received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

(2) Per capita determination

For the purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary vocational and technical institutions under this section for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this section.

(d) Applications

Any tribally controlled postsecondary vocational and technical institution that is not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.) that desires to receive a grant under this section shall submit an application to the Secretary in

such manner and form as the Secretary may require.

(e) Expenses

(1) In general

The Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled postsecondary vocational and technical institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

(A) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with disabilities and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, daycare and family support programs for students and their families (including contributions to the costs of education for dependents), and student stipends;

(B) capital expenditures, including operations and maintenance, and minor improvements and repair, and physical plant maintenance costs, for the conduct of programs funded under this section;

(C) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment; and

(D) institutional support of vocational and technical education.

(2) Accounting

Each institution receiving a grant under this section shall provide annually to the Secretary an accurate and detailed accounting of the institution's operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

(f) Other programs

(1) In general

Except as specifically provided in this chapter, eligibility for assistance under this section shall not preclude any tribally controlled postsecondary vocational and technical institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.], or any other applicable program for the benefit of institutions of higher education or vocational and technical education.

(2) Prohibition on alteration of grant amount

The amount of any grant for which tribally controlled postsecondary vocational and technical institutions are eligible under this section shall not be altered because of funds allocated to any such institution from funds appropriated under section 13 of title 25.

(3) Prohibition on contract denial

No tribally controlled postsecondary vocational and technical institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under section 13 of title 25 may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(g) Needs estimate and report on facilities and facilities improvement

(1) Needs estimate

The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this section, and in consideration of employment needs, economic development needs, population training needs, and facilities needs, prepare an actual budget needs estimate for each institution eligible under this section for each subsequent program year, and submit such budget needs estimate to Congress in such a timely manner as will enable the appropriate committees of Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions. Such data shall take into account the purposes and requirements of part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.].

(2) Study of training and housing needs

(A) In general

The Secretary shall conduct a detailed study of the training, housing, and immediate facilities needs of each institution eligible under this section. The study shall include an examination of—

(i) training equipment needs;

(ii) housing needs of families whose heads of households are students and whose dependents have no alternate source of support while such heads of households are students; and

(iii) immediate facilities needs.

(B) Report

The Secretary shall report to Congress not later than July 1, 2000, on the results of the study required by subparagraph (A).

(C) Contents

The report required by subparagraph (B) shall include the number, type, and cost of meeting the needs described in subparagraph (A), and rank each institution by relative need.

(D) Priority

In conducting the study required by subparagraph (A), the Secretary shall give priority to institutions that are receiving assistance under this section.

(3) Long-term study of facilities

(A) In general

The Secretary shall provide for the conduct of a long-term study of the facilities of each institution eligible for assistance under this section.

(B) Contents

The study required by subparagraph (A) shall include a 5-year projection of training facilities, equipment, and housing needs and shall consider such factors as projected serv-

ice population, employment, and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

(C) Submission

The Secretary shall submit to Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on October 31, 1998.[1]

(h) Definitions

In this section:

(1) Indian

The terms ''Indian'' and ''Indian tribe'' have the meanings given the terms in section 1801 of title 25.

(2) Indian student count

The term ''Indian student count'' means a number equal to the total number of Indian students enrolled in each tribally controlled postsecondary vocational and technical institution, determined as follows:

(A) Registrations

The registrations of Indian students as in effect on October 1 of each year.

(B) Summer term

Credits or clock hours toward a certificate earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

(C) Admission criteria

Credits or clock hours toward a certificate earned in classes during a summer term shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credit earned by such student for purposes of obtaining a secondary school degree or its recognized equivalent shall be counted toward the computation of the Indian student count.

(D) Determination of hours

Indian students earning credits in any continuing education program of a tribally controlled postsecondary vocational and technical institution shall be included in determining the sum of all credit or clock hours.

(E) Continuing education

Credits or clock hours earned in a continuing education program shall be converted to the basis that is in accordance with the institution's system for providing credit for participation in such programs.

(i) Authorization of appropriations

There are authorized to be appropriated to carry out this section $4,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(Pub. L. 88–210, title I, §117, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3097; amended Pub. L. 106–554, §1(a)(1) [title III, §310], Dec. 21, 2000, 114 Stat. 2763, 2763A–46; Pub. L. 107–20, title II, §2701(a), July 24, 2001, 115 Stat. 181.)

REFERENCES IN TEXT

The Tribally Controlled College or University Assistance Act of 1978, referred to in subsecs. (a) and (d), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Navajo Community College Act, referred to in subsecs. (a) and (d), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 640a of Title 25 and Tables.

The Higher Education Act of 1965, referred to in subsec. (f)(1), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (f)(3), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Social Security Act, referred to in subsec. (g)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

CODIFICATION

October 31, 1998, referred to in subsec. (g)(3)(C), was in the original ''the date of enactment of this Act'' which was translated as meaning the date of enactment of Pub. L. 105–332, which amended this chapter generally, to reflect the probable intent of Congress.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2397 et seq. of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2327, Pub. L. 88–210, title I, §117, as added Pub. L. 101–392, title I, §116, Sept. 25, 1990, 104 Stat. 772, related to program evaluation and improvement, prior to the general amendment of this chapter by Pub. L. 105–332. See section 2343 of this title.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107–20, §2701(a)(1), inserted ''that are not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.)'' after ''institutions''.

Subsec. (b). Pub. L. 107–20, §2701(a)(2), inserted ''institutional support of'' after ''for''.

Subsec. (d). Pub. L. 107–20, §2701(a)(3), inserted ''that is not receiving Federal support under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) or the Navajo Community College Act (25 U.S.C. 640a et seq.)'' after ''institution''.

Subsec. (e)(1)(D). Pub. L. 107–20, §2701(a)(4), added subpar. (D).

2000—Subsec. (i). Pub. L. 106–554 inserted ''such sums as may be necessary for'' before ''each of the 4 succeeding fiscal years''.

[1] See Codification note below.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–20, title II, § 2701(b), July 24, 2001, 115 Stat. 182, provided that:

''(1) The amendments made by subsection (a) [amending this section] shall take effect on the date of enactment of this section [July 24, 2001].

''(2) The amendments made by subsection (a) shall apply to grants made for fiscal year 2001 only if this section is enacted before August 4, 2001.''

§ 2328. Occupational and employment information

(a) National activities

From funds appropriated under subsection (f) of this section, the Secretary, in consultation with appropriate Federal agencies, is authorized—

(1) to provide assistance to an entity to enable the entity—

(A) to provide technical assistance to State entities designated under subsection (b) of this section to enable the State entities to carry out the activities described in subsection (b) of this section;

(B) to disseminate information that promotes the replication of high quality practices described in subsection (b) of this section;

(C) to develop and disseminate products and services related to the activities described in subsection (b) of this section; and

(2) to award grants to States that designate State entities in accordance with subsection (b) of this section to enable the State entities to carry out the State level activities described in subsection (b) of this section.

(b) State level activities

In order for a State to receive a grant under this section, the eligible agency and the Governor of the State shall jointly designate an entity in the State—

(1) to provide support for a career guidance and academic counseling program designed to promote improved career and education decisionmaking by individuals (especially in areas of career information delivery and use);

(2) to make available to students, parents, teachers, administrators, and counselors, and to improve accessibility with respect to, information and planning resources that relate educational preparation to career goals and expectations;

(3) to equip teachers, administrators, and counselors with the knowledge and skills needed to assist students and parents with career exploration, educational opportunities, and education financing.[1]

(4) to assist appropriate State entities in tailoring career-related educational resources and training for use by such entities;

(5) to improve coordination and communication among administrators and planners of programs authorized by this chapter and by section 15 of the Wagner-Peyser Act [29 U.S.C. 49*l*–2] at the Federal, State, and local levels to ensure nonduplication of efforts and the appropriate use of shared information and data; and

(6) to provide ongoing means for customers, such as students and parents, to provide comments and feedback on products and services and to update resources, as appropriate, to better meet customer requirements.

(c) Nonduplication

(1) Wagner-Peyser Act

The State entity designated under subsection (b) of this section may use funds provided under subsection (b) of this section to supplement activities under section 15 of the Wagner-Peyser Act [29 U.S.C. 49*l*–2] to the extent such activities do not duplicate activities assisted under such section.

(2) Public Law 105–220

None of the functions and activities assisted under this section shall duplicate the functions and activities carried out under Public Law 105–220.

(d) Funding rule

Of the amounts appropriated to carry out this section, the Federal entity designated under subsection (a) of this section shall use—

(1) not less than 85 percent to carry out subsection (b) of this section; and

(2) not more than 15 percent to carry out subsection (a) of this section.

(e) Report

The Secretary, in consultation with appropriate Federal agencies, shall prepare and submit to the appropriate committees of Congress, an annual report that includes—

(1) an identification of activities assisted under this section during the prior program year;

(2) a description of the specific products and services assisted under this section that were delivered in the prior program year; and

(3) an assessment of the extent to which States have effectively coordinated activities assisted under this section with activities authorized under section 15 of the Wagner-Peyser Act [29 U.S.C. 49*l*–2].

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 88–210, title I, § 118, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3100.)

REFERENCES IN TEXT

Public Law 105–220, referred to in subsec. (c)(2), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, known as the Workforce Investment Act of 1998. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

PRIOR PROVISIONS

A prior section 2328, Pub. L. 88–210, title I, § 118, as added Pub. L. 101–392, title I, § 116, Sept. 25, 1990, 104 Stat. 773, related to criteria for services and activities for individuals who are members of special populations, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2331, Pub. L. 88–210, title II, § 201, as added Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 776, related to State programs and State leader-

[1] So in original. The period probably should be a semicolon.

ship activities, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 2331 and prior sections 2332 to 2334 were omitted in the general amendment of this subchapter by Pub. L. 101–392.

Section 2331, Pub. L. 88–210, title II, §201, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2450; amended Pub. L. 100–297, title II, §2401(a), Apr. 28, 1988, 102 Stat. 324, related to use of a portion of a State's allotment to provide vocational education services and activities to meet special needs of handicapped individuals, disadvantaged individuals, single parents, homemakers, or single pregnant women, and other groups.

Section 2332, Pub. L. 88–210, title II, §202, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2452; amended Pub. L. 100–202, §101(h) [title III, §300], Dec. 22, 1987, 101 Stat. 1329–256, 1329–279; Pub. L. 100–297, title II, §2401(b), (c), Apr. 28, 1988, 102 Stat. 324, related to distribution of assistance from State allotment to provide vocational education opportunities.

Section 2333, Pub. L. 88–210, title II, §203, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2453; amended Pub. L. 99–159, title VII, §705, Nov. 22, 1985, 99 Stat. 905, related to allocation within individual States of the funds available for vocational education services and activities for the handicapped.

Section 2334, Pub. L. 88–210, title II, §204, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2454; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to criteria for services and activities for the handicapped and for the disadvantaged.

Prior sections 2335 to 2336 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2335, Pub. L. 88–210, title II, §221, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 777, related to programs for single parents, displaced homemakers, and single pregnant women.

Section 2335a, Pub. L. 88–210, title II, §222, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 778, related to sex equity programs.

Section 2335b, Pub. L. 88–210, title II, §223, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 778, related to competitive award of amounts and evaluation of programs.

Section 2336, Pub. L. 88–210, title II, §225, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 778, related to programs for criminal offenders.

PART B—STATE PROVISIONS

§ 2341. State administration

(a)[1] ELIGIBLE AGENCY RESPONSIBILITIES.—

(1) IN GENERAL.—The responsibilities of an eligible agency under this subchapter shall include—

(A) coordination of the development, submission, and implementation of the State plan, and the evaluation of the program, services, and activities assisted under this subchapter, including preparation for nontraditional training and employment;

(B) consultation with the Governor and appropriate agencies, groups, and individuals including parents, students, teachers, representatives of businesses, labor organizations, eligible recipients, State and local officials, and local program administrators, involved in the planning, administration, evaluation, and coordination of programs funded under this subchapter;

(C) convening and meeting as an eligible agency (consistent with State law and procedure for the conduct of such meetings) at such time as the eligible agency determines necessary to carry out the eligible agency's responsibilities under this subchapter, but not less than four times annually; and

(D) the adoption of such procedures as the eligible agency considers necessary to—

(i) implement State level coordination with the activities undertaken by the State boards under section 2821 of title 29; and

(ii) make available to the service delivery system under section 2841 of title 29 within the State a listing of all school dropout, postsecondary, and adult programs assisted under this subchapter.

(2) EXCEPTION.—Except with respect to the responsibilities set forth in paragraph (1), the eligible agency may delegate any of the other responsibilities of the eligible agency that involve the administration, operation, supervision of activities assisted under this subchapter, in whole or in part, to one or more appropriate State agencies.

(Pub. L. 88–210, title I, §121, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3102.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2321(a)(1) of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

Prior sections 2341 to 2341c were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2341, Pub. L. 88–210, title II, §231, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 779; amended Pub. L. 103–382, title III, §391(s)(4), (5), Oct. 20, 1994, 108 Stat. 4025; Pub. L. 104–193, title I, §110(i)(1), Aug. 22, 1996, 110 Stat. 2172, related to distribution of funds to secondary school programs. See section 2351 of this title.

Another prior section 2341, Pub. L. 88–210, title II, §251, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2455; amended Pub. L. 100–418, title VI, §6132, Aug. 23, 1988, 102 Stat. 1511, related to the uses of the portion of a State's allotment available for vocational education program improvement, innovation, and expansion, prior to the general amendment of former subchapter II of this chapter by Pub. L. 101–392.

Section 2341a, Pub. L. 88–210, title II, §232, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 781; amended Pub. L. 103–208, §4, Dec. 20, 1993, 107 Stat. 2487; Pub. L. 103–382, title III, §351(a)(1), Oct. 20, 1994, 108 Stat. 3966; Pub. L. 104–193, title I, §110(i)(2), Aug. 22, 1996, 110 Stat. 2172, related to distribution of funds to postsecondary and adult programs. See section 2352 of this title.

Section 2341b, Pub. L. 88–210, title II, §233, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 782, related to special rule for minimal allocations. See section 2353 of this title.

Section 2341c, Pub. L. 88–210, title II, §234, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 783, related to reallocations. See section 2353 of this title.

§ 2342. State plan

(a) State plan

(1) In general

Each eligible agency desiring assistance under this subchapter for any fiscal year shall prepare and submit to the Secretary a State plan for a 5-year period, together with such annual revisions as the eligible agency determines to be necessary.

(2) Revisions

Each eligible agency—

[1] So in original. No subsec. (b) has been enacted.

(A) may submit such annual revisions of the State plan to the Secretary as the eligible agency determines to be necessary; and

(B) shall, after the second year of the 5 year State plan, conduct a review of activities assisted under this subchapter and submit any revisions of the State plan that the eligible agency determines necessary to the Secretary.

(3) Hearing process

The eligible agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups (including employers, labor organizations, and parents), an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the eligible agency's response to such recommendations shall be included in the State plan.

(b) Plan development

(1) In general

The eligible agency shall develop the State plan in consultation with teachers, eligible recipients, parents, students, interested community members, representatives of special populations, representatives of business and industry, and representatives of labor organizations in the State, and shall consult the Governor of the State with respect to such development.

(2) Activities and procedures

The eligible agency shall develop effective activities and procedures, including access to information needed to use such procedures, to allow the individuals described in paragraph (1) to participate in State and local decisions that relate to development of the State plan.

(c) Plan contents

The State plan shall include information that—

(1) describes the vocational and technical education activities to be assisted that are designed to meet or exceed the State adjusted levels of performance, including a description of—

(A) the secondary and postsecondary vocational and technical education programs to be carried out, including programs that will be carried out by the eligible agency to develop, improve, and expand access to quality, state-of-the-art technology in vocational and technical education programs;

(B) the criteria that will be used by the eligible agency in approving applications by eligible recipients for funds under this subchapter;

(C) how such programs will prepare vocational and technical education students for opportunities in postsecondary education or entry into high skill, high wage jobs in current and emerging occupations; and

(D) how funds will be used to improve or develop new vocational and technical education courses;

(2) describes how comprehensive professional development (including initial teacher preparation) for vocational and technical, academic, guidance, and administrative personnel will be provided;

(3) describes how the eligible agency will actively involve parents, teachers, local businesses (including small- and medium-sized businesses), and labor organizations in the planning, development, implementation, and evaluation of such vocational and technical education programs;

(4) describes how funds received by the eligible agency through the allotment made under section 2321 of this title will be allocated—

(A) among secondary school vocational and technical education, or postsecondary and adult vocational and technical education, or both, including the rationale for such allocation; and

(B) among any consortia that will be formed among secondary schools and eligible institutions, and how funds will be allocated among the members of the consortia, including the rationale for such allocation;

(5) describes how the eligible agency will—

(A) improve the academic and technical skills of students participating in vocational and technical education programs, including strengthening the academic, and vocational and technical, components of vocational and technical education programs through the integration of academics with vocational and technical education to ensure learning in the core academic, and vocational and technical, subjects, and provide students with strong experience in, and understanding of, all aspects of an industry; and

(B) ensure that students who participate in such vocational and technical education programs are taught to the same challenging academic proficiencies as are taught to all other students;

(6) describes how the eligible agency will annually evaluate the effectiveness of such vocational and technical education programs, and describe, to the extent practicable, how the eligible agency is coordinating such programs to ensure nonduplication with other existing Federal programs;

(7) describes the eligible agency's program strategies for special populations;

(8) describes how individuals who are members of the special populations—

(A) will be provided with equal access to activities assisted under this subchapter;

(B) will not be discriminated against on the basis of their status as members of the special populations; and

(C) will be provided with programs designed to enable the special populations to meet or exceed State adjusted levels of performance, and prepare special populations for further learning and for high skill, high wage careers;

(9) describe what steps the eligible agency shall take to involve representatives of eligible recipients in the development of the State adjusted levels of performance;

(10) provides assurances that the eligible agency will comply with the requirements of this subchapter and the provisions of the State plan, including the provision of a financial

audit of funds received under this subchapter which may be included as part of an audit of other Federal or State programs;

(11) provides assurances that none of the funds expended under this subchapter will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity, the employees of the purchasing entity, or any affiliate of such an organization;

(12) describes how the eligible agency will report data relating to students participating in vocational and technical education in order to adequately measure the progress of the students, including special populations;

(13) describes how the eligible agency will adequately address the needs of students in alternative education programs, if appropriate;

(14) describes how the eligible agency will provide local educational agencies, area vocational and technical education schools, and eligible institutions in the State with technical assistance;

(15) describes how vocational and technical education relates to State and regional occupational opportunities;

(16) describes the methods proposed for the joint planning and coordination of programs carried out under this subchapter with other Federal education programs;

(17) describes how funds will be used to promote preparation for nontraditional training and employment;

(18) describes how funds will be used to serve individuals in State correctional institutions;

(19) describes how funds will be used effectively to link secondary and postsecondary education;

(20) describes how the eligible agency will ensure that the data reported to the eligible agency from local educational agencies and eligible institutions under this subchapter and the data the eligible agency reports to the Secretary are complete, accurate, and reliable; and

(21) contains the description and information specified in sections 2822(b)(8) and 2841(c) of title 29 concerning the provision of services only for postsecondary students and school dropouts.

(d) Plan option

The eligible agency may fulfill the requirements of subsection (a) of this section by submitting a plan under section 9271 of this title.

(e) Plan approval

(1) In general

The Secretary shall approve a State plan, or a revision to an approved State plan, unless the Secretary determines that—

(A) the State plan, or revision, respectively, does not meet the requirements of this section; or

(B) the State's levels of performance on the core indicators of performance consistent with section 2323 of this title are not sufficiently rigorous to meet the purpose of this chapter.

(2) Disapproval

The Secretary shall not finally disapprove a State plan, except after giving the eligible agency notice and an opportunity for a hearing.

(3) Consultation

The eligible agency shall develop the portion of each State plan relating to the amount and uses of any funds proposed to be reserved for adult vocational and technical education, postsecondary vocational and technical education, tech-prep education, and secondary vocational and technical education after consultation with the State agency responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions primarily engaged in providing postsecondary vocational and technical education, and the State agency responsible for secondary education. If a State agency finds that a portion of the final State plan is objectionable, the State agency shall file such objections with the eligible agency. The eligible agency shall respond to any objections of the State agency in the State plan submitted to the Secretary.

(4) Timeframe

A State plan shall be deemed approved by the Secretary if the Secretary has not responded to the eligible agency regarding the State plan within 90 days of the date the Secretary receives the State plan.

(f) Transition

This section shall be subject to section 2303 of this title for fiscal year 1999 only, with respect to activities under this section.

(Pub. L. 88–210, title I, §122, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3102.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2323 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2342, Pub. L. 88–210, title II, §235, as added Pub. L. 101–392, title II, §201, Sept. 25, 1990, 104 Stat. 783, related to uses of funds, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 2342, Pub. L. 88–210, title II, §252, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2457, related to criteria for program improvement, innovation, and expansion, prior to the general amendment of former subchapter II of this chapter by Pub. L. 101–392.

§ 2343. Improvement plans

(a) State program improvement plan

If a State fails to meet the State adjusted levels of performance described in the report submitted under section 2323(c) of this title, the eligible agency shall develop and implement a program improvement plan in consultation with appropriate agencies, individuals, and organizations for the first program year succeeding the program year in which the eligible agency failed to meet the State adjusted levels of performance, in order to avoid a sanction under subsection (d) of this section.

(b) Local evaluation

Each eligible agency shall evaluate annually, using the State adjusted levels of performance,

the vocational and technical education activities of each eligible recipient receiving funds under this subchapter.

(c) Local improvement plan

(1) In general

If, after reviewing the evaluation, the eligible agency determines that an eligible recipient is not making substantial progress in achieving the State adjusted levels of performance, the eligible agency shall—

(A) conduct an assessment of the educational needs that the eligible recipient shall address to overcome local performance deficiencies;

(B) enter into an improvement plan based on the results of the assessment, which plan shall include instructional and other programmatic innovations of demonstrated effectiveness, and where necessary, strategies for appropriate staffing and staff development; and

(C) conduct regular evaluations of the progress being made toward reaching the State adjusted levels of performance.

(2) Consultation

The eligible agency shall conduct the activities described in paragraph (1) in consultation with teachers, parents, other school staff, appropriate agencies, and other appropriate individuals and organizations.

(d) Sanctions

(1) Technical assistance

If the Secretary determines that an eligible agency is not properly implementing the eligible agency's responsibilities under section 2342 of this title, or is not making substantial progress in meeting the purpose of this chapter, based on the State adjusted levels of performance, the Secretary shall work with the eligible agency to implement improvement activities consistent with the requirements of this chapter.

(2) Failure

If an eligible agency fails to meet the State adjusted levels of performance, has not implemented an improvement plan as described in paragraph (1), has shown no improvement within 1 year after implementing an improvement plan as described in paragraph (1), or has failed to meet the State adjusted levels of performance for 2 or more consecutive years, the Secretary may, after notice and opportunity for a hearing, withhold from the eligible agency all, or a portion of, the eligible agency's allotment under this subchapter. The Secretary may waive the sanction under this paragraph due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(3) Funds resulting from reduced allotments

(A) In general

The Secretary shall use funds withheld under paragraph (2), for a State served by an eligible agency, to provide (through alternative arrangements) services and activities within the State to meet the purpose of this chapter.

(B) Redistribution

If the Secretary cannot satisfactorily use funds withheld under paragraph (2), then the amount of funds retained by the Secretary as a result of a reduction in an allotment made under paragraph (2) shall be redistributed to other eligible agencies in accordance with section 2321 of this title.

(Pub. L. 88–210, title I, § 123, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3106.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2327 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2343, Pub. L. 88–210, title II, § 240, as added Pub. L. 101–392, title II, § 201, Sept. 25, 1990, 104 Stat. 784, related to local applications, prior to the general amendment of this chapter by Pub. L. 105–332.

§ 2344. State leadership activities

(a) General authority

From amounts reserved under section 2322(a)(2) of this title, each eligible agency shall conduct State leadership activities.

(b) Required uses of funds

The State leadership activities described in subsection (a) of this section shall include—

(1) an assessment of the vocational and technical education programs carried out with funds under this subchapter that includes an assessment of how the needs of special populations are being met and how such programs are designed to enable special populations to meet State adjusted levels of performance and prepare the special populations for further learning or for high skill, high wage careers;

(2) developing, improving, or expanding the use of technology in vocational and technical education that may include—

(A) training of vocational and technical education personnel to use state-of-the-art technology, that may include distance learning;

(B) providing vocational and technical education students with the academic, and vocational and technical skills that lead to entry into the high technology and telecommunications field; or

(C) encouraging schools to work with high technology industries to offer voluntary internships and mentoring programs;

(3) professional development programs, including providing comprehensive professional development (including initial teacher preparation) for vocational and technical, academic, guidance, and administrative personnel, that—

(A) will provide inservice and preservice training in state-of-the-art vocational and technical education programs and techniques, effective teaching skills based on research, and effective practices to improve parental and community involvement; and

(B) will help teachers and personnel to assist students in meeting the State adjusted levels of performance established under section 2323 of this title;

(C) will support education programs for teachers of vocational and technical edu-

cation in public schools and other public school personnel who are involved in the direct delivery of educational services to vocational and technical education students to ensure that such teachers stay current with the needs, expectations, and methods of industry; and

(D) is integrated with the professional development activities that the State carries out under title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.) and title II of the Higher Education Act of 1965 [20 U.S.C. 1021 et seq.];

(4) support for vocational and technical education programs that improve the academic, and vocational and technical skills of students participating in vocational and technical education programs by strengthening the academic, and vocational and technical components of such vocational and technical education programs through the integration of academics with vocational and technical education to ensure learning in the core academic, and vocational and technical subjects;

(5) providing preparation for nontraditional training and employment;

(6) supporting partnerships among local educational agencies, institutions of higher education, adult education providers, and, as appropriate, other entities, such as employers, labor organizations, parents, and local partnerships, to enable students to achieve State academic standards, and vocational and technical skills;

(7) serving individuals in State institutions, such as State correctional institutions and institutions that serve individuals with disabilities; and

(8) support for programs for special populations that lead to high skill, high wage careers.

(c) Permissible uses of funds

The leadership activities described in subsection (a) of this section may include—

(1) technical assistance for eligible recipients;

(2) improvement of career guidance and academic counseling programs that assist students in making informed academic, and vocational and technical education decisions;

(3) establishment of agreements between secondary and postsecondary vocational and technical education programs in order to provide postsecondary education and training opportunities for students participating in such vocational and technical education programs, such as tech-prep programs;

(4) support for cooperative education;

(5) support for vocational and technical student organizations, especially with respect to efforts to increase the participation of students who are members of special populations;

(6) support for public charter schools operating secondary vocational and technical education programs;

(7) support for vocational and technical education programs that offer experience in, and understanding of, all aspects of an industry for which students are preparing to enter;

(8) support for family and consumer sciences programs;

(9) support for education and business partnerships;

(10) support to improve or develop new vocational and technical education courses;

(11) providing vocational and technical education programs for adults and school dropouts to complete their secondary school education; and

(12) providing assistance to students, who have participated in services and activities under this subchapter, in finding an appropriate job and continuing their education.

(d) Restriction on uses of funds

An eligible agency that receives funds under section 2322(a)(2) of this title may not use any of such funds for administrative costs.

(Pub. L. 88–210, title I, §124, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3107.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(3)(D), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Title II of the Act is classified generally to subchapter II (§6601 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (b)(3)(D), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title II of the Act is classified generally to subchapter II (§1021 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PART C—LOCAL PROVISIONS

§2351. Distribution of funds to secondary school programs

(a) Distribution for fiscal year 1999

Except as provided in section 2353 of this title and as otherwise provided in this section, each eligible agency shall distribute the portion of the funds made available under section 2322(a)(1) of this title to carry out this section for fiscal year 1999 to local educational agencies within the State as follows:

(1) Seventy percent

From 70 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the amount such local educational agency was allocated under section 6333 of this title for the preceding fiscal year bears to the total amount received under such section by all local educational agencies in the State for such preceding fiscal year.

(2) Twenty percent

From 20 percent of such portion, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students with disabilities who have individualized education programs under section 1414(d) of this title served by such local educational agency for the preceding fiscal year bears to the total number of such students served by all local educational agencies in the State for such preceding fiscal year.

(3) Ten percent

From 10 percent of such portion, each local educational agency shall be allocated an

amount that bears the same relationship to such 10 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency for the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State for such preceding fiscal year.

(b) Special distribution rules for succeeding fiscal years

Except as provided in section 2353 of this title and as otherwise provided in this section, each eligible agency shall distribute the portion of funds made available under section 2322(a)(1) of this title to carry out this section for fiscal year 2000 and succeeding fiscal years to local educational agencies within the State as follows:

(1) 30 percent

30 percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 15 through 19, inclusive, who reside in the school district served by such local educational agency for the preceding fiscal year compared to the total number of such individuals who reside in the school districts served by all local educational agencies in the State for such preceding fiscal year.

(2) 70 percent

70 percent shall be allocated to such local educational agencies in proportion to the number of individuals aged 15 through 19, inclusive, who reside in the school district served by such local educational agency from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved for the fiscal year for which the determination is made compared to the number of such individuals who reside in the school districts served by all the local educational agencies in the State for such preceding fiscal year.

(c) Waiver for more equitable distribution

The Secretary may waive the application of subsection (b) of this section in the case of any eligible agency that submits to the Secretary an application for such a waiver that—

(1) demonstrates that a proposed alternative formula more effectively targets funds on the basis of poverty (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of title 42[1] to local educational agencies within the State than the formula described in subsection (b) of this section; and

(2) includes a proposal for such an alternative formula.

(d) Minimum allocation

(1) In general

Except as provided in paragraph (2), a local educational agency shall not receive an allocation under subsection (a) of this section unless the amount allocated to such agency under subsection (a) of this section is greater than $15,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum allocation requirement of this paragraph.

(2) Waiver

The eligible agency shall waive the application of paragraph (1) in any case in which the local educational agency—

(A)(i) is located in a rural, sparsely populated area, or

(ii) is a public charter school operating secondary vocational and technical education programs; and

(B) demonstrates that the local educational agency is unable to enter into a consortium for purposes of providing activities under this part.

(3) Redistribution

Any amounts that are not allocated by reason of paragraph (1) or paragraph (2) shall be redistributed to local educational agencies that meet the requirements of paragraph (1) or (2) in accordance with the provisions of this section.

(e) Limited jurisdiction agencies

(1) In general

In applying the provisions of subsection (a) of this section, no eligible agency receiving assistance under this subchapter shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local educational agency or regional educational agency that provides secondary school services to secondary school students in the same attendance area.

(2) Special rule

The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

(f) Allocations to area vocational and technical education schools and educational service agencies

(1) In general

Each eligible agency shall distribute the portion of funds made available under section 2322(a)(1) of this title for any fiscal year by such eligible agency for secondary school vocational and technical education activities under this section to the appropriate area vocational and technical education school or educational service agency in any case in which the area vocational and technical education school or educational service agency, and the local educational agency concerned—

(A) have formed or will form a consortium for the purpose of receiving funds under this section; or

(B) have entered into or will enter into a cooperative arrangement for such purpose.

[1] So in original. Probably should be followed by a closing parenthesis.

(2) Allocation basis

If an area vocational and technical education school or educational service agency meets the requirements of paragraph (1), then the amount that would otherwise be distributed to the local educational agency shall be allocated to the area vocational and technical education school, the educational service agency, and the local educational agency based on each school, agency or entity's relative share of students who are attending vocational and technical education programs (based, if practicable, on the average enrollment for the preceding 3 years [1];

(3) Appeals procedure

The eligible agency shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational and technical education school or an educational service agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium or terminate a cooperative arrangement.

(g) Consortium requirements

(1) Alliance

Any local educational agency receiving an allocation that is not sufficient to conduct a program which meets the requirements of section 2355 of this title is encouraged to—

(A) form a consortium or enter into a cooperative agreement with an area vocational and technical education school or educational service agency offering programs that meet the requirements of section 2355 of this title;

(B) transfer such allocation to the area vocational and technical education school or educational service agency; and

(C) operate programs that are of sufficient size, scope, and quality to be effective.

(2) Funds to consortium

Funds allocated to a consortium formed to meet the requirements of this paragraph shall be used only for purposes and programs that are mutually beneficial to all members of the consortium and can be used only for programs authorized under this subchapter. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefiting only one member of the consortium.

(h) Data

The Secretary shall collect information from eligible agencies regarding the specific dollar allocations made available by the eligible agency for vocational and technical education programs under subsections (a), (b), (c), and (d) of this section and how these allocations are distributed to local educational agencies, area vocational and technical education schools, and educational service agencies, within the State in accordance with this section.

(i) Special rule

Each eligible agency distributing funds under this section shall treat a secondary school funded by the Bureau of Indian Affairs within the State as if such school were a local educational agency within the State for the purpose of receiving a distribution under this section.

(Pub. L. 88–210, title I, § 131, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3109.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2341 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2351, Pub. L. 88–210, title III, § 301, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2457, related to applications by community-based organizations, prior to the general amendment of this chapter by Pub. L. 105–332.

§ 2352. Distribution of funds for postsecondary vocational and technical education programs

(a) Allocation

(1) In general

Except as provided in subsections (b) and (c) of this section and section 2353 of this title, each eligible agency shall distribute the portion of the funds made available under section 2322(a)(1) of this title to carry out this section for any fiscal year to eligible institutions or consortia of eligible institutions within the State.

(2) Formula

Each eligible institution or consortium of eligible institutions shall be allocated an amount that bears the same relationship to the portion of funds made available under section 2322(a)(1) of this title to carry out this section for any fiscal year as the sum of the number of individuals who are Federal Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of section 2355 of this title offered by such institution or consortium in the preceding fiscal year bears to the sum of the number of such recipients enrolled in such programs within the State for such year.

(3) Consortium requirements

(A) In general

In order for a consortium of eligible institutions described in paragraph (2) to receive assistance pursuant to such paragraph, such consortium shall operate joint projects that—

(i) provide services to all postsecondary institutions participating in the consortium; and

(ii) are of sufficient size, scope, and quality to be effective.

(B) Funds to consortium

Funds allocated to a consortium formed to meet the requirements of this section shall be used only for purposes and programs that are mutually beneficial to all members of the consortium and shall be used only for programs authorized under this subchapter. Such funds may not be reallocated to individual members of the consortium for purposes or programs benefiting only one member of the consortium.

(4) Waiver

The eligible agency may waive the application of paragraph (3)(A)(i) in any case in which the eligible institution is located in a rural, sparsely populated area.

(b) Waiver for more equitable distribution

The Secretary may waive the application of subsection (a) of this section if an eligible agency submits to the Secretary an application for such a waiver that—

(1) demonstrates that the formula described in subsection (a) of this section does not result in a distribution of funds to the eligible institutions or consortia within the State that have the highest numbers of economically disadvantaged individuals and that an alternative formula will result in such a distribution; and

(2) includes a proposal for such an alternative formula.

(c) Minimum grant amount

(1) In general

No institution or consortium shall receive an allocation under this section in an amount that is less than $50,000.

(2) Redistribution

Any amounts that are not distributed by reason of paragraph (1) shall be redistributed to eligible institutions or consortia in accordance with this section.

(Pub. L. 88–210, title I, § 132, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3112.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2341a of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2352, Pub. L. 88–210, title III, § 302, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2458; amended Pub. L. 101–392, title III, § 301, Sept. 25, 1990, 104 Stat. 786, related to use of funds, prior to the general amendment of this chapter by Pub. L. 105–332.

§ 2353. Special rules for vocational and technical education

(a) Special rule for minimal allocation

(1) General authority

Notwithstanding the provisions of sections 2351 and 2352 of this title in order to make a more equitable distribution of funds for programs serving the areas of greatest economic need, for any program year for which a minimal amount is made available by an eligible agency for distribution under section 2351 or 2352 of this title, such State may distribute such minimal amount for such year—

(A) on a competitive basis; or

(B) through any alternative method determined by the State.

(2) Minimal amount

For purposes of this section, the term ''minimal amount'' means not more than 15 percent of the total amount made available for distribution under section 2322(a)(1) of this title.

(b) Redistribution

(1) In general

In any academic year that an eligible recipient does not expend all of the amounts the eligible recipient is allocated for such year under section 2351 or 2352 of this title, such eligible recipient shall return any unexpended amounts to the eligible agency to be reallocated under section 2351 or 2352 of this title, as appropriate.

(2) Redistribution of amounts returned late in an academic year

In any academic year in which amounts are returned to the eligible agency under section 2351 or 2352 of this title and the eligible agency is unable to reallocate such amounts according to such sections in time for such amounts to be expended in such academic year, the eligible agency shall retain such amounts for distribution in combination with amounts provided under section 2322(a)(1) of this title for the following academic year.

(c) Construction

Nothing in section 2351 or 2352 of this title shall be construed—

(1) to prohibit a local educational agency or a consortium thereof that receives assistance under section 2351 of this title, from working with an eligible institution or consortium thereof that receives assistance under section 2352 of this title, to carry out secondary school vocational and technical education programs in accordance with this subchapter;

(2) to prohibit an eligible institution or consortium thereof that receives assistance under section 2352 of this title, from working with a local educational agency or consortium thereof that receives assistance under section 2351 of this title, to carry out postsecondary and adult vocational and technical education programs in accordance with this subchapter; or

(3) to require a charter school, that provides vocational and technical education programs and is considered a local educational agency under State law, to jointly establish the charter school's eligibility for assistance under this subchapter unless the charter school is explicitly permitted to do so under the State's charter school statute.

(d) Consistent application

For purposes of this section, the eligible agency shall provide funds to charter schools offering vocational and technical education programs in the same manner as the eligible agency provides those funds to other schools. Such vocational and technical education programs within a charter school shall be of sufficient size, scope, and quality to be effective.

(Pub. L. 88–210, title I, § 133, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3113.)

PRIOR PROVISIONS

Provisions similar to this section were contained in sections 2341b and 2341c of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

§ 2354. Local plan for vocational and technical education programs

(a) Local plan required

Any eligible recipient desiring financial assistance under this part shall, in accordance with requirements established by the eligible

agency (in consultation with such other educational entities as the eligible agency determines to be appropriate) submit a local plan to the eligible agency. Such local plan shall cover the same period of time as the period of time applicable to the State plan submitted under section 2342 of this title.

(b) Contents

The eligible agency shall determine requirements for local plans, except that each local plan shall—

(1) describe how the vocational and technical education programs required under section 2355(b) of this title will be carried out with funds received under this subchapter;

(2) describe how the vocational and technical education activities will be carried out with respect to meeting State adjusted levels of performance established under section 2323 of this title;

(3) describe how the eligible recipient will—

(A) improve the academic and technical skills of students participating in vocational and technical education programs by strengthening the academic, and vocational and technical components of such programs through the integration of academics with vocational and technical education programs through a coherent sequence of courses to ensure learning in the core academic, and vocational and technical subjects;

(B) provide students with strong experience in and understanding of all aspects of an industry; and

(C) ensure that students who participate in such vocational and technical education programs are taught to the same challenging academic proficiencies as are taught for all other students;

(4) describe how parents, students, teachers, representatives of business and industry, labor organizations, representatives of special populations, and other interested individuals are involved in the development, implementation, and evaluation of vocational and technical education programs assisted under this subchapter, and how such individuals and entities are effectively informed about, and assisted in understanding, the requirements of this subchapter;

(5) provide assurances that the eligible recipient will provide a vocational and technical education program that is of such size, scope, and quality to bring about improvement in the quality of vocational and technical education programs;

(6) describe the process that will be used to independently evaluate and continuously improve the performance of the eligible recipient;

(7) describe how the eligible recipient—

(A) will review vocational and technical education programs, and identify and adopt strategies to overcome barriers that result in lowering rates of access to or lowering success in the programs, for special populations; and

(B) will provide programs that are designed to enable the special populations to meet the State adjusted levels of performance;

(8) describe how individuals who are members of the special populations will not be discriminated against on the basis of their status as members of the special populations;

(9) describe how funds will be used to promote preparation for nontraditional training and employment; and

(10) describe how comprehensive professional development (including initial teacher preparation) for vocational and technical, academic, guidance, and administrative personnel will be provided.

(Pub. L. 88–210, title I, §134, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3114.)

§ 2355. Local uses of funds

(a) General authority

Each eligible recipient that receives funds under this part shall use such funds to improve vocational and technical education programs.

(b) Requirements for uses of funds

Funds made available to eligible recipients under this part shall be used to support vocational and technical education programs that—

(1) strengthen the academic, and vocational and technical skills of students participating in vocational and technical education programs by strengthening the academic, and vocational and technical components of such programs through the integration of academics with vocational and technical education programs through a coherent sequence of courses to ensure learning in the core academic, and vocational and technical subjects;

(2) provide students with strong experience in and understanding of all aspects of an industry;

(3) develop, improve, or expand the use of technology in vocational and technical education, which may include—

(A) training of vocational and technical education personnel to use state-of-the-art technology, which may include distance learning;

(B) providing vocational and technical education students with the academic, and vocational and technical skills that lead to entry into the high technology and telecommunications field; or

(C) encouraging schools to work with high technology industries to offer voluntary internships and mentoring programs;

(4) provide professional development programs to teachers, counselors, and administrators, including—

(A) inservice and preservice training in state-of-the-art vocational and technical education programs and techniques, in effective teaching skills based on research, and in effective practices to improve parental and community involvement;

(B) support of education programs for teachers of vocational and technical education in public schools and other public school personnel who are involved in the direct delivery of educational services to voca-

tional and technical education students, to ensure that such teachers and personnel stay current with all aspects of an industry;

(C) internship programs that provide business experience to teachers; and

(D) programs designed to train teachers specifically in the use and application of technology;

(5) develop and implement evaluations of the vocational and technical education programs carried out with funds under this subchapter, including an assessment of how the needs of special populations are being met;

(6) initiate, improve, expand, and modernize quality vocational and technical education programs;

(7) provide services and activities that are of sufficient size, scope, and quality to be effective; and

(8) link secondary vocational and technical education and postsecondary vocational and technical education, including implementing tech-prep programs.

(c) Permissive

Funds made available to an eligible recipient under this subchapter may be used—

(1) to involve parents, businesses, and labor organizations as appropriate, in the design, implementation, and evaluation of vocational and technical education programs authorized under this subchapter, including establishing effective programs and procedures to enable informed and effective participation in such programs;

(2) to provide career guidance and academic counseling for students participating in vocational and technical education programs;

(3) to provide work-related experience, such as internships, cooperative education, school-based enterprises, entrepreneurship, and job shadowing that are related to vocational and technical education programs;

(4) to provide programs for special populations;

(5) for local education and business partnerships;

(6) to assist vocational and technical student organizations;

(7) for mentoring and support services;

(8) for leasing, purchasing, upgrading or adapting equipment, including instructional aides;

(9) for teacher preparation programs that assist individuals who are interested in becoming vocational and technical education instructors, including individuals with experience in business and industry;

(10) for improving or developing new vocational and technical education courses;

(11) to provide support for family and consumer sciences programs;

(12) to provide vocational and technical education programs for adults and school dropouts to complete their secondary school education;

(13) to provide assistance to students who have participated in services and activities under this subchapter in finding an appropriate job and continuing their education;

(14) to support nontraditional training and employment activities; and

(15) to support other vocational and technical education activities that are consistent with the purpose of this chapter.

(d) Administrative costs

Each eligible recipient receiving funds under this part shall not use more than 5 percent of the funds for administrative costs associated with the administration of activities assisted under this section.

(Pub. L. 88–210, title I, §135, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3115.)

PRIOR PROVISIONS

Prior sections 2361 to 2363 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2361, Pub. L. 88–210, title III, §311, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2458; amended Pub. L. 99–159, title VII, §706(b), Nov. 22, 1985, 99 Stat. 906; Pub. L. 101–392, title III, §302, Sept. 25, 1990, 104 Stat. 786, related to consumer and homemaking education grants.

Section 2362, Pub. L. 88–210, title III, §312, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2458; amended Pub. L. 99–159, title VII, §706(c), Nov. 22, 1985, 99 Stat. 906; Pub. L. 101–392, title III, §303, Sept. 25, 1990, 104 Stat. 786, related to use of funds from consumer and homemaking education grants.

Section 2363, Pub. L. 88–210, title III, §313, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2459; amended Pub. L. 99–159, title VII, §707, Nov. 22, 1985, 99 Stat. 906; Pub. L. 101–392, title III, §304, Sept. 25, 1990, 104 Stat. 786, related to information dissemination and leadership.

SUBCHAPTER II—TECH-PREP EDUCATION

§ 2371. Definitions

(a)[1] In this subchapter:

(1) Articulation agreement

The term ''articulation agreement'' means a written commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to degrees or certificates in a tech-prep education program.

(2) Community college

The term ''community college''—

(A) means an institution of higher education, as defined in section 1001 of this title, that provides not less than a 2-year program that is acceptable for full credit toward a bachelor's degree; and

(B) includes tribally controlled colleges or universities.

(3) Tech-prep program

The term ''tech-prep program'' means a program of study that—

(A) combines at a minimum 2 years of secondary education (as determined under State law) with a minimum of 2 years of postsecondary education in a nonduplicative, sequential course of study;

(B) integrates academic, and vocational and technical, instruction, and utilizes work-based and worksite learning where appropriate and available;

(C) provides technical preparation in a career field such as engineering technology,

[1] So in original. No subsection (b) has been enacted.

applied science, a mechanical, industrial, or practical art or trade, agriculture, health occupations, business, or applied economics;

(D) builds student competence in mathematics, science, reading, writing, communications, economics, and workplace skills through applied, contextual academics, and integrated instruction, in a coherent sequence of courses;

(E) leads to an associate or a baccalaureate degree or a postsecondary certificate in a specific career field; and

(F) leads to placement in appropriate employment or to further education.

(Pub. L. 88–210, title II, § 202, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3117.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2394e of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2371, Pub. L. 88–210, title III, § 321, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2459; amended Pub. L. 100–418, title VI, § 6131(a)(2), Aug. 23, 1988, 102 Stat. 1509, provided findings and purposes of program, prior to repeal by Pub. L. 101–392, title III, § 305, title VII, § 702(a), Sept. 25, 1990, 104 Stat. 786, 843, effective July 1, 1991.

A prior section 202 of Pub. L. 88–210 was classified to section 2332 of this title, prior to the general amendment of former subchapter II of this chapter by Pub. L. 101–392.

SHORT TITLE

For short title of this subchapter as the ''Tech-Prep Education Act'', see section 201 of Pub. L. 88–210, as added by Pub. L. 105–332, set out as a note under section 2301 of this title.

§ 2372. State allotment and application

(a) In general

For any fiscal year, the Secretary shall allot the amount made available under section 2375[1] of this title among the States in the same manner as funds are allotted to States under paragraph (2) of section 2321(a) of this title.

(b) Payments to eligible agencies

The Secretary shall make a payment in the amount of a State's allotment under subsection (a) of this section to the eligible agency that serves the State and has an application approved under subsection (c) of this section.

(c) State application

Each eligible agency desiring assistance under this subchapter shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(Pub. L. 88–210, title II, § 203, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3118.)

PRIOR PROVISIONS

A prior section 2372, Pub. L. 88–210, title III, § 322, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2460; amended Pub. L. 100–418, title VI, § 6131(a)(2), Aug. 23, 1988, 102 Stat. 1509; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142, authorized Secretary to make grants and specified uses of funds for program, prior to repeal by Pub. L. 101–392, title III, § 305, title VII, § 702(a), Sept. 25, 1990, 104 Stat. 786, 843, effective July 1, 1991.

A prior section 203 of Pub. L. 88–210 was classified to section 2333 of this title, prior to the general amendment of former subchapter II of this chapter by Pub. L. 101–392.

[1] So in original. Probably should be section ''2377''.

§ 2373. Tech-prep education

(a) Grant program authorized

(1) In general

From amounts made available to each eligible agency under section 2372 of this title, the eligible agency, in accordance with the provisions of this subchapter, shall award grants, on a competitive basis or on the basis of a formula determined by the eligible agency, for tech-prep education programs described in subsection (c) of this section. The grants shall be awarded to consortia between or among—

(A) a local educational agency, an intermediate educational agency or area vocational and technical education school serving secondary school students, or a secondary school funded by the Bureau of Indian Affairs; and

(B)(i) a nonprofit institution of higher education that offers—

(I) a 2-year associate degree program, or a 2-year certificate program, and is qualified as institutions of higher education pursuant to section 102 of the Higher Education Act of 1965 [20 U.S.C. 1002], including an institution receiving assistance under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.) and a tribally controlled postsecondary vocational and technical institution; or

(II) a 2-year apprenticeship program that follows secondary instruction,

if such nonprofit institution of higher education is not prohibited from receiving assistance under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) pursuant to the provisions of section 435(a)(3) of such Act [20 U.S.C. 1085(a)(3)]; or

(ii) a proprietary institution of higher education that offers a 2-year associate degree program and is qualified as an institution of higher education pursuant to section 102 of the Higher Education Act of 1965 [20 U.S.C. 1002], if such proprietary institution of higher education is not subject to a default management plan required by the Secretary.

(2) Special rule

In addition, a consortium described in paragraph (1) may include 1 or more—

(A) institutions of higher education that award a baccalaureate degree; and

(B) employer or labor organizations.

(b) Duration

Each grant recipient shall use amounts provided under the grant to develop and operate a 4- or 6-year tech-prep education program described in subsection (c) of this section.

(c) Contents of tech-prep program

Each tech-prep program shall—

(1) be carried out under an articulation agreement between the participants in the consortium;

(2) consist of at least 2 years of secondary school preceding graduation and 2 years or more of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics, science, reading, writing, communications, and technologies designed to lead to an associate's degree or a postsecondary certificate in a specific career field;

(3) include the development of tech-prep programs for both secondary and postsecondary, including consortium, participants in the consortium that—

(A) meets academic standards developed by the State;

(B) links secondary schools and 2-year postsecondary institutions, and if possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields, including the investigation of opportunities for tech-prep secondary students to enroll concurrently in secondary and postsecondary coursework;

(C) uses, if appropriate and available, work-based or worksite learning in conjunction with business and all aspects of an industry; and

(D) uses educational technology and distance learning, as appropriate, to involve all the consortium partners more fully in the development and operation of programs;

(4) include in-service training for teachers that—

(A) is designed to train vocational and technical teachers to effectively implement tech-prep programs;

(B) provides for joint training for teachers in the tech-prep consortium;

(C) is designed to ensure that teachers and administrators stay current with the needs, expectations, and methods of business and all aspects of an industry;

(D) focuses on training postsecondary education faculty in the use of contextual and applied curricula and instruction; and

(E) provides training in the use and application of technology;

(5) include training programs for counselors designed to enable counselors to more effectively—

(A) provide information to students regarding tech-prep education programs;

(B) support student progress in completing tech-prep programs;

(C) provide information on related employment opportunities;

(D) ensure that such students are placed in appropriate employment; and

(E) stay current with the needs, expectations, and methods of business and all aspects of an industry;

(6) provide equal access, to the full range of technical preparation programs, to individuals who are members of special populations, including the development of tech-prep program services appropriate to the needs of special populations; and

(7) provide for preparatory services that assist participants in tech-prep programs.

(d) Additional authorized activities

Each tech-prep program may—

(1) provide for the acquisition of tech-prep program equipment;

(2) acquire technical assistance from State or local entities that have designed, established, and operated tech-prep programs that have effectively used educational technology and distance learning in the delivery of curricula and services and in the articulation process; and

(3) establish articulation agreements with institutions of higher education, labor organizations, or businesses located inside or outside the State and served by the consortium, especially with regard to using distance learning and educational technology to provide for the delivery of services and programs.

(Pub. L. 88–210, title II, § 204, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3118.)

REFERENCES IN TEXT

The Tribally Controlled College or University Assistance Act of 1978, referred to in subsec. (a)(1)(B)(i)(I), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Higher Education Act of 1965, referred to in subsec. (a)(1)(B), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Part B of title IV of the Act is classified generally to part B (§ 1071 et seq.) of subchapter IV of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in sections 2394a and 2394b of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2373, Pub. L. 88–210, title III, § 323, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2461; amended Pub. L. 100–418, title VI, § 6131(a)(2), Aug. 23, 1988, 102 Stat. 1509, provided for coordination of program with Job Training Partnership Act, prior to repeal by Pub. L. 101–392, title III, § 305, title VII, § 702(a), Sept. 25, 1990, 104 Stat. 786, 843, effective July 1, 1991.

A prior section 204 of Pub. L. 88–210 was classified to section 2334 of this title, prior to the general amendment of former subchapter II of this chapter by Pub. L. 101–392.

§ 2374. Consortium applications

(a) In general

Each consortium that desires to receive a grant under this subchapter shall submit an application to the eligible agency at such time and in such manner as the eligible agency shall prescribe.

(b) Plan

Each application submitted under this section shall contain a 5-year plan for the development and implementation of tech-prep programs under this subchapter, which plan shall be reviewed after the second year of the plan.

(c) Approval

The eligible agency shall approve applications based on the potential of the activities described in the application to create an effective tech-prep program.

(d) Special consideration

The eligible agency, as appropriate, shall give special consideration to applications that—

(1) provide for effective employment placement activities or the transfer of students to baccalaureate degree programs;

(2) are developed in consultation with business, industry, institutions of higher education, and labor organizations;

(3) address effectively the issues of school dropout prevention and reentry and the needs of special populations;

(4) provide education and training in areas or skills in which there are significant workforce shortages, including the information technology industry; and

(5) demonstrate how tech-prep programs will help students meet high academic and employability competencies.

(e) Equitable distribution of assistance

In awarding grants under this subchapter, the eligible agency shall ensure an equitable distribution of assistance between urban and rural consortium participants.

(Pub. L. 88–210, title II, § 205, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3120.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2394c of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

§ 2375. Report

Each eligible agency that receives a grant under this subchapter annually shall prepare and submit to the Secretary a report on the effectiveness of the tech-prep programs assisted under this subchapter, including a description of how grants were awarded within the State.

(Pub. L. 88–210, title II, § 206, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3120.)

§ 2376. Demonstration program

(a) Demonstration program authorized

From funds appropriated under subsection (e) of this section for a fiscal year, the Secretary shall award grants to consortia described in section 2373(a) of this title to enable the consortia to carry out tech-prep education programs.

(b) Program contents

Each tech-prep program referred to in subsection (a) of this section—

(1) shall—

(A) involve the location of a secondary school on the site of a community college;

(B) involve a business as a member of the consortium; and

(C) require the voluntary participation of secondary school students in the tech-prep education program; and

(2) may provide summer internships at a business for students or teachers.

(c) Application

Each consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require.

(d) Applicability

The provisions of sections 2372, 2373, 2374, and 2375 of this title shall not apply to this section, except that—

(1) the provisions of section 2373(a) of this title shall apply for purposes of describing consortia eligible to receive assistance under this section;

(2) each tech-prep education program assisted under this section shall meet the requirements of paragraphs (1), (2), (3)(A), (3)(B), (3)(C), (3)(D), (4), (5), (6), and (7) of section 2373(c) of this title, except that such paragraph (3)(B) shall be applied by striking ‘‘, and if possible and practicable, 4-year institutions of higher education through nonduplicative sequences of courses in career fields’’; and

(3) in awarding grants under this section, the Secretary shall give special consideration to consortia submitting applications under subsection (c) of this section that meet the requirements of paragraphs (1), (3), (4), and (5) of section 2374(d) of this title, except that such paragraph (1) shall be applied by striking ‘‘or the transfer of students to baccalaureate degree programs’’.

(e) Authorization of appropriations

There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.

(Pub. L. 88–210, title II, § 207, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3121.)

PRIOR PROVISIONS

A prior section 2376, Pub. L. 88–210, title III, § 326, as added Pub. L. 100–418, title VI, § 6131(a)(3), Aug. 23, 1988, 102 Stat. 1509, provided findings and purpose of special program of financial assistance to States to enable them to expand and improve vocational education programs designed to meet current needs for training, retraining, and employment development of adults who had completed or left high school and were preparing to enter or had entered the labor market, including workers who were 55 years of age and older, in order to equip adults with competencies and skills required for productive employment, prior to repeal by Pub. L. 101–392, title III, § 305, title VII, § 702(a), Sept. 25, 1990, 104 Stat. 786, 843, effective July 1, 1991.

§ 2377. Authorization of appropriations

There is authorized to be appropriated to carry out this subchapter (other than section 2376 of this title) such sums as may be necessary for fiscal year 1999 and each of the 4 succeeding fiscal years.

(Pub. L. 88–210, title II, § 208, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3121.)

PRIOR PROVISIONS

Prior sections 2377 and 2378 were repealed by Pub. L. 101–392, title III, § 305, title VII, § 702(a), Sept. 25, 1990, 104 Stat. 786, 843, effective July 1, 1991.

Section 2377, Pub. L. 88–210, title III, § 327, as added Pub. L. 100–418, title VI, § 6131(a)(3), Aug. 23, 1988, 102 Stat. 1509; amended Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142, authorized giving of grants and uses of funds in connection with special program.

Section 2378, Pub. L. 88–210, title III, § 328, as added Pub. L. 100–418, title VI, § 6131(a)(3), Aug. 23, 1988, 102 Stat. 1510, provided for coordination of special program with Job Training Partnership Act.

Prior sections 2381 to 2383 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2381, Pub. L. 88–210, title III, § 321, formerly § 331, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2462; renumbered § 321, Pub. L. 101–392, title III, § 306(a)(2), Sept. 25, 1990, 104 Stat. 786, related to grants for career guidance and counseling.

Section 2382, Pub. L. 88–210, title III, § 322, formerly § 332, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2462; renumbered § 322 and amended Pub. L. 101–392, title III, § 306(a)(2), (c), Sept. 25, 1990, 104 Stat. 786, 787, related to use of funds from career guidance and counseling grants.

Section 2383, Pub. L. 88–210, title III, § 323, formerly § 333, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2463; amended Pub. L. 99–159, title VII, § 708, Nov. 22, 1985, 99 Stat. 906; renumbered § 323, Pub. L. 101–392, title III, § 306(a)(2), Sept. 25, 1990, 104 Stat. 786, related to information dissemination and leadership.

SUBCHAPTER III—GENERAL PROVISIONS

PART A—FEDERAL ADMINISTRATIVE PROVISIONS

§ 2391. Fiscal requirements

(a) Supplement not supplant

Funds made available under this chapter for vocational and technical education activities shall supplement, and shall not supplant, non-Federal funds expended to carry out vocational and technical education activities and tech-prep activities.

(b) Maintenance of effort

(1) Determination

(A) In general

Except as provided in subparagraphs (B) and (C), no payments shall be made under this chapter for any fiscal year to a State for vocational and technical education programs or tech-prep programs unless the Secretary determines that the fiscal effort per student or the aggregate expenditures of such State for vocational and technical education programs for the fiscal year preceding the fiscal year for which the determination is made, equaled or exceeded such effort or expenditures for vocational and technical education programs, for the second fiscal year preceding the fiscal year for which the determination is made.

(B) Computation

In computing the fiscal effort or aggregate expenditures pursuant to subparagraph (A), the Secretary shall exclude capital expenditures, special one-time project costs, and the cost of pilot programs.

(C) Decrease in Federal support

If the amount made available for vocational and technical education programs under this chapter for a fiscal year is less than the amount made available for vocational and technical education programs under this chapter for the preceding fiscal year, then the fiscal effort per student or the aggregate expenditures of a State required by subparagraph (B) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(2) Waiver

The Secretary may waive the requirements of this section, with respect to not more than 5 percent of expenditures by any eligible agency for 1 fiscal year only, on making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the eligible agency to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort or aggregate expenditures required under this section for years subsequent to the year covered by such waiver. The fiscal effort or aggregate expenditures for the subsequent years shall be computed on the basis of the level of funding that would, but for such waiver, have been required.

(Pub. L. 88–210, title III, § 311, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3121.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2463 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2391, Pub. L. 88–210, title III, § 331, formerly § 341, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2463; renumbered § 331 and amended Pub. L. 101–392, title III, § 307(a)(2), (c), Sept. 25, 1990, 104 Stat. 787, stated findings of Congress, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 311 of Pub. L. 88–210 was classified to section 2361 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

§ 2392. Authority to make payments

Any authority to make payments or to enter into contracts under this chapter shall be available only to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 88–210, title III, § 312, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3122.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2466 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2392, Pub. L. 88–210, title III, § 332, formerly § 342, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2464; amended Pub. L. 99–159, title VII, § 709, Nov. 22, 1985, 99 Stat. 906; renumbered § 332 and amended Pub. L. 101–392, title III, § 307(a)(2), (d), Sept. 25, 1990, 104 Stat. 787, authorized business-labor-education partnership training grants, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 312 of Pub. L. 88–210 was classified to section 2362 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

§ 2393. Construction

Nothing in this chapter shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of a private, religious, or home school, regardless of whether a home school is treated as a private school or home school under State law. This section shall not be construed to bar students attending private, religious, or home schools from participation in programs or services under this chapter.

(Pub. L. 88–210, title III, § 313, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3122.)

PRIOR PROVISIONS

A prior section 2393, Pub. L. 88–210, title III, § 333, formerly § 343, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98

Stat. 2465; amended Pub. L. 100–418, title VI, §6134(a), Aug. 23, 1988, 102 Stat. 1512; renumbered §333, Pub. L. 101–392, title III, §307(a)(2), Sept. 25, 1990, 104 Stat. 787, related to use of grant funds, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 313 of Pub. L. 88–210 was classified to section 2363 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

§ 2394. Voluntary selection and participation

No funds made available under this chapter shall be used—

(1) to require any secondary school student to choose or pursue a specific career path or major; and

(2) to mandate that any individual participate in a vocational and technical education program, including a vocational and technical education program that requires the attainment of a federally funded skill level, standard, or certificate of mastery.

(Pub. L. 88–210, title III, §314, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3123.)

PRIOR PROVISIONS

Prior sections 2394 to 2394e were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2394, Pub. L. 88–210, title III, §342, as added Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 789, stated findings and purpose of Congress.

Section 2394a, Pub. L. 88–210, title III, §343, as added Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 789; amended Pub. L. 102–103, title III, §315, Aug. 17, 1991, 105 Stat. 508, authorized grants for tech-prep education programs. See section 2373 of this title.

Section 2394b, Pub. L. 88–210, title III, §344, as added Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 790; amended Pub. L. 103–239, title VII, §711(a), May 4, 1994, 108 Stat. 606, related to use of grant funds. See section 2373 of this title.

Section 2394c, Pub. L. 88–210, title III, §345, as added Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 791; amended Pub. L. 103–239, title VII, §711(b), May 4, 1994, 108 Stat. 606, related to applications for grants. See section 2374 of this title.

Section 2394d, Pub. L. 88–210, title III, §346, as added Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 792, related to reports.

Section 2394e, Pub. L. 88–210, title III, §347, as added Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 792; amended Pub. L. 105–244, title I, §102(a)(6)(E), Oct. 7, 1998, 112 Stat. 1618, defined terms for purposes of tech-prep education grant program. See section 2371 of this title.

SHORT TITLE

Pub. L. 88–210, title III, §341, as added by Pub. L. 101–392, title III, §308, Sept. 25, 1990, 104 Stat. 788, which provided that part E of title III of Pub. L. 88–210, enacting part E (§2394 et seq.) of former subchapter III of this chapter, could be cited as the ''Tech-Prep Education Act'', was omitted in the general amendment of Pub. L. 88–210 by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076.

§ 2395. Limitation for certain students

No funds received under this chapter may be used to provide vocational and technical education programs to students prior to the seventh grade, except that equipment and facilities purchased with funds under this chapter may be used by such students.

(Pub. L. 88–210, title III, §315, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3123.)

PRIOR PROVISIONS

Prior sections 2395 to 2395e were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2395, Pub. L. 88–210, title III, §351, as added Pub. L. 101–392, title III, §309, Sept. 25, 1990, 104 Stat. 792, stated purpose of supplementary State grant program.

Section 2395a, Pub. L. 88–210, title III, §352, as added Pub. L. 101–392, title III, §309, Sept. 25, 1990, 104 Stat. 793, related to allotment to States.

Section 2395b, Pub. L. 88–210, title III, §353, as added Pub. L. 101–392, title III, §309, Sept. 25, 1990, 104 Stat. 793, related to allocations to local educational agencies.

Section 2395c, Pub. L. 88–210, title III, §354, as added Pub. L. 101–392, title III, §309, Sept. 25, 1990, 104 Stat. 793, related to use of grant funds.

Section 2395d, Pub. L. 88–210, title III, §355, as added Pub. L. 101–392, title III, §309, Sept. 25, 1990, 104 Stat. 793, related to State applications for grants.

Section 2395e, Pub. L. 88–210, title III, §356, as added Pub. L. 101–392, title III, §309, Sept. 25, 1990, 104 Stat. 794, related to local applications for grants.

§ 2396. Federal laws guaranteeing civil rights

Nothing in this chapter shall be construed to be inconsistent with applicable Federal law prohibiting discrimination on the basis of race, color, sex, national origin, age, or disability in the provision of Federal programs or services.

(Pub. L. 88–210, title III, §316, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3123.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2466c of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

Prior sections 2396 to 2396m were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2396, Pub. L. 88–210, title III, §362, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 794, stated purpose of community education employment centers and vocational education lighthouse schools program.

Section 2396a, Pub. L. 88–210, title III, §363, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 794, authorized grants to establish and operate community education employment centers.

Section 2396b, Pub. L. 88–210, title III, §364, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 794, related to program requirements.

Section 2396c, Pub. L. 88–210, title III, §365, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 795, related to support services requirements.

Section 2396d, Pub. L. 88–210, title III, §366, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 796, related to parental and community participation.

Section 2396e, Pub. L. 88–210, title III, §367, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 797, related to employment and training of professional staff.

Section 2396f, Pub. L. 88–210, title III, §368, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 797, related to eligibility for grants.

Section 2396g, Pub. L. 88–210, title III, §369, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 797, related to applications to participate in grant program.

Section 2396h, Pub. L. 88–210, title III, §370, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 798; amended Pub. L. 104–66, title I, §1041(d), Dec. 21, 1995, 109 Stat. 714, related to evaluation of student learning progress.

Section 2396i, Pub. L. 88–210, title III, §371, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 798, defined terms ''eligible recipient'' and ''parent''.

Section 2396m, Pub. L. 88–210, title III, §375, as added Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat.

798, authorized grants to establish and operate vocational education lighthouse schools.

SHORT TITLE

Pub. L. 88–210, title III, §361, as added by Pub. L. 101–392, title III, §310, Sept. 25, 1990, 104 Stat. 794, which provided that part G of title III of Pub. L. 88–210, enacting part G (§2396 et seq.) of former subchapter III of this chapter, could be cited as the ''Community Education Employment Center Act of 1990'', was omitted in the general amendment of Pub. L. 88–210 by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076.

§ 2397. Authorization of Secretary

For the purposes of increasing and expanding the use of technology in vocational and technical education instruction, including the training of vocational and technical education personnel as provided in this chapter, the Secretary is authorized to receive and use funds collected by the Federal Government from fees for the use of property, rights-of-way, and easements under the control of Federal departments and agencies for the placement of telecommunications services that are dependent, in whole or in part, upon the utilization of general spectrum rights for the transmission or reception of such services.

(Pub. L. 88–210, title III, §317, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3123.)

PRIOR PROVISIONS

Prior sections 2397 to 2397h were omitted in the general amendment of this chapter by Pub. L. 105–332. See section 2327 of this title.

Section 2397, Pub. L. 88–210, title III, §382, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 800, stated purpose of program to assist tribally controlled postsecondary vocational institutions.

Section 2397a, Pub. L. 88–210, title III, §383, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 800, authorized grants to tribally controlled postsecondary vocational institutions.

Section 2397b, Pub. L. 88–210, title III, §384, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 800, related to eligible grant recipients.

Section 2397c, Pub. L. 88–210, title III, §385, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 800, related to applications for grants, consultation, and use of grants.

Section 2397d, Pub. L. 88–210, title III, §386, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 801, related to amount of grants.

Section 2397e, Pub. L. 88–210, title III, §387, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 802, related to effect of grant receipt on eligibility under other programs.

Section 2397f, Pub. L. 88–210, title III, §388, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 802, related to grant adjustments.

Section 2397g, Pub. L. 88–210, title III, §389, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 803, related to report on facilities and facilities improvement.

Section 2397h, Pub. L. 88–210, title III, §390, as added Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 803, defined terms for purposes of tribally controlled postsecondary vocational institutions grant program.

SHORT TITLE

Pub. L. 88–210, title III, §381, as added by Pub. L. 101–392, title III, §311, Sept. 25, 1990, 104 Stat. 799, which provided that part H of title III of Pub. L. 88–210, enacting part H (§2397 et seq.) of former subchapter III of this chapter, could be cited as the ''Tribally Controlled Vocational Institutions Support Act of 1990'', was omitted in the general amendment of Pub. L. 88–210 by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076.

§ 2398. Participation of private school personnel

An eligible agency or eligible recipient that uses funds under this chapter for inservice and preservice vocational and technical education professional development programs for vocational and technical education teachers, administrators, and other personnel may, upon request, permit the participation in such programs of vocational and technical education teachers, administrators, and other personnel in nonprofit private schools offering vocational and technical education programs located in the geographical area served by such agency or recipient.

(Pub. L. 88–210, title III, §318, as added Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3123.)

PRIOR PROVISIONS

Prior sections 2401 to 2404 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2401, Pub. L. 88–210, title IV, §401, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2466; amended Pub. L. 101–392, title IV, §402, Sept. 25, 1990, 104 Stat. 806, related to research objectives.

Section 2402, Pub. L. 88–210, title IV, §402, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2466; amended Pub. L. 101–392, title IV, §403, Sept. 25, 1990, 104 Stat. 806, related to research activities.

Section 2403, Pub. L. 88–210, title IV, §403, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2467; amended Pub. L. 101–392, title IV, §404, Sept. 25, 1990, 104 Stat. 807, related to national assessment of vocational education programs.

Section 2404, Pub. L. 88–210, title IV, §404, as added Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2468; amended Pub. L. 101–392, title IV, §405, Sept. 25, 1990, 104 Stat. 809; Pub. L. 103–382, title III, §351(a)(2), Oct. 20, 1994, 108 Stat. 3966, related to National Center or Centers for Research in Vocational Education.

PART B—STATE ADMINISTRATIVE PROVISIONS

§ 2411. Joint funding

(a) General authority

Funds made available to eligible agencies under this chapter may be used to provide additional funds under an applicable program if—

(1) such program otherwise meets the requirements of this chapter and the requirements of the applicable program;

(2) such program serves the same individuals that are served under this chapter;

(3) such program provides services in a coordinated manner with services provided under this chapter; and

(4) such funds are used to supplement, and not supplant, funds provided from non-Federal sources.

(b) Applicable program

For the purposes of this section, the term ''applicable program'' means any program under any of the following provisions of law:

(1) Chapters 4 and 5 of subtitle B of title I of Public Law 105–220 [29 U.S.C. 2851 et seq., 2861 et seq.].

(2) The Wagner-Peyser Act [29 U.S.C. 49 et seq.].

(c) Use of funds as matching funds

For the purposes of this section, the term ''additional funds'' does not include funds used as matching funds.

(Pub. L. 88–210, title III, § 321, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3123.)

REFERENCES IN TEXT

Public Law 105–220, referred to in subsec. (b)(1), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, known as the Workforce Investment Act of 1998. Chapters 4 and 5 of subtitle B of title I of the Act are classified generally to parts D (§ 2851 et seq.) and E (§ 2861 et seq.), respectively, of subchapter II of chapter 30 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Wagner-Peyser Act, referred to in subsec. (b)(2), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified generally to chapter 4B (§ 49 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2468 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2411, Pub. L. 88–210, title IV, § 411, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 812, authorized grants for demonstration programs, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 2411, Pub. L. 88–210, title IV, § 411, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2470, related to programs and projects Secretary was authorized to carry out from available funds, prior to the general amendment of part B of former subchapter IV of this chapter by Pub. L. 101–392.

A prior section 321 of Pub. L. 88–210 was classified to section 2381 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 321 of Pub. L. 88–210 was classified to section 2371 of this title, prior to repeal by Pub. L. 101–392.

§ 2412. Prohibition on use of funds to induce out-of-State relocation of businesses

No funds provided under this chapter shall be used for the purpose of directly providing incentives or inducements to an employer to relocate a business enterprise from one State to another State if such relocation will result in a reduction in the number of jobs available in the State where the business enterprise is located before such incentives or inducements are offered.

(Pub. L. 88–210, title III, § 322, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3124.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2468c of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2412, Pub. L. 88–210, title IV, § 412, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 812, authorized grants for development, production, and distribution of instructional telecommunications materials and services, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 322 of Pub. L. 88–210 was classified to section 2382 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 322 of Pub. L. 88–210 was classified to section 2372 of this title, prior to repeal by Pub. L. 101–392.

§ 2413. State administrative costs

(a) General rule

Except as provided in subsection (b) of this section, for each fiscal year for which an eligible agency receives assistance under this chapter, the eligible agency shall provide, from non-Federal sources for the costs the eligible agency incurs for the administration of programs under this chapter an amount that is not less than the amount provided by the eligible agency from non-Federal sources for such costs for the preceding fiscal year.

(b) Exception

If the amount made available for administration of programs under this chapter for a fiscal year is less than the amount made available for administration of programs under this chapter for the preceding fiscal year, the amount the eligible agency is required to provide from non-Federal sources for costs the eligible agency incurs for administration of programs under this chapter shall be the same percentage as the amount made available for administration of programs under this chapter.

(Pub. L. 88–210, title III, § 323, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3124.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2468d of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

A prior section 2413, Pub. L. 88–210, title IV, § 413, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 813, authorized establishment of demonstration centers for training of dislocated workers, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 2413, Pub. L. 88–210, title IV, § 413, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2471, related to program of competitive grants to State boards for State programs involving loan of high-technology, state-of-the-art equipment to eligible recipients for use in local vocational education programs, prior to the general amendment of part B of former subchapter IV of this chapter by Pub. L. 101–392.

A prior section 323 of Pub. L. 88–210 was classified to section 2383 of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

Another prior section 323 of Pub. L. 88–210 was classified to section 2373 of this title, prior to repeal by Pub. L. 101–392.

§ 2414. Limitation on Federal regulations

The Secretary may issue regulations under this chapter only to the extent necessary to administer and ensure compliance with the specific requirements of this chapter.

(Pub. L. 88–210, title III, § 324, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3124.)

PRIOR PROVISIONS

A prior section 2414, Pub. L. 88–210, title IV, § 414, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 813, authorized grants for professional development, prior to the general amendment of this chapter by Pub. L. 105–332.

§ 2415. Student assistance and other Federal programs

(a) Attendance costs not treated as income or resources

The portion of any student financial assistance received under this chapter that is made available for attendance costs described in subsection (b) of this section shall not be considered as income or resources in determining eligi-

bility for assistance under any other program funded in whole or in part with Federal funds.

(b) Attendance costs

The attendance costs described in this subsection are—

(1) tuition and fees normally assessed a student carrying an academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in that course of study; and

(2) an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

(c) Costs of vocational and technical education services

Funds made available under this chapter may be used to pay for the costs of vocational and technical education services required in an individualized education plan developed pursuant to section 1414(d) of this title and services necessary to meet the requirements of section 794 of title 29 with respect to ensuring equal access to vocational and technical education.

(Pub. L. 88–210, title III, § 325, as added Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3124.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 2466d of this title, prior to the general amendment of this chapter by Pub. L. 105–332.

Prior sections 2415 to 2424 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2415, Pub. L. 88–210, title IV, § 415, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 817, related to Blue Ribbon Vocational Education Programs.

Another prior section 2415, Pub. L. 88–210, title IV, § 415, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2471, related to establishment by Secretary of demonstration centers for retraining of dislocated workers, prior to the general amendment of part B of former subchapter IV of this chapter by Pub. L. 101–392.

Section 2416, Pub. L. 88–210, title IV, § 416, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 818, related to development of business and education standards.

Section 2417, Pub. L. 88–210, title IV, § 417, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 818, related to educational programs for Federal correctional institutions.

Another prior section 2417, Pub. L. 88–210, title IV, § 417, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2471; amended Pub. L. 99–159, title VII, § 710, Nov. 22, 1985, 99 Stat. 907, related to establishment of grant program to establish and operate model centers for vocational education for older individuals, prior to the general amendment of part B of former subchapter IV of this chapter by Pub. L. 101–392.

Section 2418, Pub. L. 88–210, title IV, § 418, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 819, related to dropout prevention.

Section 2419, Pub. L. 88–210, title IV, § 419, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 819, related to model programs of regional training for skilled trades.

Section 2420, Pub. L. 88–210, title IV, § 420, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 820; amended Pub. L. 103–382, title III, § 391(s)(6), Oct. 20, 1994, 108 Stat. 4025, related to demonstration projects for integration of vocational and academic learning.

Section 2420a, Pub. L. 88–210, title IV, § 420A, as added Pub. L. 101–392, title IV, § 406(a), Sept. 25, 1990, 104 Stat. 820, related to cooperative demonstration programs.

Section 2421, Pub. L. 88–210, title IV, § 421, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2472; amended Pub. L. 101–392, title IV, § 407, Sept. 25, 1990, 104 Stat. 822; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 103–227, title X, § 1021, Mar. 31, 1994, 108 Stat. 269, authorized vocational education and occupational information data systems.

Section 2422, Pub. L. 88–210, title IV, § 422, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2473; amended Pub. L. 101–392, title IV, § 408, Sept. 25, 1990, 104 Stat. 825; Pub. L. 103–227, title IX, § 991, Mar. 31, 1994, 108 Stat. 264, related to National Occupational Information Coordinating Committee.

Section 2423, Pub. L. 88–210, title IV, § 423, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2474; amended Pub. L. 101–392, title IV, § 409, Sept. 25, 1990, 104 Stat. 827, related to information base for vocational education data system.

Section 2424, Pub. L. 88–210, title IV, § 424, as added Pub. L. 101–392, title IV, § 410, Sept. 25, 1990, 104 Stat. 829, related to collection of information at reasonable cost and cooperation of States.

A prior section 2431, Pub. L. 88–210, title IV, § 431, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2474, established National Council on Vocational Education, prior to repeal by Pub. L. 101–392, title IV, § 411(a), (c), Sept. 25, 1990, 104 Stat. 829, effective Oct. 1, 1991.

Prior sections 2441 to 2461 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2441, Pub. L. 88–210, title IV, § 441, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2477; amended Pub. L. 104–66, title I, § 1041(h), Dec. 21, 1995, 109 Stat. 715, authorized grants for bilingual vocational training.

Section 2451, Pub. L. 88–210, title IV, § 451, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2479; amended Pub. L. 101–392, title IV, § 412, Sept. 25, 1990, 104 Stat. 829, related to distribution of assistance.

Section 2461, Pub. L. 88–210, title V, § 501, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2479, related to Federal payments to States.

A prior section 2462, Pub. L. 88–210, title V, § 502, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2479; amended Pub. L. 99–159, title VII, § 711, Nov. 22, 1985, 99 Stat. 907, related to Federal share of, and non-Federal contributions for, costs of vocational education programs, prior to repeal by Pub. L. 101–392, title V, § 501(a)(1), title VII, § 702(a), Sept. 25, 1990, 104 Stat. 830, 843, effective July 1, 1991.

A prior section 2463, Pub. L. 88–210, title V, § 502, formerly § 503, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2480; renumbered § 502 and amended Pub. L. 101–392, title V, § 501(a)(2), (b), Sept. 25, 1990, 104 Stat. 830, related to maintenance of effort, prior to the general amendment of this chapter by Pub. L. 105–332. See section 2391 of this title.

Prior sections 2464 and 2465 were repealed by Pub. L. 101–392, title V, § 501(a)(1), title VII, § 702(a), Sept. 25, 1990, 104 Stat. 830, 843, effective July 1, 1991.

Section 2464, Pub. L. 88–210, title V, § 504, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2480; amended Pub. L. 99–159, title VII, § 713(a)(3), Nov. 22, 1985, 99 Stat. 907, related to withholding of payments and judicial review of such action.

Section 2465, Pub. L. 88–210, title V, § 505, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2482, required States to conduct biennial audits.

Prior sections 2466 to 2471 were omitted in the general amendment of this chapter by Pub. L. 105–332.

Section 2466, Pub. L. 88–210, title V, § 503, formerly § 506, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2482; renumbered § 503, Pub. L. 101–392, title V, § 501(a)(2), Sept. 25, 1990, 104 Stat. 830, related to authority to make payments. See section 2392 of this title.

Section 2466a, Pub. L. 88–210, title V, § 504, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 830; amended Pub. L. 103–382, title II, § 261(i)(1), Oct. 20, 1994, 108 Stat. 3929, related to regional meetings and negotiated rulemaking.

Section 2466b, Pub. L. 88–210, title V, § 505, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104

Stat. 831, contained requirements relating to reports, plans, and regulations.

Section 2466c, Pub. L. 88–210, title V, § 506, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 831, provided for consistency of this chapter with Federal laws guaranteeing civil rights. See section 2396 of this title.

Section 2466d, Pub. L. 88–210, title V, § 507, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 831, related to student assistance and other Federal programs. See section 2415 of this title.

Section 2466e, Pub. L. 88–210, title V, § 508, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 831, related to Federal monitoring of compliance with this chapter.

Section 2468, Pub. L. 88–210, title V, § 511, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 832, related to use of funds for joint funding of programs. See section 2411 of this title.

Section 2468a, Pub. L. 88–210, title V, § 512, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 832, related to review of regulations.

Section 2468b, Pub. L. 88–210, title V, § 513, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 833, related to identification of State-imposed requirements.

Section 2468c, Pub. L. 88–210, title V, § 514, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 833, prohibited use of funds to induce out-of-State relocation of businesses. See section 2412 of this title.

Section 2468d, Pub. L. 88–210, title V, § 515, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 833, related to State administrative costs. See section 2413 of this title.

Section 2468e, Pub. L. 88–210, title V, § 516, as added Pub. L. 101–392, title V, § 501(c)(2), Sept. 25, 1990, 104 Stat. 833, contained additional administrative provisions.

Section 2471, Pub. L. 88–210, title V, § 521, as added Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2482; amended Pub. L. 99–159, title VII, § 713(a)(4), Nov. 22, 1985, 99 Stat. 907; Pub. L. 101–392, title V, § 502, Sept. 25, 1990, 104 Stat. 834; Pub. L. 103–382, title III, § 391(s)(7), (8), Oct. 20, 1994, 108 Stat. 4025; Pub. L. 104–193, title I, § 110(i)(3), Aug. 22, 1996, 110 Stat. 2172, defined terms for purposes of this chapter. See section 2302 of this title.

CHAPTER 45—CAREER EDUCATION AND CAREER DEVELOPMENT

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SUBCHAPTER I—CAREER EDUCATION AND DEVELOPMENT PROGRAMS AND ACTIVITIES

§ 2501. Statement of purpose

It is the purpose of this subchapter to provide Federal assistance to States to enable them to plan for the development of career education and career development programs and activities for individuals of all ages, and to plan for the improvement of existing programs and activities, in the areas of awareness, exploration, planning, and decisionmaking of individuals served with regard to career opportunities and career development throughout the lifetimes of such individuals, through—

(1) planning for the development of information on the needs for career education and career development for all individuals;

(2) planning for the promotion of a national dialogue on career education and career development designed to encourage each State and local educational agency to determine and adopt the approach best suited to the needs of the individuals served by each such agency;

(3) planning for the assessment of the status of career education and career development programs and practices, including a reassessment of the stereotyping of career opportunities by race or by sex;

(4) planning for the demonstration of the best of the current career education and career development programs and practices by planning to develop and test exemplary programs and practices using various theories, concepts, and approaches with respect to career education and through planning for a nationwide system of regional career education centers;

(5) planning for the training and retraining of persons for conducting career education and career development programs; and

(6) developing State and local plans for implementing programs designed to ensure that every person has the opportunity to gain the knowledge and skills necessary for gainful or maximum employment and for full participation in our society according to his or her ability.

(Pub. L. 94–482, title III, § 331, Oct. 12, 1976, 90 Stat. 2221.)

EFFECTIVE DATE

Chapter effective 30 days after Oct. 12, 1976, except either as specifically otherwise provided or, if not so specifically otherwise provided, effective July 1, 1976, where section provides for authorization of appropriations, see section 532 of Pub. L. 94–482, set out as an Effective Date of 1976 Amendment note under section 1001 of this title.

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–270, Apr. 27, 1978, 92 Stat. 220, which enacted sections 2566 to 2569 of this title, is known as the Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act. For complete classification of this Act to the Code, see Short Title note set out under section 2566 of this title and Tables.

§ 2502. Funding requirements

(a) Authorization of appropriations

There are authorized to be appropriated for the purpose of this subchapter $10,000,000 for fiscal year 1978. The provisions of section 1226a[1] of this title shall not apply to the authorization made by this subsection.

(b) Availability of amounts appropriated; allotments to States, etc.

(1) From the sums appropriated under this subchapter, the Secretary of Education shall reserve an amount not to exceed $2,000,000, for the purpose of carrying out section 2505 of this title.

(2) From the remainder of the sums appropriated under this subchapter, the Secretary of Education shall reserve such amount, not to exceed 1 per centum thereof, as he may determine necessary and shall allot such amount among the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, according to their relative need for assistance under this subchapter.

(3)(A) Of the remainder of the sums appropriated, the Secretary of Education shall allot to each State $100,000, and of the remainder of the sums appropriated the Secretary of Education shall allot to each State an amount which bears the same ratio to such sums for such year as the population of the State bears to the population of all States, for purposes of carrying out section 2501 of this title.

(B) For purposes of this paragraph, the term ''State'' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) Federal share

The Federal share of funds allotted to States under this subchapter shall not exceed 80 per centum of the total cost of the planning undertaken pursuant to this subchapter.

[1] See References in Text note below.

(Pub. L. 94–482, title III, § 332, Oct. 12, 1976, 90 Stat. 2222; Pub. L. 95–207, § 16, Dec. 13, 1977, 91 Stat. 1474; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

Section 1226a of this title, referred to in subsec. (a), was in the original a reference to section 414 of the General Education Provisions Act. Section 414 of that Act was renumbered as section 422 by Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and is classified to section 1226a of this title.

AMENDMENTS

1977—Subsec. (b)(2). Pub. L. 95–207, § 16(1), substituted ''1 per centum'' for ''3 per centum'' and struck out ''the Commonwealth of Puerto Rico,'' after ''shall allot such amount among''.

Subsec. (b)(3)(B). Pub. L. 95–207, § 16(2), substituted '', the District of Columbia, and the Commonwealth of Puerto Rico'' for ''and the District of Columbia''.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 95–207, § 16, Dec. 13, 1977, 91 Stat. 1474, cited as a credit to this section, was repealed by Pub. L. 97–35, title V, § 587(a)(4), Aug. 13, 1981, 95 Stat. 480, effective Oct. 1, 1982.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Commissioner of Education'' and ''Commissioner'' in subsecs. (b)(1), (2), and (3)(A) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2503. Administration by Office of Career Education

The provisions of this subchapter shall be carried out by the Secretary of Education through the Office of Career Education established pursuant to section 2612a(c) of this title.

(Pub. L. 94–482, title III, § 333, Oct. 12, 1976, 90 Stat. 2222; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

Section 2612a of this title, referred to in text, has been omitted from the Code.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

For authority of Secretary of Education to consolidate, alter, or discontinue the Office of Career Education, or to reallocate any functions vested by statute in the Office, see section 413 of Pub. L. 96–88, which is classified to section 3473 of this title.

§ 2504. Prerequisites for State participation

Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this subchapter shall agree to submit to the

Secretary of Education by December 31, 1978, a report on any planning undertaken pursuant to this subchapter. Such report shall be in such form as the State may desire, and may include planning proposals for—

(1) extending career education and career development programs and services to all individuals in the State;

(2) extending the concept of the education process beyond the school into the area of employment and community affairs, and relating the subject matter curriculums of schools to the needs of individuals to function in society;

(3) the implementation of new concepts in career education and career development and for the replication of concepts which have demonstrated success;

(4) the development of training programs, including inservice training programs, for teachers, counselors, other educators, and administrators;

(5) fostering cooperative arrangements with such community groups and agencies as the public employment services, vocational rehabilitation service, community mental health agencies, education opportunity centers, and other community resources concerned with vocational development guidance and counseling, in order to avoid unnecessary duplication in the provision of services in the community or area to be served; and

(6) inventories of State, local, and private resources available for the development of career education and career development programs and services.

(Pub. L. 94–482, title III, § 334, Oct. 12, 1976, 90 Stat. 2222; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§ 2505. Grants or contracts

(a) Information gathering; analysis of career trends and options; publication of periodic reports and reference works; conduct of seminars, workshops, etc.

The Secretary of Education shall provide, either directly or by grant or contract, for—

(1) the gathering, cataloging, storing, analyzing, and disseminating information related to the availability of, and preparation for, careers in the United States, including information concerning current career options, future career trends, and career education;

(2) the ongoing analysis of career trends and options in the United States, using information from both the public and private sectors, including such sources as the Bureau of Labor Statistics, the Department of Commerce, the United States International Trade Commission, economic analysts, labor unions, and private industry;

(3) the publication of periodic reports and reference works using analysis prepared pursuant to this section and containing exemplary materials from the career education field, including research findings, results, and techniques from successful projects and programs, and highlights of ongoing analyses of career trends in the United States; and

(4) the conduct of seminars, workshops, and career information sessions for the purpose of disseminating to teachers, guidance counselors, other career educators, administrators, other education personnel, and the general public information compiled and analyzed under this section.

(b) Implementation requirements

In carrying out the provisions of this subchapter, and to the extent practicable, the Secretary of Education shall (1) make use of existing offices, centers, clearinghouses, and research capabilities, (2) coordinate among the offices, centers, clearinghouses, and research capabilities in carrying out his career information responsibilities, and (3) use the career information capabilities of the Department of Education.

(Pub. L. 94–482, title III, § 335, Oct. 12, 1976, 90 Stat. 2223; Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692.)

CHANGE OF NAME

''United States International Trade Commission'' substituted for ''Unites States Tariff Commission'' in subsec. (a)(2) pursuant to Pub. L. 93–618, § 171(a), Jan. 3, 1975, 88 Stat. 2009, which is classified to section 2231(a) of Title 19, Customs Duties.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Commissioner'' in text, and ''Department of Education'' substituted for ''Education Division'' in subsec. (b)(3), pursuant to sections 301(a)(1), (b)(2) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1), (b)(2) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education and transferred Education Division to Department of Education.

§ 2506. Functions of National Advisory Council for Career Education

The National Advisory Council for Career Education established pursuant to section 2612a(g) of this title shall, in addition to its duties under that section, advise the Secretary of Education with respect to the implementation of this subchapter.

(Pub. L. 94–482, title III, § 336, Oct. 12, 1976, 90 Stat. 2224; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

Section 2612a of this title, referred to in text, has been omitted from the Code.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year

period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER II—GUIDANCE AND COUNSELING ACTIVITIES AND PROGRAMS

§ 2531. Congressional findings

The Congress finds that—

(1) guidance and counseling activities are an essential component to assure success in achieving the goals of many education programs: [1]

(2) lack of coordination among guidance and counseling activities supported jointly or separately by Federal programs and by State and local programs has resulted in an underutilization of resources available for such activities; and

(3) increased and improved preparation of education professionals is needed in guidance and counseling, including administration of guidance and counseling programs at the State and local levels, with special emphasis on inservice training which takes educational professionals into the workplaces of business and industry, the professions, and other occupational pursuits, and that increased and improved use of individuals employed in such pursuits are needed for effective guidance and counseling programs, including (A) bringing persons employed in such pursuits into schools, and (B) bringing students into such workplaces for observation of, and participation in, such pursuits, in order to acquaint the students with the nature of the work.

(Pub. L. 94–482, title III, § 341, Oct. 12, 1976, 90 Stat. 2224.)

§ 2532. Authorization of appropriations

(a) Fiscal years 1978 through 1983

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1978 through 1983, to carry out the provisions of this subchapter.

(b) Limitations; allotments to States, etc.; reallotments

(1) There are authorized to be appropriated $3,000,000 for fiscal year 1977, for purposes of grants to States made by the Secretary of Education for programs, projects, and leadership activities designed to expand and strengthen counseling and guidance services in elementary and secondary schools.

(2) No sums are authorized to be appropriated under section 401(a) [1] of the Elementary and Secondary Education Act of 1965 for fiscal year 1977, for the purpose of making grants under part B (Libraries and Learning Resources) of title IV of such Act, for such fiscal year which represent the amount authorized to be appropriated under paragraph (1) of this subsection.

(3)(A) The Secretary of Education shall allot the amounts appropriated under this subsection among Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this subsection. In addition, he shall allot from such amounts to (i) the Secretary of the Interior the amounts necessary for the programs, projects, and activities authorized by this subsection for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior; and (ii) the Secretary of Defense the amounts necessary for the programs, projects, and activities authorized by this subsection for children and teachers in the overseas dependents schools of the Department of Defense. The terms upon which payment for such purposes shall be made to the Secretary of the Interior and the Secretary of Defense shall be determined pursuant to such criteria as the Secretary of Education determines will best carry out the purposes of this subsection.

(B) From the amounts appropriated to carry out this subsection, the Secretary of Education shall allot to each State from such amounts an amount which bears the same ratio to such amounts as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all the States. For the purposes of this subparagraph, the term ''State'' shall not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. The number of children aged five to seventeen, inclusive, in a State and in all the States shall be determined by the Secretary of Education on the basis of the most recent satisfactory data available to him.

(C) The amount of any State's allotment under subparagraph (A) or subparagraph (B) to carry out this subsection which the Secretary of Education determines will not be required to carry out this subsection shall be available for reallotment from time to time, on such dates as the Secretary of Education may fix, to other States in proportion to the original allotments to such States under subparagraph (A) or subparagraph (B) but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary of Education estimates such State needs and will be able to use. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subparagraph from funds appropriated under this subsection shall be deemed a part of its allotment under subparagraph (A) or subparagraph (B).

(Pub. L. 94–482, title III, § 342, Oct. 12, 1976, 90 Stat. 2224; Pub. L. 95–561, title XIII, § 1351, Nov. 1, 1978, 92 Stat. 2364; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

REFERENCES IN TEXT

Title IV of the Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(2), which was formerly classified to subchapter I (§ 1801 et seq.) of chap-

[1] So in original. The colon probably should be a semicolon.

[1] See References in Text note below.

ter 40 of this title, was amended generally by Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2229, and reclassified to subchapter IV (§ 3081 et seq.) of chapter 47 of this title prior to its repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480. Section 401(a) and part B of title IV of the Elementary and Secondary Education Act of 1965 were classified to section 3081(a) and sections 3101 and 3102, respectively, of this title prior to their repeal by section 587(a)(1) of Pub. L. 97–35.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–561 substituted ''fiscal years 1978 through 1983'' for ''fiscal years 1978 and 1979''.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–561 effective Oct. 1, 1978, see section 1530(a) of Pub. L. 95–561, set out as a note under section 1221e–3 of this title.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted for ''Commissioner'' in subsec. (b)(1) and (3) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 2533. Administration by unit in Department of Education

(a) Establishment; functions

The Secretary of Education shall establish or designate an administrative unit within the Department of Education for purposes of—

(1) carrying out provisions of this subchapter;

(2) providing information regarding guidance and counseling as a profession, guidance and counseling activities of the Federal Government, and, to the extent practicable, activities of State and local programs of guidance and counseling; and

(3) advising the Secretary of Education on coordinating guidance and counseling activities included in all programs which he is authorized to carry out, and, to the extent he deems practicable, how such activities may be coordinated with other programs of the Federal Government and State and local guidance and counseling programs.

(b) Reservation of amount for implementation

The Secretary of Education may reserve an amount not to exceed 5 per centum of the sums appropriated under this subchapter to carry out the provisions of this section.

(Pub. L. 94–482, title III, § 343, Oct. 12, 1976, 90 Stat. 2225; Pub. L. 95–43, § 1(b)(8), June 15, 1977, 91 Stat. 219; Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692.)

AMENDMENTS

1977—Subsec. (a)(1). Pub. L. 95–43 substituted ''this subchapter'' for ''this section''.

TRANSFER OF FUNCTIONS

''Secretary of Education'' and ''Department of Education'' substituted in text for ''Commissioner'' and ''Education Division'', respectively, pursuant to sections 301(a)(1), (b)(2) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1), (b)(2) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education and transferred Education Division to Department of Education.

For authority of Secretary of Education to consolidate, alter, or discontinue the administrative unit for guidance and counseling programs, or to reallocate any functions vested by statute in the administrative unit, see section 413 of Pub. L. 96–88, which is classified to section 3473 of this title.

§ 2534. Contracts and grants to States, educational agencies, etc.

(a) Implementation of programs

The Secretary of Education is authorized, on a competitive basis, to enter into contracts and make grants to State and local educational agencies, to institutions of higher education, and to private nonprofit organizations to assist them in conducting institutes, work shops, and seminars designed to improve the professional guidance qualifications of teachers and counselors in State and local educational agencies and nonpublic elementary and secondary school systems, including opportunities for teachers and guidance counselors in such agencies and systems to obtain experience in business and industry, the professions, and other occupational pursuits, and including, for the purpose of such improvement, such programs, services, or activities which bring individuals with experience in such pursuits into schools as counselors or advisors for students, and which bring students into the workplaces of such pursuits to acquaint students with the nature of the work and to provide training for supervisory and technical personnel in such agencies and systems having responsibilities for guidance and counseling, and to improve supervisory services in the field of guidance and counseling.

(b) Coordination of programs of guidance and counseling

The Secretary of Education is authorized to make grants to States to assist them in carrying out programs to coordinate new and existing programs of guidance and counseling in the States.

(Pub. L. 94–482, title III, § 344, Oct. 12, 1976, 90 Stat. 2225; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

SUBCHAPTER III—MISCELLANEOUS PROVISIONS

§§ 2561 to 2563. Omitted

CODIFICATION

Section 2561, Pub. L. 94–482, title V, § 521, Oct. 12, 1976, 90 Stat. 2238, required Secretary of Health, Education, and Welfare, not later than six months after October 12, 1976, to report on purposes, administration, and effectiveness of special programs for students from dis-

advantaged backgrounds under sections 1070d and 1070d–1 of this title and High School Equivalency Program and College Assistance Migrant Program authorized under section 873 of title 29 and provided funding requirements for fiscal year 1977 for the programs authorized under section 873 of title 29.

Section 2562, Pub. L. 94–482, title V, § 522, Oct. 12, 1976, 90 Stat. 2238, S.Res. 4, 1977, required Secretary of Health, Education, and Welfare to conduct a study of need to reorganize the Education Division and transmit a report to Committee on Human Resources of Senate and Committee on Education and Labor of House of Representatives, no later than June 30, 1977.

Section 2563, Pub. L. 94–482, title V, § 523, Oct. 12, 1976, 90 Stat. 2239; Pub. L. 95–40, § 1(30), (31)(A), June 3, 1977, 91 Stat. 208, required Commissioner of Education to carry out a study of extent to which sex discrimination and sex stereotyping existed in certain vocational rehabilitation programs, and of progress made to reduce or eliminate such discrimination and stereotyping, and report to Congress results of study with recommendations by Oct. 12, 1978. Section also required National Institute of Education to undertake a thorough evaluation and study of vocational education programs, including such programs conducted by States and such programs conducted under specified laws, and made an interim report to President and to Congress not later than Sept. 30, 1980, and a final report to President and to Congress not later than Sept. 30, 1981.

§ 2564. Departmental day care center facilities; establishment; fees and charges; equipment and operation by appropriated funds

Notwithstanding any other provision of law, the Secretary of Health and Human Services is authorized by contract or otherwise to establish, equip, and operate day care center facilities for the purpose of serving children who are members of households of employees of the Department of Health and Human Services. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department employees or others who are beneficiaries of services provided by such facilities to pay for the cost of their operation and to accept money, equipment, or other property donated for use in connection with the facilities. No appropriated funds may be used for the equipping or operation of any centers provided under this authority. The prohibition made by the preceding sentence shall not preclude the provision of appropriate donated space nor the purchase of the initial equipment for the centers, except that the cost of such equipment shall be reimbursed over the expected life of such equipment, not to exceed 10 years.

(Pub. L. 94–482, title V, § 524, Oct. 12, 1976, 90 Stat. 2240; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CHANGE OF NAME

''Secretary of Health and Human Services'' and ''Department of Health and Human Services'' substituted in text for ''Secretary of Health, Education, and Welfare'' and ''Department of Health, Education, and Welfare'', respectively, pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of this title.

§ 2565. Wayne Morse Chair of Law and Politics

(a) Establishment

The Secretary of Education (hereinafter in this section referred to as the ''Secretary'') is authorized to provide financial assistance in accordance with the provisions of this section to assist in establishing the Wayne Morse Chair of Law and Politics at the University of Oregon, of Eugene, Oregon.

(b) Federal share; application for financial assistance

(1) For purposes of this section, the Federal share of the cost of establishing the Wayne Morse Chair of Law and Politics shall not exceed 50 per centum.

(2) No financial assistance under this section may be made except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) Authorization of appropriations

There are authorized to be appropriated such sums, not to exceed $500,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

(Pub. L. 94–482, title V, § 525, Oct. 12, 1976, 90 Stat. 2241; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

TRANSFER OF FUNCTIONS

''Secretary'' substituted for ''Commissioner'' in subsecs. (a) and (b) pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§ 2566. Hubert H. Humphrey Institute of Public Affairs; grants for development

In recognition of the public service of Senator Hubert H. Humphrey, the Secretary of Education (hereafter in sections 2566 to 2569 of this title referred to as the ''Secretary'') is authorized to make grants in accordance with the provisions of sections 2566 to 2569 of this title to assist in the development of the Hubert H. Humphrey Institute of Public Affairs, located at the University of Minnesota, Minneapolis-Saint Paul.

(Pub. L. 95–270, § 2(a), Apr. 27, 1978, 92 Stat. 220; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

EFFECTIVE DATE

Section 4(d) of Pub. L. 95–270 provided that: ''This Act [enacting this section, sections 2567 to 2569 of this title, and provisions set out as a note below] shall take effect October 1, 1978.''

SHORT TITLE

Section 1 of Pub. L. 95–270 provided: ''That this Act [enacting this section, sections 2567 to 2569 of this title, and provisions set out as a note above] may be cited as the 'Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act'.''

TRANSFER OF FUNCTIONS

''Secretary'' substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§ 2567. Everett McKinley Dirksen Congressional Leadership Research Center; grants for development

In recognition of the public service of Senator Everett McKinley Dirksen, the Secretary is authorized to make grants in accordance with the provisions of sections 2566 to 2569 of this title to assist in the development of the Everett McKinley Dirksen Congressional Leadership Research Center, located in Pekin, Illinois.

(Pub. L. 95–270, § 2(b), Apr. 27, 1978, 92 Stat. 220; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 4(d) of Pub. L. 95–270, set out as a note under section 2566 of this title.

TRANSFER OF FUNCTIONS

''Secretary'', meaning the Secretary of Education, substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§ 2568. Payments to Humphrey Institute and Dirksen Center; procedures applicable

No payment may be made under sections 2566 to 2569 of this title except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(Pub. L. 95–270, § 3, Apr. 27, 1978, 92 Stat. 220; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 4(d) of Pub. L. 95–270, set out as a note under section 2566 of this title.

TRANSFER OF FUNCTIONS

''Secretary'', meaning Secretary of Education, substituted in text for ''Commissioner'' pursuant to sections 301(a)(1) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(1) and 3507 of this title and which transferred functions of Commissioner of Education to Secretary of Education.

§ 2569. Authorization of appropriations for Humphrey Institute and Dirksen Center

(a) Maximum amount for Institute

There are authorized to be appropriated such sums, not to exceed $5,000,000, as may be necessary to carry out the provisions of section 2566 of this title.

(b) Maximum amount for Center

There are authorized to be appropriated such sums, not to exceed $2,500,000, as may be necessary to carry out the provisions of section 2567 of this title.

(c) Availability of funds

Funds appropriated pursuant to sections 2566 to 2569 of this title shall remain available until expended.

(Pub. L. 95–270, § 4(a)–(c), Apr. 27, 1978, 92 Stat. 220.)

EFFECTIVE DATE

Section effective Oct. 1, 1978, see section 4(d) of Pub. L. 95–270, set out as a note under section 2566 of this title.

CHAPTER 46—CAREER EDUCATION INCENTIVE

Sec.
2601 to 2614. Repealed or Omitted.

§§ 2601 to 2612. Repealed. Pub. L. 97–35, title V, § 587(a)(4), Aug. 13, 1981, 95 Stat. 480

Section 2601, Pub. L. 95–207, § 2, Dec. 13, 1977, 91 Stat. 1464, provided Congressional findings for this chapter.

Section 2602, Pub. L. 95–207, § 3, Dec. 13, 1977, 91 Stat. 1464, set out Congressional declaration of purpose for this chapter.

Section 2603, Pub. L. 95–207, § 4, Dec. 13, 1977, 91 Stat. 1464; Pub. L. 96–46, § 6, Aug. 6, 1979, 93 Stat. 343, authorized appropriations for this chapter.

Section 2604, Pub. L. 95–207, § 5, Dec. 13, 1977, 91 Stat. 1465; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States.

Section 2605, Pub. L. 95–207, § 6, Dec. 13, 1977, 91 Stat. 1465; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of applications containing requisite assurances by States in order to receive funds under this chapter.

Section 2606, Pub. L. 95–207, § 7, Dec. 13, 1977, 91 Stat. 1467; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission and contents of State plans.

Section 2607, Pub. L. 95–207, § 8, Dec. 13, 1977, 91 Stat. 1467, related to State payments to local educational agencies for comprehensive programs.

Section 2608, Pub. L. 95–207, § 9, Dec. 13, 1977, 91 Stat. 1469; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to States under this chapter.

Section 2609, Pub. L. 95–207, § 10, Dec. 13, 1977, 91 Stat. 1470; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants to States for model programs.

Section 2610, Pub. L. 95–207, § 11, Dec. 13, 1977, 91 Stat. 1470; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to postsecondary educational career demonstration projects.

Section 2611, Pub. L. 95–207, § 12, Dec. 13, 1977, 91 Stat. 1471; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to career education information.

Section 2612, Pub. L. 95–207, § 13(a)–(d), Dec. 13, 1977, 91 Stat. 1471; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to administrative functions of Office of Career Education and National Advisory Council on Career Education.

SHORT TITLE

Section 1 of Pub. L. 95–207 which provided for short title of this chapter as the Career Education Incentive Act, was repealed by Pub. L. 97–35, title V, § 587(a)(4), Aug. 13, 1981, 95 Stat. 480.

§ 2612a. Omitted

CODIFICATION

Section, Pub. L. 93–380, title IV, § 406, Aug. 21, 1974, 88 Stat. 551; Pub. L. 94–273, § 2(15), Apr. 21, 1976, 90 Stat. 375; Pub. L. 94–482, title V, § 501(a)(6), (7), Oct. 12, 1976, 90 Stat. 2235; Pub. L. 95–207, § 13(e), Dec. 13, 1977, 91 Stat. 1472; Pub. L. 95–561, title III, § 301(b)(1)(E), (3), Nov. 1, 1978, 92 Stat. 2228; Pub. L. 96–88, title III, § 301(a)(1), (b)(1), (2), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 678, 692, established an Office of Career Education to carry out the Career Education Incentive Act and a National Advisory Council for Career Education to advise on the

implementation of the section and other programs pertaining to development and implementation of career education. The Career Education Incentive Act was repealed by Pub. L. 97–35, and section 413 of Pub. L. 96–88 (20 U.S.C. 3473) authorized the Secretary of Education to consolidate, alter, or discontinue the Office of Career Education or to reallocate any functions vested by statute in the Office. The National Advisory Council for Career Education terminated in 1982.

Section was formerly classified to section 1865 of this title.

§§ 2613, 2614. Repealed. Pub. L. 97–35, title V, § 587(a)(4), Aug. 13, 1981, 95 Stat. 480

Section 2613, Pub. L. 95–207, § 14, Dec. 13, 1977, 91 Stat. 1472; S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to annual State reports to Secretary, and a review and report to Congress by Secretary.

Section 2614, Pub. L. 95–207, § 15, Dec. 13, 1977, 91 Stat. 1473; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, set out definitions for this chapter.

CHAPTER 47—STRENGTHENING AND IMPROVEMENT OF ELEMENTARY AND SECONDARY SCHOOLS

CODIFICATION

The Elementary and Secondary Education Act of 1965 (Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended generally by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 140, and as further amended), which was classified to this chapter (§ 2701 et seq.), was amended generally by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519, and transferred to chapter 70 (§ 6301 et seq.) of this title, and further substantially amended by Pub. L. 107–110, Jan. 8, 2002, 115 Stat. 1425.

SUBCHAPTER I—BASIC PROGRAMS

Division 1—Financial Assistance To Meet Special Educational Needs of Children

§ 2701. Omitted

CODIFICATION

Section, Pub. L. 89–10, title I, § 1001, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 140, which provided a declaration of policy and statement of purpose, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 6301 of this title.

A prior section 2701, Pub. L. 89–10, title I, § 101, as added Pub. L. 95–561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2153, set out Congressional declaration of policy, prior to the general revision of this chapter by Pub. L. 100–297.

A prior section 2702, Pub. L. 89–10, title I, § 102, as added Pub. L. 95–561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2153; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, provided for the duration of assistance on entitlements created under this subchapter, prior to the general revision of this chapter by Pub. L. 100–297.

PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

SUBPART 1—ALLOCATIONS

§§ 2711 to 2713. Omitted

CODIFICATION

Sections 2711 and 2712 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 6311 et seq. of this title.

Section 2711, Pub. L. 89–10, title I, § 1005, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 141; amended Pub. L. 102–73, title VIII, § 802(a), July 25, 1991, 105 Stat. 360, related to basic grants.

A prior section 2711, Pub. L. 89–10, title I, § 111, as added Pub. L. 95–561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2153; amended Pub. L. 96–88, title III, § 301(a)(1), title V, §§ 507, 508(k), Oct. 17, 1979, 93 Stat. 677, 692, 694, related to amount and eligibility for grants, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2712, Pub. L. 89–10, title I, § 1006, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 146, related to grants for local educational agencies in counties with especially high concentrations of children from low-income families.

A prior section 2712, Pub. L. 89–10, title I, § 112, as added Pub. L. 95–561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2158, related to treatment of earnings for purposes of aid to families with dependent children, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2713, Pub. L. 93–380, title I, § 101(a)(10), Aug. 21, 1974, 88 Stat. 501; Pub. L. 95–561, title I, § 101(d), Nov. 1, 1978, 92 Stat. 2200; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, which was enacted as part of Education Amendments of 1974, and formerly classified to section 241b–1 of this title, related to authorization of appropriations to assist otherwise lower fiscal year allotment levels under former provisions of the Elementary and Secondary Education Act of 1965.

SUBPART 2—BASIC PROGRAM REQUIREMENTS

§§ 2721 to 2731. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 6311 et seq. of this title.

Section 2721, Pub. L. 89–10, title I, § 1011, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 149, related to use of funds for educationally deprived children.

A prior section 2721, Pub. L. 89–10, title I, § 116, as added Pub. L. 95–561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2158; amended Pub. L. 96–46, § 1(1), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to special incentive grants, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2722, Pub. L. 89–10, title I, § 1012, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 150, related to assurances and applications.

A prior section 2722, Pub. L. 89–10, title I, § 117, as added Pub. L. 95–561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2159; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for local educational agencies in counties with especially high concentrations of children from low-income families, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2723, Pub. L. 89–10, title I, § 1013, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 151, related to use of funds in eligible school attendance areas.

Section 2724, Pub. L. 89–10, title I, § 1014, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 153, related to use of funds for eligible educationally deprived children.

Section 2725, Pub. L. 89–10, title I, § 1015, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 154; amended Pub. L. 102–359, § 2(c)(1), Aug. 26, 1992, 106 Stat. 962, related to schoolwide projects.

Section 2726, Pub. L. 89–10, title I, §1016, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 156, related to parental involvement.

Section 2727, Pub. L. 89–10, title I, §1017, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 158, related to participation of children enrolled in private schools.

Section 2728, Pub. L. 89–10, title I, §1018, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 160, related to fiscal requirements.

Section 2729, Pub. L. 89–10, title I, §1019, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 163, related to evaluation of programs.

Section 2730, Pub. L. 89–10, title I, §1020, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 164, related to State educational program improvement plan.

Section 2731, Pub. L. 89–10, title I, §1021, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 165, related to improvement of programs.

PRIOR PROVISIONS

Prior sections 2731 to 2740 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2731, Pub. L. 89–10, title I, §121, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2161; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications by local educational agencies for assistance under this subchapter.

Section 2732, Pub. L. 89–10, title I, §122, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2161; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to designation of school attendance areas.

Section 2733, Pub. L. 89–10, title I, §123, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2163; amended Pub. L. 96–46, §1(2), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to use of funds for educationally deprived children.

Section 2734, Pub. L. 89–10, title I, §124, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2164; amended Pub. L. 96–46, §1(3), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to requirements for design and implementation of programs.

Section 2735, Pub. L. 89–10, title I, §125, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2167; amended Pub. L. 96–46, §1(4), (5), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to parental involvement.

Section 2736, Pub. L. 89–10, title I, §126, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2168; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allocation of funds.

Section 2737, Pub. L. 89–10, title I, §127, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2170, related to accountability.

Section 2738, Pub. L. 89–10, title I, §128, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2171; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to complaint resolution.

Section 2739, Pub. L. 89–10, title I, §129, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2171, related to individualized plans.

Section 2740, Pub. L. 89–10, title I, §130, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2171; amended Pub. L. 96–46, §1(6), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to participation of children enrolled in private schools.

PART B—EVEN START FAMILY LITERACY PROGRAMS

§§ 2741 to 2749. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2741, Pub. L. 89–10, title I, §1051, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 167, provided statement of purpose.

Section 2742, Pub. L. 89–10, title I, §1052, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 167; amended Pub. L. 102–73, title III, §303(b), July 25, 1991, 105 Stat. 350, authorized grants to carry out Even Start programs.

Section 2743, Pub. L. 89–10, title I, §1053, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 167; amended Pub. L. 102–73, title III, §303(c), July 25, 1991, 105 Stat. 351, related to allocation of funds.

Section 2744, Pub. L. 89–10, title I, §1054, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 168; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 102–73, title III, §303(d), July 25, 1991, 105 Stat. 352, related to uses of funds.

Section 2745, Pub. L. 89–10, title I, §1055, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 169; amended Pub. L. 102–73, title III, §303(e), July 25, 1991, 105 Stat. 352, related to eligible participants.

Section 2746, Pub. L. 89–10, title I, §1056, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 169; amended Pub. L. 102–73, title III, §303(f), July 25, 1991, 105 Stat. 353, related to applications for grants.

Section 2747, Pub. L. 89–10, title I, §1057, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 170; amended Pub. L. 102–73, title III, §303(g), July 25, 1991, 105 Stat. 353, related to award of grants.

Section 2748, Pub. L. 89–10, title I, §1058, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 171, required evaluations of programs.

Section 2749, Pub. L. 89–10, title I, §1059, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 172; amended Pub. L. 102–73, title III, §303(h), July 25, 1991, 105 Stat. 353, authorized appropriations.

PRIOR PROVISIONS

Prior sections 2751 to 2754 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2751, Pub. L. 89–10, title I, §131, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2173; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to exclusions from excess costs and comparability provisions for certain special State and local programs.

Section 2752, Pub. L. 89–10, title I, §132, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2175, related to limited exemption to supplement, not supplant, requirement where certain special programs for educationally deprived children are fully funded.

Section 2753, Pub. L. 89–10, title I, §133, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2176; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to schoolwide projects.

Section 2754, Pub. L. 89–10, title I, §134, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2177, related to noninstructional duties.

PART C—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY

§§ 2761 to 2768. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965,

Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2761, Pub. L. 89–10, title I, §1101, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 172, provided statement of purpose.

A prior section 2761, Pub. L. 89–10, title I, §141, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2177; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to entitlement and amount of grants for migratory children programs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2762, Pub. L. 89–10, title I, §1102, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 172; amended Pub. L. 101–600, §3(a), Nov. 16, 1990, 104 Stat. 3042, related to allocation of funds.

A prior section 2762, Pub. L. 89–10, title I, §142, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2178; amended Pub. L. 96–46, §1(7), (8), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 97–300, title I, §183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 98–211, §19(a)(1), Dec. 8, 1983, 97 Stat. 1418, related to requirements for migratory children program, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2763, Pub. L. 89–10, title I, §1103, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 173; amended Pub. L. 101–600, §3(b), Nov. 16, 1990, 104 Stat. 3042, related to uses of funds.

A prior section 2763, Pub. L. 89–10, title I, §143, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2179; amended Pub. L. 96–46, §1(9), Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 99–159, title IV, §402, Nov. 22, 1985, 99 Stat. 904, related to coordination of migrant education activities, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2764, Pub. L. 89–10, title I, §1104, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 174; amended Pub. L. 101–600, §3(c), Nov. 16, 1990, 104 Stat. 3043, related to applications for grants.

Section 2765, Pub. L. 89–10, title I, §1105, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 175; amended Pub. L. 101–600, §3(d), Nov. 16, 1990, 104 Stat. 3044, related to award of grants.

Section 2765a, Pub. L. 89–10, title I, §1106, as added Pub. L. 101–600, §3(e)(2), Nov. 16, 1990, 104 Stat. 3045, related to annual reports and creation of information base.

Section 2765b, Pub. L. 89–10, title I, §1107, as added Pub. L. 101–600, §3(f), Nov. 16, 1990, 104 Stat. 3045, related to identification and dissemination of model programs.

Section 2766, Pub. L. 89–10, title I, §1108, formerly §1106, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 176; renumbered §1108 and amended Pub. L. 101–600, §3(e)(1), (g), Nov. 16, 1990, 104 Stat. 3045, 3046, related to fiscal requirements and coordination and dissemination efforts.

Section 2767, Pub. L. 89–10, title I, §1109, formerly §1107, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 176; renumbered §1109, Pub. L. 101–600, §3(e)(1), Nov. 16, 1990, 104 Stat. 3045, related to evaluation of programs.

Section 2767a, Pub. L. 89–10, title I, §1110, as added Pub. L. 101–600, §3(h), Nov. 16, 1990, 104 Stat. 3046, related to definition of ''secondary school completion rate''.

Section 2768, Pub. L. 89–10, title I, §1111, formerly §1108, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 176; renumbered §1111, Pub. L. 101–600, §3(e)(1), Nov. 16, 1990, 104 Stat. 3045, authorized appropriations.

Prior sections 2771 and 2772 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2771, Pub. L. 89–10, title I, §146, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2180; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for programs for handicapped children.

Section 2772, Pub. L. 89–10, title I, §147, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2180; amended Pub. L. 96–46, §1(10), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–211, §19(a)(2), Dec. 8, 1983, 97 Stat. 1418, related to program requirements for programs for handicapped children.

PART D—PROGRAMS OPERATED BY STATE AGENCIES

SUBPART 1—PROGRAMS FOR MIGRATORY CHILDREN

§§ 2781 to 2783. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6391 et seq. of this title.

Section 2781, Pub. L. 89–10, title I, §1201, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 176, related to grants for programs for education of children of migratory workers.

A prior section 2781, Pub. L. 89–10, title I, §151, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2181; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to amount and entitlement for grants for program for neglected and delinquent children, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2782, Pub. L. 89–10, title I, §1202, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 177; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to program requirements.

A prior section 2782, Pub. L. 89–10, title I, §152, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2181; amended Pub. L. 96–46, §1(11), Aug. 6, 1979, 93 Stat. 339; Pub. L. 98–211, §19(a)(2), Dec. 8, 1983, 97 Stat. 1418, related to program requirements for programs for neglected and delinquent children, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2783, Pub. L. 89–10, title I, §1203, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 178; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to coordination of migrant education activities.

A prior section 2783, Pub. L. 89–10, title I, §153, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2182; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to transition services, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

SUBPART 2—PROGRAMS FOR HANDICAPPED CHILDREN

§§ 2791 to 2796. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 1411 et seq. of this title.

Section 2791, Pub. L. 89–10, title I, §1221, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 179; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 102–103, title III, §312, Aug. 17, 1991, 105 Stat. 505, related to amount of and eligibility for grants for programs for handicapped children.

A prior section 2791, Pub. L. 89–10, title I, §156, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2182; amended Pub. L. 96–88, title III, §301(a)(1),

title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to reservation of funds for territories, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2792, Pub. L. 89–10, title I, §1222, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 181; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to program requirements.

A prior section 2792, Pub. L. 89–10, title I, §157, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2182, related to minimum payments for State operated programs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2793, Pub. L. 89–10, title I, §1223, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 182, related to uses of funds.

Section 2794, Pub. L. 89–10, title I, §1224, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 182; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to service and program applications.

Section 2795, Pub. L. 89–10, title I, §1225, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 183, related to children eligible for services.

Section 2796, Pub. L. 89–10,title I, §1226, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 184; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to Federal monitoring requirement.

SUBPART 3—PROGRAMS FOR NEGLECTED AND DELINQUENT CHILDREN

§§ 2801 to 2804. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 6421 et seq. of this title.

Section 2801, Pub. L. 89–10, title I, §1241, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 184, related to amount of and entitlement to grants for programs for neglected and delinquent children.

A prior section 2801, Pub. L. 89–10, title I, §161, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2183, related to applicability of former sections 2801–2824 of this title, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2802, Pub. L. 89–10, title I, §1242, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 184, related to program requirements.

A prior section 2802, Pub. L. 89–10, title I, §162, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2183; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to content and submission of State applications, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2803, Pub. L. 89–10, title I, §1243, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 185, related to transition services.

Section 2804, Pub. L. 89–10, title I, §1244, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 185, defined ''institution for delinquent children'' and ''institution for neglected children''.

SUBPART 4—GENERAL PROVISIONS FOR STATE OPERATED PROGRAMS

§§ 2811, 2812. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2811, Pub. L. 89–10, title I, §1291, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to reservation of funds for territories.

A prior section 2811, Pub. L. 89–10, title I, §164, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2183; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to approval of applications by State educational agencies, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2812, Pub. L. 89–10, title I, §1292, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to dual eligibility for programs.

Prior sections 2812 to 2817 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2812, Pub. L. 89–10, title I, §165, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2184; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to State rulemaking.

Section 2813, Pub. L. 89–10, title I, §166, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2184, related to technical assistance and dissemination of information.

Section 2814, Pub. L. 89–10, title I, §167, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2184; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to monitoring.

Section 2815, Pub. L. 89–10, title I, §168, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2185; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to resolution of complaints.

Section 2816, Pub. L. 89–10, title I, §169, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2185; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to withholding of payments.

Section 2817, Pub. L. 89–10, title I, §170, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2186; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to audits and audit resolution.

PART E—PAYMENTS

§§ 2821 to 2826. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2821, Pub. L. 89–10, title I, §1401, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to payment methods.

A prior section 2821, Pub. L. 89–10, title I, §171, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2187; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to State monitoring and enforcement plan, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2822, Pub. L. 89–10, title I, §1402, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to amount of payments to local educational agencies.

A prior section 2822, Pub. L. 89–10, title I, §172, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2187; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to reports filed with the Secretary by State educational agencies, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2823, Pub. L. 89–10, title I, §1403, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 186, related to adjustments where necessitated by appropriations.

A prior section 2823, Pub. L. 89–10, title I, §173, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2188; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to recordkeeping, fiscal control, and fund accounting, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2824, Pub. L. 89–10, title I, §1404, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 187, related to payments for State administration.

A prior section 2824, Pub. L. 89–10, title I, §174, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2188, related to prohibition of consideration of Federal aid in determining State aid, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2825, Pub. L. 89–10, title I, §1405, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 188, related to funds for implementation of school improvement programs.

Section 2826, Pub. L. 89–10, title I, §1406, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 188, related to limitation on grants to Commonwealth of Puerto Rico.

PART F—GENERAL PROVISIONS

SUBPART 1—FEDERAL ADMINISTRATION

§§ 2831 to 2839. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2831, Pub. L. 89–10, title I, §1431, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 189, related to Federal regulations.

A prior section 2831, Pub. L. 89–10, title I, §181, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2188, related to application of the General Education Provisions Act to programs under this subchapter, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2832, Pub. L. 89–10, title I, §1432, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 189, related to availability of appropriations.

A prior section 2832, Pub. L. 89–10, title I, §182, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2188; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to approval of applications, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2833, Pub. L. 89–10, title I, §1433, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 190, related to withholding of payments.

A prior section 2833, Pub. L. 89–10, title I, §183, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2189; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 96–470, title II, §204, Oct. 19, 1980, 94 Stat. 2244, related to program evaluation, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2834, Pub. L. 89–10, title I, §1434, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 190, related to judicial review.

A prior section 2834, Pub. L. 89–10, title I, §184, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2190; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to resolution of complaints, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2835, Pub. L. 89–10, title I, §1435, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 191, related to standards for evaluation of programs.

A prior section 2835, Pub. L. 89–10, title I, §185, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2190; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 95–452, §9(a)(1)(C), as added Pub. L. 96–88, title V, §508(n)(2), Oct. 17, 1979, 93 Stat. 694, related to audits and audit resolution, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2836, Pub. L. 89–10, title I, §1436, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 191, related to coordination of Federal, State, and local administration.

A prior section 2836, Pub. L. 89–10, title I, §186, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2191; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to withholding of payments, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2837, Pub. L. 89–10, title I, §1437, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 193, related to authorization of appropriations for evaluation and technical assistance.

A prior section 2837, Pub. L. 89–10, title I, §187, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2192; amended Pub. L. 96–88, title III, §301, title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to policy manual, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2838, Pub. L. 89–10, title I, §1438, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 193, related to application of General Education Provisions Act.

A prior section 2838, Pub. L. 89–10, title I, §188, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2193; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to enforcement report, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2839, Pub. L. 89–10, title I, §1439, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 193, related to National Commission on Migrant Education.

Prior sections 2841 to 2844 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2841, Pub. L. 89–10, title I, §191, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2195; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payment methods.

Section 2842, Pub. L. 89–10, title I, §192, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2195, related to amount of payments to local educational agencies.

Section 2843, Pub. L. 89–10, title I, §193, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2195; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to adjustments where necessitated by appropriations.

Section 2844, Pub. L. 89–10, title I, §194, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2196; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 97–35, title V, §554(d), Aug. 13, 1981, 95 Stat. 465, related to payments for State administration.

SUBPART 2—STATE ADMINISTRATION

§§ 2851 to 2854. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2851, Pub. L. 89–10, title I, §1451, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 196, related to State regulations.

A prior section 2851, Pub. L. 89–10, title I, §195, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2196; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to judicial review, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2852, Pub. L. 89–10, title I, §1452, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 197, related to records and information.

A prior section 2852, Pub. L. 89–10, title I, §196, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2197, related to National Advisory Council on the Education of Disadvantaged Children, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2853, Pub. L. 89–10, title I, §1453, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 197, related to assignment of personnel.

A prior section 2853, Pub. L. 89–10, title I, §197, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2198, related to limitation on grant to Puerto Rico, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 2854, Pub. L. 89–10, title I, §1454, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 197, related to prohibition regarding State aid.

A prior section 2854, Pub. L. 89–10, title I, §198, as added Pub. L. 95–561, title I, §101(a), Nov. 1, 1978, 92 Stat. 2198; amended Pub. L. 96–88, title III, §301(a)(1), (2)(B), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, defined terms for purposes of this subchapter, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

SUBPART 3—RURAL EDUCATIONAL OPPORTUNITIES

§§ 2861 to 2864. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2861, Pub. L. 89–10, title I, §1456, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 198, authorized rural assistance programs.

Section 2862, Pub. L. 89–10, title I, §1457, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 198, related to application priority requirements.

Section 2863, Pub. L. 89–10, title I, §1458, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 198, related to coordination, dissemination, and report.

Section 2864, Pub. L. 89–10, title I, §1459, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 199, authorized appropriations.

SUBPART 4—STUDIES

§§ 2881 to 2883. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2881, Pub. L. 89–10, title I, §1461, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 199, required report on State and local evaluations.

A prior section 2881, Pub. L. 89–10, title II, §201, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2201, set out the purpose of this part, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2882, Pub. L. 89–10, title I, §1462, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 199, required national study on effect of programs on children.

A prior section 2882, Pub. L. 89–10, title II, §202, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2202, related to applications for grants and awards under this part, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2883, Pub. L. 89–10, title I, §1463, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 199, authorized appropriations.

Prior sections 2883 to 2890 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2883, Pub. L. 89–10, title II, §203, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2202, related to acceptance of gifts by the Secretary.

Section 2884, Pub. L. 89–10, title II, §204, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2202, authorized Secretary to make grants and contracts under this part.

Section 2885, Pub. L. 89–10, title II, §205, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2202, provided for instruction in basic skills.

Section 2886, Pub. L. 89–10, title II, §206, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2203, related to parental participation in basic skills instruction.

Section 2887, Pub. L. 89–10, title II, §207, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2203, related to use of technology in basic skills instruction.

Section 2888, Pub. L. 89–10, title II, §208, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2204, related to involvement of educational agencies and private organizations in improving basic skills.

Section 2889, Pub. L. 89–10, title II, §209, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2204, related to collection and dissemination of information relating to basic skills programs.

Section 2890, Pub. L. 89–10, title II, §210, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2204, related to coordination of programs under this part with other Federal programs.

SUBPART 5—DEFINITIONS

§ 2891. Omitted

CODIFICATION

Section, Pub. L. 89–10, title I, §1471, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 200, which defined terms for purposes of this chapter, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

SUBPART 6—MISCELLANEOUS PROVISIONS

§ 2901. Omitted

CODIFICATION

Section, Pub. L. 89–10, title I, §1491, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 202, which contained transition provisions, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Prior sections 2901 to 2904 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2901, Pub. L. 89–10, title II, §221, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2204, set out statement of purpose for basic skills improvement program.

Section 2902, Pub. L. 89–10, title II, §222, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2205; amended Pub. L. 96–46, §1(12), Aug. 6, 1979, 93 Stat. 339, related to agreements with State educational agencies.

Section 2903, Pub. L. 89–10, title II, §223, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2207, related to distribution of grants by the Secretary.

Section 2904, Pub. L. 89–10, title II, §224, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2207, provided for a State leadership program.

Division 2—Federal, State, and Local Partnership for Educational Improvement

§§ 2911, 2912. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2911, Pub. L. 89–10, title I, §1501, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 203, provided for findings and statement of purpose.

A prior section 2911, Pub. L. 89–10, title II, §231, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2208; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to an inexpensive book distribution program for reading motivation, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2912, Pub. L. 89–10, title I, §1502, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 204, authorized appropriations and related to duration of assistance.

A prior section 2912, Pub. L. 89–10, title II, §232, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2209; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorization of and appropriations for special mathematics programs, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

PART A—STATE AND LOCAL PROGRAMS

SUBPART 1—GENERAL PROVISIONS

§§ 2921, 2922. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2921, Pub. L. 89–10, title I, §1511, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 204, related to allotment to States.

A prior section 2921, Pub. L. 89–10, title II, §241, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2209, authorized appropriations for program for improving basic skills, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2922, Pub. L. 89–10, title I, §1512, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 204, related to allocation to local educational agencies.

A prior section 2922, Pub. L. 89–10, title II, §242, as added Pub. L. 95–561, title II, §201, Nov. 1, 1978, 92 Stat. 2209, related to apportionment of appropriations, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SUBPART 2—STATE PROGRAMS

§§ 2931, 2932. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2931, Pub. L. 89–10, title I, §1521, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 206, related to State uses of funds.

Section 2932, Pub. L. 89–10, title I, §1522, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 206, related to State applications.

SUBPART 3—LOCAL TARGETED ASSISTANCE PROGRAMS

§§ 2941 to 2943. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2941, Pub. L. 89–10, title I, §1531, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 208; amended Pub. L. 102–73, title III, §302, July 25, 1991, 105 Stat. 350, related to targeted use of funds.

A prior section 2941, Pub. L. 89–10, title III, §301, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2210; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided the statement of purpose for former subchapter III, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2942, Pub. L. 89–10, title I, §1532, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 208, related to authorized activities.

A prior section 2942, Pub. L. 89–10, title III, §302, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2210; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 92 Stat. 677, 692, authorized Secretary to make grants and contracts to carry out the purposes of program of special projects, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2943, Pub. L. 89–10, title I, §1533, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 208, related to local applications.

A prior section 2943, Pub. L. 89–10, title III, §303, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2210; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized discretionary projects of the Secretary, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SUBPART 4—EFFECTIVE SCHOOLS PROGRAMS

§§ 2951, 2952. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2951, Pub. L. 89–10, title I, §1541, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 209, related to establishment of effective schools programs.

A prior section 2951, Pub. L. 89–10, title III, §311, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2211, set out the short title and declaration of purpose for program of metric education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2952, Pub. L. 89–10, title I, §1542, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 210, defined ''effective schools programs''.

Prior sections 2952 to 2954 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2952, Pub. L. 89–10, title III, §312, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2211; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts and provided a definition of ''metric system of measurement''.

Section 2953, Pub. L. 89–10, title III, §313, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2212; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for financial assistance.

Section 2954, Pub. L. 89–10, title III, §314, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2212, authorized appropriations.

PART B—NATIONAL PROGRAMS AND ACTIVITIES

§§ 2961 to 2966. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2961, Pub. L. 89–10, title I, §1561, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 210, provided general authority for national programs and activities.

A prior section 2961, Pub. L. 89–10, title III, §321, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2212, set out short title and statement of findings for program of arts in education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2962, Pub. L. 89–10, title I, §1562, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 211, related to National Diffusion Network activities.

A prior section 2962, Pub. L. 89–10, title III, §322, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2212; amended Pub. L. 96–88, title III, §301(a), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts for Arts in Education program, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2963, Pub. L. 89–10, title I, §1563, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 212; amended Pub. L. 102–73, title V, §501(a), July 25, 1991, 105 Stat. 355, related to inexpensive book distribution program for reading motivation.

A prior section 2963, Pub. L. 89–10, title III, §323, as added, Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2213, authorized appropriations for Arts in Education program, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2964, Pub. L. 89–10, title I, §1564, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 213, related to Arts in Education program.

Section 2965, Pub. L. 89–10, title I, §1565, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 213; amended Pub. L. 102–62, title III, §311, June 27, 1991, 105 Stat. 313, related to law-related education program.

Section 2966, Pub. L. 89–10, title I, §1566, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 214; amended Pub. L. 102–73, title VI, §602(a), July 25, 1991, 105 Stat. 357, related to Blue Ribbon Schools program.

PART C—GENERAL ADMINISTRATIVE PROVISIONS

§§ 2971 to 2976. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2971, Pub. L. 89–10, title I, §1571, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 214, required that States maintain effort and that Federal funds be supplementary.

A prior section 2971, Pub. L. 89–10, title III, §325, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2213; amended Pub. L. 96–88, title III, §301(a)(1), title V, §§507, 509(b), Oct. 17, 1979, 93 Stat. 677, 692, 695, set forth provisions establishing and implementing preschool partnership programs, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2972, Pub. L. 89–10, title I, §1572, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 215, related to participation of children enrolled in private schools.

Section 2973, Pub. L. 89–10, title I, §1573, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 217, related to evaluations and reporting.

Section 2974, Pub. L. 89–10, title I, §1574, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 218, related to Federal administration.

Section 2975, Pub. L. 89–10, title I, §1575, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 218, related to application of General Education Provisions Act.

Section 2976, Pub. L. 89–10, title I, §1576, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 218, contained transition provisions.

SUBCHAPTER II—CRITICAL SKILLS IMPROVEMENT

PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT

§§ 2981, 2982. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2981, Pub. L. 89–10, title II, §2001, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 219, provided that this part could be cited as the ''Dwight D. Eisenhower Mathematics and Science Education Act''.

A prior section 2981, Pub. L. 89–10, title III, §331, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2214, set out the short title and statement of findings for program of consumer education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2982, Pub. L. 89–10, title II, §2002, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 219, stated purpose of this part.

A prior section 2982, Pub. L. 89–10, title III, §332, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2214; amended Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, established an Office of Consumers' Education and provided for the appointment of a Director thereof, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SUBPART 1—STATE GRANTS AND NATIONAL PROGRAMS

§§ 2983 to 2992. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 2983, Pub. L. 89–10, title II, §2003, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 219; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, authorized grant program for strengthening skills of teachers and improving instruction in mathematics and science.

A prior section 2983, Pub. L. 89–10, title III, §333, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2214; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts and provided for the availability of funds, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2984, Pub. L. 89–10, title II, §2004, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 219; amended Pub. L. 101–589, title II, §205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to allocation of funds.

A prior section 2984, Pub. L. 89–10, title III, §334, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2215; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for financial assistance, prior to repeal by

Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2985, Pub. L. 89–10, title II, § 2005, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 220; amended Pub. L. 101–589, title II, §§ 201, 202(b), 205(b)(1), Nov. 16, 1990, 104 Stat. 2883, 2884, 2890, related to in-State apportionment.

A prior section 2985, Pub. L. 89–10, title III, § 335, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2215; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to reports and evaluations by recipients of consumer education program, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2986, Pub. L. 89–10, title II, § 2006, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 221; amended Pub. L. 101–589, title II, §§ 202(a), 205(b)(1), Nov. 16, 1990, 104 Stat. 2884, 2890, related to elementary and secondary education programs.

A prior section 2986, Pub. L. 89–10, title III, § 336, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2215, related to reservation of funds to carry out consumer education program, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2987, Pub. L. 89–10, title II, § 2007, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 222; amended Pub. L. 101–589, title II, §§ 203, 205(b)(1), Nov. 16, 1990, 104 Stat. 2884, 2890, related to higher education programs.

Section 2988, Pub. L. 89–10, title II, § 2008, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 224; amended Pub. L. 101–589, title II, § 205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to State applications.

Section 2989, Pub. L. 89–10, title II, § 2009, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 225; amended Pub. L. 101–589, title II, § 205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to local applications.

Section 2990, Pub. L. 89–10, title II, § 2010, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 226; amended Pub. L. 101–589, title II, § 205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to participation of children and teachers from private schools.

Section 2991, Pub. L. 89–10, title II, § 2011, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 227; amended Pub. L. 101–589, title II, § 205(b)(1), Nov. 16, 1990, 104 Stat. 2890, related to Federal administration.

A prior section 2991, Pub. L. 89–10, title III, § 341, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2215; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a youth employment program and set out activities implementing such program, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 2992, Pub. L. 89–10, title II, § 2012, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 227; amended Pub. L. 101–589, title II, § 204, Nov. 16, 1990, 104 Stat. 2884, related to national programs.

A prior section 2992, Pub. L . 89–10, title III, § 342, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2216, authorized appropriations, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

§ 2993. Transferred

CODIFICATION

Section, Pub. L. 89–10, title II, § 2013, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 227, which defined terms used in this part, was renumbered § 2031 of Pub. L. 89–10 by Pub. L. 101–589, title II, § 205(b)(2), Nov. 16, 1990, 104 Stat. 2890, transferred to section 2996 of this title, and subsequently omitted in the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

SUBPART 2—REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIUMS

§§ 2994 to 2994g. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 2994, Pub. L. 89–10, title II, § 2016, as added Pub. L. 101–589, title II, § 205(a)(2), Nov. 16, 1990, 104 Stat. 2886, authorized award of grants and contracts for establishment and operation of regional mathematics and science education consortia.

Section 2994a, Pub. L. 89–10, title II, § 2017, as added Pub. L. 101–589, title II, § 205(a)(2), Nov. 16, 1990, 104 Stat. 2887, related to use of funds.

Section 2994b, Pub. L. 89–10, title II, § 2018, as added Pub. L. 101–589, title II, § 205(a)(2), Nov. 16, 1990, 104 Stat. 2888, related to application and review.

Section 2994c, Pub. L. 89–10, title II, § 2019, as added Pub. L. 101–589, title II, § 205(a)(2), Nov. 16, 1990, 104 Stat. 2889, related to regional boards.

Section 2994d, Pub. L. 89–10, title II, § 2020, as added Pub. L. 101–589, title II, § 205(a)(2), Nov. 16, 1990, 104 Stat. 2889, related to payments, Federal share, and non-Federal share.

Section 2994e, Pub. L. 89–10, title II, § 2021, as added Pub. L. 101–589, title II, § 205(a)(2), Nov. 16, 1990, 104 Stat. 2889, related to evaluations of regional consortia.

Section 2994f, Pub. L. 89–10, title II, § 2022, as added Pub. L. 101–589, title II, § 205(a)(2), Nov. 16, 1990, 104 Stat. 2890, defined terms used in subpart.

Section 2994g, Pub. L. 89–10, title II, § 2023, as added Pub. L. 101–589, title II, § 205(a)(2), Nov. 16, 1990, 104 Stat. 2890, authorized appropriations.

SUBPART 3—GENERAL PROVISIONS

§ 2996. Omitted

CODIFICATION

Section, Pub. L. 89–10, title II, § 2031, formerly § 2013, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 227; renumbered § 2031, Pub. L. 101–589, title II, § 205(b)(2), Nov. 16, 1990, 104 Stat. 2890, which defined terms used in this part, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

PART B—FOREIGN LANGUAGES ASSISTANCE

§§ 3001 to 3006. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 3001, Pub. L. 89–10, title II, § 2101, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 228, provided that this part could be cited as the ''Foreign Language Assistance Act of 1988''.

A prior section 3001, Pub. L. 89–10, title III, § 346, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2216, set out short title and a declaration of findings for program of law-related education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3002, Pub. L. 89–10, title II, § 2102, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 228, stated findings of Congress.

A prior section 3002, Pub. L. 89–10, title III, § 347, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2216; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts for law related edu-

cation programs, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3003, Pub. L. 89–10, title II, § 2103, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 228, authorized grants for commencement or improvement and expansion of programs for foreign language study.

A prior section 3003, Pub. L. 89–10, title III, § 348, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2217, authorized appropriations for program of law-related education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3004, Pub. L. 89–10, title II, § 2104, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 229, related to allotment of funds.

Section 3005, Pub. L. 89–10, title II, § 2105, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 229, defined terms used in this part.

Section 3006, Pub. L. 89–10, title II, § 2106, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 230, authorized appropriations.

PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN FOREIGN LANGUAGES

§§ 3011 to 3013. Omitted

CODIFICATION

Sections 3011 and 3012 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 3011, Pub. L. 89–10, title II, § 2201, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 230; amended Pub. L. 100–570, title I, § 117(b)(1), Oct. 31, 1988, 102 Stat. 2872, authorized Presidential Awards for Teaching Excellence in Foreign Languages.

A prior section 3011, Pub. L. 89–10, title III, § 351, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2217, set out short title and declaration of findings and purpose for program of environmental education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3012, Pub. L. 89–10, title II, § 2202, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 230; amended Pub. L. 100–570, title I, § 117(b)(1), Oct. 31, 1988, 102 Stat. 2873, contained administrative provisions.

A prior section 3012, Pub. L. 89–10, title III, § 352, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2218; amended Pub. L. 96–88, title III, § 301(a)(1), (b)(2), title V, §§ 507, 508(*l*)(1), Oct. 17, 1979, 93 Stat. 677, 678, 692, 694, established Office of Environmental Education and provided for appointment of a Director thereof, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3013, Pub. L. 89–10, title II, § 2203, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 230, related to authorization of appropriations, prior to the general amendment of this part by Pub. L. 100–570.

Prior sections 3013 to 3018 were repealed by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3013, Pub. L. 89–10, title III, § 353, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2218; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts relating to environmental education.

Section 3014, Pub. L. 89–10, title III, § 354, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2219; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of applications for financial assistance for environmental education.

Section 3015, Pub. L. 89–10, title III, § 355, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2220; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to technical assistance to local educational agencies, nonprofit organizations and other agencies.

Section 3016, Pub. L. 89–10, title III, § 356, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2220; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to special grants to nonprofit organizations.

Section 3017, Pub. L. 89–10, title III, § 357, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2220; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to administration by the Secretary.

Section 3018, Pub. L. 89–10, title III, § 358, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations.

SUBCHAPTER III—MAGNET SCHOOLS ASSISTANCE

§§ 3021 to 3032. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 3021, Pub. L. 89–10, title III, § 3001, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 231, authorized appropriations for magnet schools assistance.

A prior section 3021, Pub. L. 89–10, title III, § 361, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221, set out short title and declaration of purpose for program of health education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3022, Pub. L. 89–10, title III, § 3002, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 231, related to eligibility for assistance.

A prior section 3022, Pub. L. 89–10, title III, § 362, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221; amended Pub. L. 96–88, title III, § 301(a)(1), title V, §§ 507, 509(b), Oct. 17, 1979, 93 Stat. 677, 692, 695, authorized program of grants to State and local educational agencies, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3023, Pub. L. 89–10, title III, § 3003, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 231, stated purpose of this subchapter.

A prior section 3023, Pub. L. 89–10, title III, § 363, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for financial assistance for program of health education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3024, Pub. L. 89–10, title III, § 3004, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 231, authorized grants for use in magnet schools.

A prior section 3024, Pub. L. 89–10, title III, § 364, as added Pub. L. 95–561, title III, § 301(a), Nov. 1, 1978, 92 Stat. 2221, authorized appropriations for a program of health education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3025, Pub. L. 89–10, title III, § 3005, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 232, defined ''magnet school''.

Section 3026, Pub. L. 89–10, title III, § 3006, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 232, related to uses of funds.

Section 3027, Pub. L. 89–10, title III, § 3007, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 232, related to applications and requirements.

Section 3028, Pub. L. 89–10, title III, § 3008, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 233, related to special considerations in approving applications.

Section 3029, Pub. L. 89–10, title III, § 3009, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 233, related to prohibited uses for grants.

Section 3030, Pub. L. 89–10, title III, §3010, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 233, related to limitations on payments.

Section 3031, Pub. L. 89–10, title III, §3011, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 234, related to payments to local educational agencies.

A prior section 3031, Pub. L. 89–10, title III, §371, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2222, provided short title for program of correction education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3032, Pub. L. 89–10, title III, §3012, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 234, related to withholding and cease and desist orders.

Prior sections 3032 to 3034 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3032, Pub. L. 89–10, title III, §372, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2222; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants relating to the academic and vocational education of antisocial, aggressive, or delinquent persons.

Section 3033, Pub. L. 89–10, title III, §373, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2222; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to technical assistance given to the Secretary.

Section 3034, Pub. L. 89–10, title III, §374, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2222, authorized appropriations.

SUBCHAPTER IV—SPECIAL PROGRAMS

PART A—WOMEN'S EDUCATIONAL EQUITY

§§ 3041 to 3047. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3041, Pub. L. 89–10, title IV, §4001, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 234, provided that this part could be cited as the ''Women's Educational Equity Act'' and stated Congressional findings and purpose.

A prior section 3041, Pub. L. 89–10, title III, §376, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2222; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allocation of funds for dissemination of information, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3042, Pub. L. 89–10, title IV, §4002, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 234, authorized grants and contracts for program to achieve educational equity for women.

Section 3043, Pub. L. 89–10, title IV, §4003, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 235, related to applications and to participation by men and boys.

Section 3044, Pub. L. 89–10, title IV, §4004, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 236, related to challenge grants.

Section 3045, Pub. L. 89–10, title IV, §4005, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 236, related to criteria and priorities for grant and contract awards.

Section 3046, Pub. L. 89–10, title IV, §4006, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 236, related to reports and to evaluation and dissemination of materials and programs.

Section 3047, Pub. L. 89–10, title IV, §4007, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 237, authorized appropriations.

Sections 3051 to 3057 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3051, Pub. L. 89–10, title III, §381, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2223, set out findings and purpose for program of training in biomedical sciences.

Section 3052, Pub. L. 89–10, title III, §382, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2223, set out definitions for program of training in biomedical sciences.

Section 3053, Pub. L. 89–10, title III, §383, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2224; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to projects for economically disadvantaged students.

Section 3054, Pub. L. 89–10, title III, §384, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2224; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to project activities and funding requirements.

Section 3055, Pub. L. 89–10, title III, §385, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2226; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for assistance.

Section 3056, Pub. L. 89–10, title III, §386, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2227; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to use of funds appropriated.

Section 3057, Pub. L. 89–10, title III, §387, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2227, authorized appropriations.

PART B—GIFTED AND TALENTED CHILDREN

§§ 3061 to 3068. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3061, Pub. L. 89–10, title IV, §4101, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 237, provided that this part could be referred to as the ''Jacob K. Javits Gifted and Talented Students Education Act of 1988''.

A prior section 3061, Pub. L. 89–10, title III, §391, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2227, set out short title for program of population education, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3062, Pub. L. 89–10, title IV, §4102, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 237, stated Congressional findings and purposes.

A prior section 3062, Pub. L. 89–10, title III, §392, as added Pub. L. 95–561, title III, §301(a), Nov. 1, 1978, 92 Stat. 2227; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts relating to population education in elementary and secondary schools, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3063, Pub. L. 89–10, title IV, §4103, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 237; amended Pub. L. 102–325, title IV, §427(b)(2), July 23, 1992, 106 Stat. 549, defined terms used in this part.

A prior section 3063, Pub. L. 89–10, title III, §393, as added Pub. L. 96–374, title VI, §601(b), Oct. 3, 1980, 94 Stat. 1471, set out short title and Congressional findings and declaration of purpose for program promoting international understanding, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3064, Pub. L. 89–10, title IV, §4104, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 238, authorized grants and contracts for programs and projects to meet educational needs of gifted and talented students.

A prior section 3064, Pub. L. 89–10, title III, §394, as added Pub. L. 96–374, title VI, §601(b), Oct. 3, 1980, 94

Stat. 1471, authorized a program of grants and contracts to promote international understanding, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3065, Pub. L. 89–10, title IV, § 4105, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 239, related to program priorities.

A prior section 3065, Pub. L. 89–10, title III, § 395, as added Pub. L. 96–374, title VI, § 601(b), Oct. 3, 1980, 94 Stat. 1471, authorized appropriations, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3066, Pub. L. 89–10, title IV, § 4106, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 239, related to participation of private school children and teachers.

Section 3067, Pub. L. 89–10, title IV, § 4107, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 239, related to administration.

Section 3068, Pub. L. 89–10, title IV, § 4108, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 240, authorized appropriations.

PART C—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

§ 3081. Omitted

CODIFICATION

Section, Pub. L. 89–10, title IV, § 4301, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 240, which stated findings of Congress relating to Allen J. Ellender Fellowship Program, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Prior sections 3081 to 3086 were repealed by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3081, Pub. L. 89–10, title IV, § 401, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2229, set out purpose of provisions relating to educational improvement, resources, and support.

Section 3082, Pub. L. 89–10, title IV, § 402, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2229; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations for making of grants.

Section 3083, Pub. L. 89–10, title IV, § 403, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2231; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States and funding.

Section 3084, Pub. L. 89–10, title IV, § 404, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2232; amended Pub. L. 96–46, § 1(13)–(15), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission, form, contents, etc. of State plans.

Section 3085, Pub. L. 89–10, title IV, § 405, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2234; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments to States.

Section 3086, Pub. L. 89–10, title IV, § 406, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2234; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to participation of children enrolled in public schools in the purposes and benefits of program of educational improvement, resources, and support.

SUBPART 1—PROGRAM FOR SECONDARY SCHOOL STUDENTS AND TEACHERS

§§ 3091, 3092. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 3091, Pub. L. 89–10, title IV, § 4311, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 240, authorized grants to Close Up Foundation for program for secondary school students and teachers.

Section 3092, Pub. L. 89–10, title IV, § 4312, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 240, related to applications.

SUBPART 2—PROGRAMS FOR OLDER AMERICANS AND RECENT IMMIGRANTS

§§ 3101, 3102. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 3101, Pub. L. 89–10, title IV, § 4321, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 241, authorized grants to Close Up Foundation for program for older Americans and recent immigrants.

A prior section 3101, Pub. L. 89–10, title IV, § 421, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2236, provided that amounts allotted would be used only for the acquisition of school library resources and instructional equipment and materials, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3102, Pub. L. 89–10, title IV, § 4322, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 241, related to applications.

A prior section 3102, Pub. L. 89–10, title IV, § 422, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2237; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to program requirements for the receipt of funds available, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

SUBPART 3—GENERAL PROVISIONS

§§ 3111, 3112. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 3111, Pub. L. 89–10, title IV, § 4331, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 242, contained administrative provisions relating to Allen J. Ellender Fellowship Program.

A prior section 3111, Pub. L. 89–10, title IV, § 431, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2237, related to authorized activities for program to improve local educational practices, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3112, Pub. L. 89–10, title IV, § 4332, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 242, authorized appropriations.

A prior section 3112, Pub. L. 89–10, title IV, § 432, as added Pub. L. 95–561, title IV, § 401, Nov. 1, 1978, 92 Stat. 2238; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to program requirements, amount, availability, and allocation of funds, and approval of applications by State educational agencies, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

PART D—IMMIGRANT EDUCATION

§§ 3121 to 3130. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965,

Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3121, Pub. L. 89–10, title IV, §4401, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 242, provided that this part could be cited as the ''Emergency Immigrant Education Act of 1984''.

A prior section 3121, Pub. L. 89–10, title IV, §441, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2239; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorized programs and funding for guidance, counseling, and testing, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3122, Pub. L. 89–10, title IV, §4402, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 242, defined terms used in this part.

A prior section 3122, Pub. L. 89–10, title IV, §442, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 93 Stat. 677, 692, related to program requirements for guidance, counseling, and testing, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3123, Pub. L. 89–10, title IV, §4403, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 242, related to authorization and allocation of appropriations.

A prior section 3123, Pub. L. 89–10, title IV, §443, as added Pub. L. 95–561, title IV, §401, Nov. 1, 1978, 92 Stat. 2240; amended Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, related to establishment by Secretary of an administrative unit to provide information and advice on guidance and counseling activities, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3124, Pub. L. 89–10, title IV, §4404, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 243, related to State administrative costs.

Section 3125, Pub. L. 89–10, title IV, §4405, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 243, related to withholding.

Section 3126, Pub. L. 89–10, title IV, §4406, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 243, related to State entitlements.

Section 3127, Pub. L. 89–10, title IV, §4407, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 244, related to uses of funds.

Section 3128, Pub. L. 89–10, title IV, §4408, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 245, related to applications.

Section 3129, Pub. L. 89–10, title IV, §4409, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 246, related to payments.

Section 3130, Pub. L. 89–10, title IV, §4410, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 246, related to reports.

PART E—TERRITORIAL ASSISTANCE

§§ 3141, 3142. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3141, Pub. L. 89–10, title IV, §4501, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 246, related to general assistance for the Virgin Islands.

A prior section 3141, Pub. L. 89–10, title V, §501, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2240; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of a general application containing assurances submitted by each State desiring to participate in various educational programs under this chapter, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3142, Pub. L. 89–10, title IV, §4502, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 247; amended Pub. L. 102–73, title VIII, §801(b), July 25, 1991, 105 Stat. 359, related to territorial teacher training assistance.

Prior sections 3142 to 3150 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3142, Pub. L. 89–10, title V, §502, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2242; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of a single local educational agency application.

Section 3143, Pub. L. 89–10, title V, §503, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2243; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to State approval of applications of State and local agencies in administration of education programs.

Section 3144, Pub. L. 89–10, title V, §504, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2244; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to rulemaking by State educational agencies applicable to programs and projects.

Section 3145, Pub. L. 89–10, title V, §505, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2244, related to technical assistance and dissemination of information by State educational agencies.

Section 3146, Pub. L. 89–10, title V, §506, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2244; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to monitoring standards adopted by State educational agencies.

Section 3147, Pub. L. 89–10, title V, §507, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2245; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to adoption of written procedures for the receiving and resolution of complaints by State educational agencies.

Section 3148, Pub. L. 89–10, title V, §508, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2245; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to withholding of payments to local educational agencies by State educational agencies.

Section 3149, Pub. L. 89–10, title V, §509, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2246; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to audits and audit resolution.

Section 3150, Pub. L. 89–10, title V, §510, as added Pub. L. 95–561, title V, §501, Nov. 1, 1978, 92 Stat. 2247; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments by the Secretary to the States.

PART F—SECRETARY'S FUND FOR INNOVATION IN EDUCATION

§§ 3151 to 3157. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3151, Pub. L. 89–10, title IV, §4601, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 247, authorized Secretary to carry out programs and projects to identify and disseminate innovative education approaches.

Section 3152, Pub. L. 89–10, title IV, §4602, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 247, related to optional tests for academic excellence.

Section 3153, Pub. L. 89–10, title IV, §4603, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 248, related to technology education.

Section 3154, Pub. L. 89–10, title IV, §4604, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 249, authorized programs for computer-based instruction.

Section 3155, Pub. L. 89–10, title IV, § 4605, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 249; amended Pub. L. 103–227, title IX, § 971(a), Mar. 31, 1994, 108 Stat. 263, authorized programs for the improvement of comprehensive school health education.

Section 3156, Pub. L. 89–10, title IV, § 4606, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 250, authorized grants related to alternative curriculum schools.

Section 3156–1, Pub. L. 89–10, title IV, § 4607, as added Pub. L. 100–690, title III, § 3101(2), Nov. 18, 1988, 102 Stat. 4245, related to innovative alcohol abuse education programs.

Section 3156a, Pub. L. 89–10, title IV, § 4608, formerly § 4607, as added Pub. L. 100–569, title II, § 202(3), Oct. 31, 1988, 102 Stat. 2862; renumbered § 4608, Pub. L. 100–690, title III, § 3101(1), Nov. 18, 1988, 102 Stat. 4245, related to National Geography Studies Centers.

Section 3156b, Pub. L. 89–10, title IV, § 4609, as added Pub. L. 102–62, title III, § 301(2), June 27, 1991, 105 Stat. 312; amended Pub. L. 102–359, § 2(a), Aug. 26, 1992, 106 Stat. 962, related to instruction on history and principles of democracy in United States.

Section 3157, Pub. L. 89–10, title IV, § 4610, formerly § 4607, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 252; renumbered § 4608 and amended Pub. L. 100–569, title II, §§ 202(1), (2), 203, Oct. 31, 1988, 102 Stat. 2862, 2863; renumbered § 4610, Pub. L. 102–62, title III, § 301(1), June 27, 1991, 105 Stat. 312, authorized appropriations.

Prior sections 3161 to 3164 were repealed by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3161, Pub. L. 89–10, title V, § 521, as added Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2248, related to activities to strengthen State educational agency management.

Section 3162, Pub. L. 89–10, title V, § 522, as added Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2248; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to program requirements.

Section 3163, Pub. L. 89–10, title V, § 523, as added Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2249; amended Pub. L. 96–46, § 1(16), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorization of appropriations.

Section 3164, Pub. L. 89–10, title V, § 524, as added Pub. L. 96–46, § 1(17), Aug. 6, 1979, 93 Stat. 339; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to States.

PART G—READY TO LEARN TELEVISION

§§ 3161 to 3161g. Transferred

CODIFICATION

Part G of title IV of the Elementary and Secondary Education Act of 1965, comprising this part, was renumbered part F of title IV of the General Education Provisions Act, by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649, transferred to subchapter VI (§ 1235 et seq.) of chapter 31 of this title, and subsequently repealed by Pub. L. 107–110, title X, § 1011(3), Jan. 8, 2002, 115 Stat. 1986. See section 6775 of this title.

Section 3161, Pub. L. 89–10, title IV, § 4701, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3586, which authorized Secretary to make contracts, cooperative agreements, or grants to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children, was renumbered section 471 of the General Education Provisions Act by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235 of this title, and subsequently repealed.

Section 3161a, Pub. L. 89–10, title IV, § 4702, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3586, which set forth purposes of contracts, cooperative agreements, and grants, eligibility requirements, and requirement that programming reflect cultural diversity and needs and experiences of both boys and girls, was renumbered section 472 of the General Education Provisions Act by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235a of this title, and subsequently repealed.

Section 3161b, Pub. L. 89–10, title IV, § 4703, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3587, which related to duties of Secretary, was renumbered section 473 of the General Education Provisions Act by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235b of this title, and subsequently repealed.

Section 3161c, Pub. L. 89–10, title IV, § 4704, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3588, which related to applications, was renumbered section 474 of the General Education Provisions Act by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235c of this title, and subsequently repealed.

Section 3161d, Pub. L. 89–10, title IV, § 4705, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3588, which related to reports and evaluations, was renumbered section 475 of the General Education Provisions Act by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235d of this title, and subsequently repealed.

Section 3161e, Pub. L. 89–10, title IV, § 4706, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3589, which authorized appropriations, was renumbered section 476 of the General Education Provisions Act by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235e of this title, and subsequently repealed.

Section 3161f, Pub. L. 89–10, title IV, § 4707, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3589, which related to administrative costs, was renumbered section 477 of the General Education Provisions Act by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235f of this title, and subsequently repealed.

Section 3161g, Pub. L. 89–10, title IV, § 4708, as added Pub. L. 102–545, § 3, Oct. 27, 1992, 106 Stat. 3589, which defined ''distance learning'', was renumbered section 478 of the General Education Provisions Act by Pub. L. 103–252, title I, § 121(a)(1), May 18, 1994, 108 Stat. 649, transferred to section 1235g of this title, and subsequently repealed.

SUBCHAPTER V—DRUG EDUCATION

§§ 3171 to 3173. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7101 et seq. of this title.

Section 3171, Pub. L. 89–10, title V, § 5101, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 252, provided that this subchapter could be cited as the ''Drug-Free Schools and Communities Act of 1986''.

A prior section 3171, Pub. L. 89–10, title V, § 531, as added Pub. L. 95–561, title V, § 501, Nov. 1, 1978, 92 Stat. 2249; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to national and State councils on quality in education, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3172, Pub. L. 89–10, title V, § 5102, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 252, stated findings of Congress.

Section 3173, Pub. L. 89–10, title V, § 5103, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 252, stated purpose of this subchapter.

PART A—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

§§ 3181, 3182. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7101 et seq. of this title.

Section 3181, Pub. L. 89–10, title V, § 5111, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 253; amended Pub. L. 100–690, title III, §§ 3301, 3308(b), Nov. 18, 1988, 102 Stat. 4247, 4251; Pub. L. 101–226, § 2, Dec. 12, 1989, 103 Stat. 1928; Pub. L. 101–647, title XV, §§ 1506(b), 1509(a), Nov. 29, 1990, 104 Stat. 4841, 4842, authorized appropriations.

Section 3182, Pub. L. 89–10, title V, § 5112, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 253; amended Pub. L. 101–226, § 3, Dec. 12, 1989, 103 Stat. 1928; Pub. L. 101–647, title XV, § 1509(b), Nov. 29, 1990, 104 Stat. 4842, related to reservations and State allotments of funds.

PART B—STATE AND LOCAL PROGRAMS

§§ 3191 to 3197. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7111 et seq. of this title.

Section 3191, Pub. L. 89–10, title V, § 5121, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 254; amended Pub. L. 100–690, title III, § 3302, Nov. 18, 1988, 102 Stat. 4247; Pub. L. 101–226, § 4, Dec. 12, 1989, 103 Stat. 1929, related to use of allotments by States.

A prior section 3191, Pub. L. 89–10, title VI, § 601, as added Pub. L. 95–561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2252, set out short title for program of emergency school aid, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3192, Pub. L. 89–10, title V, § 5122, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 254; amended Pub. L. 100–690, title III, § 3303, Nov. 18, 1988, 102 Stat. 4248; Pub. L. 101–226, § 5, Dec. 12, 1989, 103 Stat. 1929; Pub. L. 101–647, title XV, §§ 1503(a), 1504, Nov. 29, 1990, 104 Stat. 4837, related to State programs.

A prior section 3192, Pub. L. 89–10, title VI, § 602, as added Pub. L. 95–561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2252, provided Congressional findings and declaration of purpose for program of emergency school aid, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3193, Pub. L. 89–10, title V, § 5123, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 255; amended Pub. L. 100–690, title III, § 3304, Nov. 18, 1988, 102 Stat. 4248; Pub. L. 101–226, § 6, Dec. 12, 1989, 103 Stat. 1930, related to State applications.

A prior section 3193, Pub. L. 89–10, title VI, § 603, as added Pub. L. 95–561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2252, related to United States policy with respect to the application of the provisions of the program of emergency school aid and provisions of other Federal law, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3194, Pub. L. 89–10, title V, § 5124, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 256; amended Pub. L. 100–690, title III, § 3305, Nov. 18, 1988, 102 Stat. 4249; Pub. L. 101–226, § 7, Dec. 12, 1989, 103 Stat. 1930; Pub. L. 101–647, title XV, § 1509(c), Nov. 29, 1990, 104 Stat. 4842, related to responsibilities of State educational agencies.

A prior section 3194, Pub. L. 89–10, title VI, § 604, as added Pub. L. 95–561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2252; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorization of programs and appropriations, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3195, Pub. L. 89–10, title V, § 5125, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 257; amended Pub. L. 100–690, title III, § 3306, Nov. 18, 1988, 102 Stat. 4249; Pub. L. 101–226, § 8, Dec. 12, 1989, 103 Stat. 1931; Pub. L. 101–647, title XV, § 1505, Nov. 29, 1990, 104 Stat. 4839, related to local drug abuse education and prevention programs.

A prior section 3195, Pub. L. 89–10, title VI, § 605, as added Pub. L. 95–561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2253; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to apportionment and reapportionment among States, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3196, Pub. L. 89–10, title V, § 5126, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 257; amended Pub. L. 101–226, §§ 9, 22(b)(2), Dec. 12, 1989, 103 Stat. 1932, 1941; Pub. L. 101–647, title XV, §§ 1507, 1509(f)(2), Nov. 29, 1990, 104 Stat. 4841, 4842, related to local applications.

A prior section 3196, Pub. L. 89–10, title VI, § 606, as added Pub. L. 95–561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2254; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to eligibility of local educational agencies for assistance, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3197, Pub. L. 89–10, title V, § 5127, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 259; amended Pub. L. 100–690, title III, § 3307, Nov. 18, 1988, 102 Stat. 4249; Pub. L. 101–226, § 10, Dec. 12, 1989, 103 Stat. 1933, related to State and local reports.

Prior sections 3197 to 3200 were repealed by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3197, Pub. L. 89–10, title VI, § 607, as added Pub. L. 95–561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2257; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to authorized activities under the program of emergency school and the preferential hiring of teacher aides.

Section 3198, Pub. L. 89–10, title VI, § 608, as added Pub. L. 95–561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2258; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to special programs and projects.

Section 3199, Pub. L. 89–10, title VI, § 609, as added Pub. L. 95–561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2259; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for metropolitan area projects.

Section 3200, Pub. L. 89–10, title VI, § 610, as added Pub. L. 95–561, title VI, § 601(a), Nov. 1, 1978, 92 Stat. 2260; amended Pub. L. 96–46, § 1(18), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to the submission, form, contents, approval, etc. of applications for assistance.

PART C—TRAINING OF TEACHERS, COUNSELORS, AND SCHOOL PERSONNEL

§§ 3201 to 3203. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7101 et seq. of this title.

Section 3201, Pub. L. 89–10, title V, § 5128, as added Pub. L. 100–690, title III, § 3308(a)(2), Nov. 18, 1988, 102 Stat. 4250; amended Pub. L. 101–226, § 11(b), Dec. 12, 1989, 103 Stat. 1934; Pub. L. 101–647, title XV, § 1506(a), Nov. 29, 1990, 104 Stat. 4840, authorized grants for teacher training programs.

A prior section 3201, Pub. L. 89–10, title VI, § 611, as added Pub. L. 95–561, title VI, § 601(a), Nov. 1, 1978, 92

Stat. 2264; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized a program of grants and contracts related to educational television and radio, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3202, Pub. L. 89–10, title V, §5129, as added Pub. L. 101–647, title XV, §1506(a), Nov. 29, 1990, 104 Stat. 4840, related to grants for training of counselors.

A prior section 3202, Pub. L. 89–10, title VI, §612, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2264; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to payments by Secretary, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3203, Pub. L. 89–10, title V, §5130, as added Pub. L. 101–647, title XV, §1506(a), Nov. 29, 1990, 104 Stat. 4840, related to applications.

Prior sections 3203 to 3207 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3203, Pub. L. 89–10, title VI, §613, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2265; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized grants and contracts for the purpose of evaluation of specific assisted programs and projects.

Section 3204, Pub. L. 89–10, title VI, §614, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2266, authorized joint funding.

Section 3205, Pub. L. 89–10, title VI, §615, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2266, related to attorney fees in suits against local educational agencies for failure to comply with program of emergency school aid.

Section 3206, Pub. L. 89–10, title VI, §616, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2266, related to student assignment to neighborhood schools.

Section 3207, Pub. L. 89–10, title VI, §617, as added Pub. L. 95–561, title VI, §601(a), Nov. 1, 1978, 92 Stat. 2266; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to definitions.

PART D—NATIONAL PROGRAMS

§§ 3211 to 3217. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519. See section 7131 et seq. of this title.

Section 3211, Pub. L. 89–10, title V, §5131, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 259; amended Pub. L. 101–226, §12(a), Dec. 12, 1989, 103 Stat. 1934, authorized grants and contracts with institutions of higher education for drug abuse education and prevention programs.

Section 3212, Pub. L. 89–10, title V, §5132, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 260; amended Pub. L. 100–690, title III, §3309, Nov. 18, 1988, 102 Stat. 4251; Pub. L. 101–226, §13, Dec. 12, 1989, 103 Stat. 1934; Pub. L. 101–647, title XV, §1509(d), Nov. 29, 1990, 104 Stat. 4842, related to Federal activities.

Section 3213, Pub. L. 89–10, title V, §5133, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 261, related to programs for Indian youth.

Section 3214, Pub. L. 89–10, title V, §5134, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 261, related to programs for Hawaiian natives.

Section 3215, Pub. L. 89–10, title V, §5135, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 262, related to regional centers.

Section 3216, Pub. L. 89–10, title V, §5136, as added Pub. L. 101–226, §14, Dec. 12, 1989, 103 Stat. 1934; amended Pub. L. 101–647, title XV, §1509(e), Nov. 29, 1990, 104 Stat. 4842, related to emergency grants to eligible local educational agencies.

Section 3217, Pub. L. 89–10, title V, §5137, as added Pub. L. 101–226, §15, Dec. 12, 1989, 103 Stat. 1935; amended Pub. L. 101–647, title XV, §1503(b), Nov. 29, 1990, 104 Stat. 4837, related to drug-free schools demonstration program.

PART E—GENERAL PROVISIONS

§§ 3221 to 3224b. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3221, Pub. L. 89–10, title V, §5141, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 262; amended Pub. L. 101–226, §16, Dec. 12, 1989, 103 Stat. 1935, defined terms used in this subchapter.

A prior section 3221, Pub. L. 89–10, title VII, §701, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2369, provided short title of Bilingual Education Act, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3222, Pub. L. 89–10, title V, §5142, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 263; amended Pub. L. 100–690, title III, §3310, Nov. 18, 1988, 102 Stat. 4251, related to functions of Secretary of Education.

A prior section 3222, Pub. L. 89–10, title VII, §702, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2268; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2370, related to policy and authorization of appropriations for bilingual education program, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3223, Pub. L. 89–10, title V, §5143, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 264; amended Pub. L. 101–226, §17, Dec. 12, 1989, 103 Stat. 1935, related to participation of children and teachers from private nonprofit schools.

A prior section 3223, Pub. L. 89–10, title VII, §703, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2269; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2371; Pub. L. 98–524, §4(b), Oct. 19, 1984, 98 Stat. 2488, defined terms and set out general provisions for program of bilingual education, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3224, Pub. L. 89–10, title V, §5144, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 264, related to materials produced or distributed under this subchapter.

Section 3224a, Pub. L. 89–10, title V, §5145, as added Pub. L. 101–226, §22(b)(1), Dec. 12, 1989, 103 Stat. 1939; amended Pub. L. 101–647, title XV, §1509(f)(1), Nov. 29, 1990, 104 Stat. 4842, related to certification of drug and alcohol abuse prevention programs.

Section 3224b, Pub. L. 89–10, title V, §5146, as added Pub. L. 101–226, §18, Dec. 12, 1989, 103 Stat. 1936; amended Pub. L. 101–647, title XV, §1509(g), Nov. 29, 1990, 104 Stat. 4842, related to dissemination of information and technical assistance.

§ 3225. Transferred

CODIFICATION

Section, Pub. L. 99–570, title IV, §4302, Oct. 27, 1986, 100 Stat. 3207–153, which established National Trust for Drug-Free Youth, was transferred to section 7105 of this title, and subsequently omitted from the Code.

PART F—DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION MATERIALS

§ 3227. Omitted

CODIFICATION

Section, Pub. L. 89–10, title V, § 5151, as added Pub. L. 100–690, title III, § 3311(2), Nov. 18, 1988, 102 Stat. 4252; amended Pub. L. 101–226, § 19(b), Dec. 12, 1989, 103 Stat. 1936; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142, which related to development of early childhood education drug abuse prevention materials, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

PART G—MISCELLANEOUS PROVISIONS

§§ 3231 to 3233. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 3231, Pub. L. 89–10, title V, § 5191, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 264, related to Indian education programs.

A prior section 3231, Pub. L. 89–10, title VII, § 721, as added Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2271; amended Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2374, related to financial assistance for bilingual education programs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3232, Pub. L. 89–10, title V, § 5192, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 265, related to allotments for fiscal years 1987 and 1988 under section 4124 of the Drug-Free Schools and Communities Act of 1986.

A prior section 3232, Pub. L. 89–10, title VII, § 722, as added Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2276; amended Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2379, related to Indian children in schools, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3233, Pub. L. 89–10, title V, § 5193, as added Pub. L. 101–647, title XV, § 1508, Nov. 29, 1990, 104 Stat. 4841, related to identification of federally assisted programs.

A prior section 3233, Pub. L. 89–10, title VII, § 723, as added Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2276; amended S. Res. 30, Mar. 7, 1979; Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, covered training provisions and defined ''eligible applicants'', prior to the general revision of this subchapter by Pub. L. 98–511.

SUBCHAPTER VI—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

PART A—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

§§ 3241 to 3248. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 3241, Pub. L. 89–10, title VI, § 6001, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 265, provided that this part could be cited as the ''School Dropout Demonstration Assistance Act of 1988''.

A prior section 3241, Pub. L. 89–10, title VII, § 731, as added Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2278; amended Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2380, related to use of funds, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3242, Pub. L. 89–10, title VI, § 6002, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 265, stated purpose of this part.

A prior section 3242, Pub. L. 89–10, title VII, § 732, as added Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2280; amended Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2380, related to grants for State programs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3243, Pub. L. 89–10, title VI, § 6003, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 265; amended Pub. L. 101–250, § 1, Mar. 6, 1990, 104 Stat. 96; Pub. L. 102–103, title I, § 102, Aug. 17, 1991, 105 Stat. 497, authorized appropriations.

A prior section 3243, Pub. L. 89–10, title VII, § 733, as added Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2381, related to program evaluation requirements, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3244, Pub. L. 89–10, title VI, § 6004, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 266; amended Pub. L. 101–250, §§ 2, 3, Mar. 6, 1990, 104 Stat. 96; Pub. L. 102–103, title I, § 103(a), Aug. 17, 1991, 105 Stat. 497, related to grants to local educational agencies.

A prior section 3244, Pub. L. 89–10, title VII, § 734, as added Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2381, related to evaluation assistance centers, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3245, Pub. L. 89–10, title VI, § 6005, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 267; amended Pub. L. 102–103, title I, § 104, Aug. 17, 1991, 105 Stat. 497, related to applications for grants.

A prior section 3245, Pub. L. 89–10, title VII, § 735, as added Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2382, related to bilingual education research and development, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3246, Pub. L. 89–10, title VI, § 6006, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 269; amended Pub. L. 102–103, title I, § 105, Aug. 17, 1991, 105 Stat. 498, related to authorized activities.

A prior section 3246, Pub. L. 89–10, title VII, § 736, as added Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2382, related to coordination of research, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3247, Pub. L. 89–10, title VI, § 6007, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 270, related to distribution of assistance and limitation on costs.

A prior section 3247, Pub. L. 89–10, title VII, § 737, as added Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2383, related to education statistics, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3248, Pub. L. 89–10, title VI, § 6008, as added Pub. L. 102–103, title I, § 106, Aug. 17, 1991, 105 Stat. 498, related to annual reports by Secretary.

Prior sections 3251 to 3255 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3251, Pub. L. 89–10, title VII, § 741, as added Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2281; amended Pub. L. 98–511, title II, § 201, Oct. 19, 1984, 98 Stat. 2383, related to use of funds under training and technical assistance program.

Section 3252, Pub. L. 89–10, title VII, § 742, as added Pub. L. 95–561, title VII, § 701, Nov. 1, 1978, 92 Stat. 2281;

amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2384, related to multifunctional resource centers.

Section 3253, Pub. L. 89–10, title VII, §743, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2384, related to fellowships.

Section 3254, Pub. L. 89–10, title VII, §744, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2385, related to priorities in making grants or contracts.

Section 3255, Pub. L. 89–10, title VII, §745, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2385, related to stipends.

PART B—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT

§§ 3261 to 3266. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3261, Pub. L. 89–10, title VI, §6101, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 270, provided that this part could be cited as the ''Secondary Schools Basic Skills Demonstration Assistance Act of 1988''.

A prior section 3261, Pub. L. 89–10, title VII, §751, as added Pub. L. 95–561, title VII, §701, Nov. 1, 1978, 92 Stat. 2282; amended Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2385, related to Office of Bilingual Education and Minority Languages Affairs, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3262, Pub. L. 89–10, title VI, §6102, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 270, stated purpose of this part.

A prior section 3262, Pub. L. 89–10, title VII, §752, as added Pub. L. 98–511, title II, §201, Oct. 19, 1984, 98 Stat. 2386, related to National Advisory and Coordinating Council on Bilingual Education, prior to the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3263, Pub. L. 89–10, title VI, §6103, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 270; amended Pub. L. 101–600, §5, Nov. 16, 1990, 104 Stat. 3046, authorized appropriations.

Section 3264, Pub. L. 89–10, title VI, §6104, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 271, related to grants to local educational agencies.

Section 3265, Pub. L. 89–10, title VI, §6105, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 271, related to authorized activities.

Section 3266, Pub. L. 89–10, title VI, §6106, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 272, related to applications for grants.

PART C—GENERAL PROVISIONS

§§ 3271, 3272. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3271, Pub. L. 89–10, title VI, §6201, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 273; amended Pub. L. 101–250, §4, Mar. 6, 1990, 104 Stat. 97, contained provisions general to this subchapter.

Section 3272, Pub. L. 89–10, title VI, §6202, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 273, defined terms used in this subchapter.

SUBCHAPTER VII—BILINGUAL EDUCATION PROGRAMS

§§ 3281 to 3283. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3281, Pub. L. 89–10, title VII, §7001, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 274, provided that this subchapter could be cited as the ''Bilingual Education Act''.

A prior section 3281, Pub. L. 89–10, title VIII, §801, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2284, set out short title for program for community schools, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3282, Pub. L. 89–10, title VII, §7002, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 274, stated policy of Congress and authorized appropriations.

A prior section 3282, Pub. L. 89–10, title VIII, §802, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2284, provided Congressional statement of findings and purpose, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3283, Pub. L. 89–10, title VII, §7003, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 276, defined terms used in this subchapter and contained provisions relating to regulations.

Prior sections 3283 to 3290 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3283, Pub. L. 89–10, title VIII, §803, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2285, provided a definition of a community education program.

Section 3284, Pub. L. 89–10, title VIII, §804, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2285; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized State programs for community education.

Section 3285, Pub. L. 89–10, title VIII, §805, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2285; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotment and reallotment of funds.

Section 3286, Pub. L. 89–10, title VIII, §806, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2286, related to the use of community education programs for non-Federal contribution in certain Federal programs.

Section 3287, Pub. L. 89–10, title VIII, §807, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2286; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized the activities for which funds may be used.

Section 3288, Pub. L. 89–10, title VIII, §808, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2287; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the submission of a State plan containing satisfactory assurances.

Section 3289, Pub. L. 89–10, title VIII, §809, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2289; amended Pub. L. 96–46, §1(19), Aug. 6, 1979, 93 Stat. 339; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants to local educational agencies.

Section 3290, Pub. L. 89–10, title VIII, §810, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2289; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, provided for grants to public agencies and nonprofit organizations for delivery of community services through community education.

PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

§§ 3291, 3292. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965,

Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3291, Pub. L. 89–10, title VII, §7021, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 279; amended Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to assistance for bilingual education programs.

A prior section 3291, Pub. L. 89–10, title VIII, §811, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2289; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to national leadership and planning activities, prior to repeal by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3292, Pub. L. 89–10, title VII, §7022, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 285, related to Indian children in schools.

Prior sections 3292 to 3295 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3292, Pub. L. 89–10, title VIII, §812, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2290; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to the training of community education personnel.

Section 3293, Pub. L. 89–10, title VIII, §813, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2290; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized the Director of the National Institute of Education to carry out a program of research on community education programs.

Section 3294, Pub. L. 89–10, title VIII, §814, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2290; amended Pub. L. 96–88, title III, §301(a)(1), (b)(1), (2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, contained administrative provisions.

Section 3295, Pub. L. 89–10, title VIII, §815, as added Pub. L. 95–561, title VIII, §801(3), Nov. 1, 1978, 92 Stat. 2291, related to the Federal share of the cost of State plans and applications of local educational agencies.

PART B—DATA COLLECTION, EVALUATION, AND RESEARCH

§§ 3301 to 3307. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3301, Pub. L. 89–10, title VII, §7031, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 285, related to use of funds for data collection, evaluation, and research.

Section 3302, Pub. L. 89–10, title VII, §7032, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 286, related to grants for State programs.

Section 3303, Pub. L. 89–10, title VII, §7033, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 287, related to program evaluation requirements.

Section 3304, Pub. L. 89–10, title VII, §7034, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 287, related to evaluation assistance centers.

Section 3305, Pub. L. 89–10, title VII, §7035, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 287, related to research and development.

Section 3306, Pub. L. 89–10, title VII, §7036, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 288, related to coordination of research.

Section 3307, Pub. L. 89–10, title VII, §7037, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 289, related to education statistics.

Prior sections 3311 to 3318 were repealed by Pub. L. 97–35, title V, §587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3311, Pub. L. 89–10, title IX, §901, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2292, set out the short title and the declaration of findings and purpose for program for gifted and talented children.

Section 3312, Pub. L. 89–10, title IX, §902, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2292, defined ''gifted and talented children''.

Section 3313, Pub. L. 89–10, title IX, §903, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2292; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, authorized appropriations.

Section 3314, Pub. L. 89–10, title IX, §904, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2293; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to State programs designed to meet the educational needs of gifted and talented children.

Section 3315, Pub. L. 89–10, title IX, §905, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2294; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to discretionary programs.

Section 3316, Pub. L. 89–10, title IX, §906, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2295; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to State allotments and reallotments.

Section 3317, Pub. L. 89–10, title IX, §907, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2296; amended Pub. L. 96–88, title III, §301(a)(1), (b)(2), title V, §507, Oct. 17, 1979, 93 Stat. 677, 678, 692, contained administrative provisions for programs and projects.

Section 3318, Pub. L. 89–10, title IX, §908, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2296, related to Federal share.

PART C—TRAINING AND TECHNICAL ASSISTANCE

§§ 3321 to 3325. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3321, Pub. L. 89–10, title VII, §7041, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 289, related to use of funds for training and technical assistance.

Section 3322, Pub. L. 89–10, title VII, §7042, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 290, related to multifunctional resource centers.

Section 3323, Pub. L. 89–10, title VII, §7043, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 291, related to fellowships.

Section 3324, Pub. L. 89–10, title VII, §7044, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 291, related to priorities in making grants and contracts.

Section 3325, Pub. L. 89–10, title VII, §7045, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 291, related to stipends.

PART D—ADMINISTRATION

§§ 3331, 3332. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

Section 3331, Pub. L. 89–10, title VII, §7051, as added Pub. L. 100–297, title I, §1001, Apr. 28, 1988, 102 Stat. 291, related to Office of Bilingual Education and Minority Languages Affairs.

A prior section 3331, Pub. L. 89–10, title IX, §921, as added Pub. L. 95–561, title VIII, §802, Nov. 1, 1978, 92 Stat. 2296; amended Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692, related to grants for educational proficiency standards implemen-

tation, etc., prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3332, Pub. L. 89–10, title VII, § 7052, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 293, related to limitation of authority.

A prior section 3332, Pub. L. 89–10, title IX, § 922, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2297; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to achievement testing assistance, prior to repeal by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

PART E—TRANSITION

§ 3341. Omitted

CODIFICATION

Section, Pub. L. 89–10, title VII, § 7063, as added Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 293, which related to application of this subchapter to grants and contracts entered into before Oct. 1, 1988, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Prior sections 3341 to 3348 were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 100–297.

Section 3341, Pub. L. 89–10, title IX, § 931, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2298; amended Pub. L. 98–511, title IV, § 402, Oct. 19, 1984, 98 Stat. 2389, related to general provisions applicable to the Women's Educational Equity Act of 1978.

Section 3342, Pub. L. 89–10, title IX, § 932, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2298; amended Pub. L. 98–511, title IV, §§ 401(b), 403, Oct. 19, 1984, 98 Stat. 2389, related to granting and contracting authority and funding requirements.

Section 3343, Pub. L. 89–10, title IX, § 933, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2299; amended Pub. L. 98–511, title IV, § 401(b), Oct. 19, 1984, 98 Stat. 2389, related to applications and participation.

Section 3344, Pub. L. 89–10, title IX, § 934, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2299; amended Pub. L. 98–511, title IV, §§ 401(b), 404, Oct. 19, 1984, 98 Stat. 2389, related to challenge grants.

Section 3345, Pub. L. 89–10, title IX, § 935, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2299; amended Pub. L. 98–511, title IV, §§ 401(b), 405, Oct. 19, 1984, 98 Stat. 2389, 2390, related to criteria and priorities.

Section 3346, Pub. L. 89–10, title IX, § 936, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2300; amended Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 98–511, title IV, §§ 401(b), 406, Oct. 19, 1984, 98 Stat. 2389, 2390, related to National Advisory Council on Women's Educational Programs.

Section 3347, Pub. L. 89–10, title IX, § 937, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2300; amended Pub. L. 98–511, title IV, §§ 401(b), 407, Oct. 19, 1984, 98 Stat. 2389, 2391, related to reports.

Section 3348, Pub. L. 89–10, title IX, § 938, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2301; amended Pub. L. 98–511, title IV, § 408, Oct. 19, 1984, 98 Stat. 2391, related to authorization of appropriations.

SUBCHAPTER VIII—GUN-FREE SCHOOLS

§ 3351. Omitted

CODIFICATION

Section, Pub. L. 89–10, title VIII, § 8001, as added Pub. L. 103–227, title X, § 1032(3), Mar. 31, 1994, 108 Stat. 270, which related to gun-free school requirements, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Prior sections 3351 to 3354 and 3361 to 3367 were repealed by Pub. L. 97–35, title V, § 587(a)(1), Aug. 13, 1981, 95 Stat. 480, eff. Oct. 1, 1982.

Section 3351, Pub. L. 89–10, title IX, § 941, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2301, set out purpose of program of special grants for safe schools.

Section 3352, Pub. L. 89–10, title IX, § 942, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2301, authorized appropriations.

Section 3353, Pub. L. 89–10, title IX, § 943, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2301; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to allotments to local educational agencies.

Section 3354, Pub. L. 89–10, title IX, § 944, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2302; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to submission of applications by local educational agencies in order to receive grants.

Section 3361, Pub. L. 89–10, title IX, § 951, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2303, set out statement of policy for ethnic heritage program.

Section 3362, Pub. L. 89–10, title IX, § 952, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2303; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, authorized an ethnic heritage studies program.

Section 3363, Pub. L. 89–10, title IX, § 953, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2303, set out authorized activities for program of ethnic heritage.

Section 3364, Pub. L. 89–10, title IX, § 954, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2303; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to applications for assistance.

Section 3365, Pub. L. 89–10, title IX, § 955, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2304; amended Pub. L. 96–88, title III, § 301(a)(1), title V, § 507, Oct. 17, 1979, 93 Stat. 677, 692, related to administration by Secretary and to funding.

Section 3366, Pub. L. 89–10, title IX, § 956, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2304, related to National Advisory Council on Ethnic Heritage Studies.

Section 3367, Pub. L. 89–10, title IX, § 957, as added Pub. L. 95–561, title VIII, § 802, Nov. 1, 1978, 92 Stat. 2304, authorized appropriations.

SUBCHAPTER IX—GENERAL PROVISIONS

§§ 3381 to 3384. Omitted

CODIFICATION

Sections were omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519.

Section 3381, Pub. L. 89–10, title IX, § 9001, formerly title VI, § 601, Apr. 11, 1965, 79 Stat. 55; renumbered title VII, § 701, Pub. L. 89–750, title I, § 161, Nov. 3, 1966, 80 Stat. 1204; renumbered title VIII, § 801, and amended Pub. L. 90–247, title I, §§ 142(b), 152(c), title VII, §§ 702, 703, Jan. 2, 1968, 81 Stat. 799, 803, 816, 819; Pub. L. 91–230, title I, § 162, Apr. 13, 1970, 84 Stat. 152; Pub. L. 94–193, § 1(c), Dec. 31, 1975, 89 Stat. 1102; Pub. L. 94–482, title V, § 501(*l*), Oct. 12, 1976, 90 Stat. 2237; renumbered title IX, § 1001, and amended Pub. L. 95–561, title VIII, § 801(1), (2), title IX, § 901(a), Nov. 1, 1978, 92 Stat. 2284, 2305; renumbered title X, § 1001, Pub. L. 96–46, § 2(a)(1), Aug. 6, 1979, 93 Stat. 340; renumbered § 8001 and amended Pub. L. 100–297, title I, § 1002, Apr. 28, 1988, 102 Stat. 293; renumbered title IX, § 9001, Pub. L. 103–227, title X, § 1032(1), (2), Mar. 31, 1994, 108 Stat. 270, defined terms used in this chapter.

Section 3382, Pub. L. 89–10, title IX, § 9002, formerly title VI, § 603, Apr. 11, 1965, 79 Stat. 57; renumbered title VII, § 703, and amended Pub. L. 89–750, title I, §§ 111(f), 161, Nov. 3, 1966, 80 Stat. 1196, 1204; renumbered title VIII, § 803, Pub. L. 90–247, title VII, § 702, Jan. 2, 1968, 81

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Section 3383, Pub. L. 89–10, title IX, §9003, formerly title VIII, §804, as added Pub. L. 93–380, title I, §106, Aug. 21, 1974, 88 Stat. 512; renumbered title IX, §1003, and amended Pub. L. 95–561, title VIII, §801(1), (2), title IX, §901(b), Nov. 1, 1978, 92 Stat. 2284, 2305; Pub. L. 96–46, §§1(20), 2(a)(3), Aug. 6, 1979, 93 Stat. 339, 340; renumbered title X, §1003, and amended Pub. L. 96–46, §2(a)(1), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–211, §21(b), Dec. 8, 1983, 97 Stat. 1418; renumbered §8003, Pub. L. 100–297, title I, §1002(a), Apr. 28, 1988, 102 Stat. 293; renumbered title IX, §9003, Pub. L. 103–227, title X, §1032(1), (2), Mar. 31, 1994, 108 Stat. 270, related to waiver of requirements for certain jurisdictions.

Section 3384, Pub. L. 89–10, title IX, §9004, formerly title VI, §605, Apr. 11, 1965, 79 Stat. 58; renumbered title VII, §705, Pub. L. 89–750, title I, §161, Nov. 3, 1966, 80 Stat. 1204; renumbered title VIII, §805, Pub. L. 90–247, title VII, §702, Jan. 2, 1968, 81 Stat. 816; renumbered title IX, §1004, Pub. L. 95–561, title VIII, §801(1), (2), Nov. 1, 1978, 92 Stat. 2284; renumbered title X, §1004, Pub. L. 96–46, §2(a)(1), Aug. 6, 1979, 93 Stat. 340; renumbered §8004, Pub. L. 100–297, title I, §1002(a), Apr. 28, 1988, 102 Stat. 293; renumbered title IX, §9004, Pub. L. 103–227, title X, §1032(1), (2), Mar. 31, 1994, 108 Stat. 270, related to prohibition against use of funds for religious worship or instruction.

§ 3385. Repealed. Pub. L. 100–297, title V, § 5352(2), Apr. 28, 1988, 102 Stat. 414

Section, Pub. L. 89–10, title X, §1005, formerly title VIII, §810, as added Pub. L. 92–318, title IV, §421(a), June 23, 1972, 86 Stat. 339; amended Pub. L. 93–380, title VI, §§631(a), 632(a), Aug. 21, 1974, 88 Stat. 585, 586; renumbered title IX, §1005, and amended Pub. L. 95–561, title VIII, §801(1), (2), title XI, §§1141(a), 1150(a)–(e), Nov. 1, 1978, 92 Stat. 2284, 2328, 2331–2333; renumbered title X, §1005, and amended Pub. L. 96–46, §§1(21), 2(a)(1), Aug. 6, 1979, 93 Stat. 339, 340; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–511, title V, §513(c), Oct. 19, 1984, 98 Stat. 2400, related to improvement of educational opportunities for Indian students.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

§§ 3385a, 3385b. Repealed. Pub. L. 100–297, title V, § 5352(4), Apr. 28, 1988, 102 Stat. 414

Section 3385a, Pub. L. 92–318, title IV, §422, as added Pub. L. 93–380, title VI, §632(c), Aug. 21, 1974, 88 Stat. 586; amended Pub. L. 95–561, title XI, §§1141(c)(1), 1152(a), Nov. 1, 1978, 92 Stat. 2329, 2333; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–511, title V, §513(b)(1), (2), Oct. 19, 1984, 98 Stat. 2400, related to special educational training programs for teachers of Indian people.

Section 3385b, Pub. L. 92–318, title IV, §423, as added Pub. L. 93–380, title VI, §632(c), Aug. 21, 1974, 88 Stat. 586; amended Pub. L. 95–561, title XI, §§1141(c)(2), 1152(b), Nov. 1, 1978, 92 Stat. 2329, 2333; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98–511, title V, §513(b)(3), (4), Oct. 19, 1984, 98 Stat. 2400; Pub. L. 99–570, title IV, §4133(b)(2), Oct. 27, 1986, 100 Stat. 3207–133, related to fellowships for Indian students.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

§ 3386. Omitted

CODIFICATION

Section, Pub. L. 89–10, title IX, §9005, formerly title VIII, §812, as added Pub. L. 93–380, title I, §110, Aug. 21, 1974, 88 Stat. 513; renumbered title IX, §1006, Pub. L. 95–561, title VIII, §801 (1), (2), Nov. 1, 1978, 92 Stat. 2284; renumbered title X, §1006, Pub. L. 96–46, §2(a)(1), Aug. 6, 1979, 93 Stat. 340; Pub. L. 96–88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; renumbered §8005, Pub. L. 100–297, title I, §1002(a), Apr. 28, 1988, 102 Stat. 293; renumbered title IX, §9005, Pub. L. 103–227, title X, §1032(1), (2), Mar. 31, 1994, 108 Stat. 270, which related to open meetings of educational agencies, was omitted in the general amendment of the Elementary and Secondary Education Act of 1965, Pub. L. 89–10, by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519.

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SUBCHAPTER I—GENERAL PROVISIONS

§ 3401. Congressional findings

The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation;

(2) there is a continuing need to ensure equal access for all Americans to educational opportunities of a high quality, and such educational opportunities should not be denied because of race, creed, color, national origin, or sex;

(3) parents have the primary responsibility for the education of their children, and States, localities, and private institutions have the primary responsibility for supporting that parental role;

(4) in our Federal system, the primary public responsibility for education is reserved respectively to the States and the local school systems and other instrumentalities of the States;

(5) the American people benefit from a diversity of educational settings, including public and private schools, libraries, museums and other institutions, the workplace, the community, and the home;

(6) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted;

(7) there is a need for improvement in the management and coordination of Federal education programs to support more effectively State, local, and private institutions, students, and parents in carrying out their educational responsibilities;

(8) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(9) Presidential and public consideration of issues relating to Federal education programs is hindered by the present organizational position of education programs in the executive branch of the Government; and

(10) there is no single, full-time, Federal education official directly accountable to the President, the Congress, and the people.

(Pub. L. 96–88, title I, § 101, Oct. 17, 1979, 93 Stat. 669.)

EFFECTIVE DATE

Section 601 of Pub. L. 96–88 provided that:

''(a) The provisions of this Act [see Short Title note below] shall take effect one hundred and eighty days after the first Secretary takes office, or on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register [prescribed as May 4, 1980, by Ex. Ord. No. 12212, formerly set out below], except that at any time on or after October 1, 1979—

''(1) any of the officers provided for in title II of this Act [subchapter II of this chapter] may be nominated and appointed, as provided in such title; and

''(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act [section 3505(b)(2) of this title].

''(b) Funds available to any department or agency (or any official or component thereof), the functions or offices of which are transferred to the Secretary or the Department by this Act [see Short Title note below], may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this title [this section and section 602 of Pub. L. 96–88 set out below] and other transitional and planning expenses associated with the establishment of the Department or transfer of functions or offices thereto until such time as funds for such purposes are otherwise available.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–392, title VI, § 601, Sept. 25, 1990, 104 Stat. 840, provided that: ''This title [enacting section 3423a of this title, amending section 3424 of this title, repealing sections 1131 and 3423 of this title, and enacting provisions set out as a note under section 2403 of this title] may be cited as the 'Office of Correctional Education Act of 1990'.''

SHORT TITLE

Section 1 of Pub. L. 96–88 provided that: ''This Act [enacting this chapter, amending sections 928, 929, 1102, 2390, 2711, and 3012 of this title, section 19 of Title 3, The President, sections 101, 5312, and 5314 to 5316 of Title 5, Government Organization and Employees, sections 2, 9, and 11 of the Inspector General Act of 1978, set out in the Appendix to Title 5, section 1004 of Title 21, Food and Drugs, and sections 761b, 794c, 821, 829, 873, 879, 882, 914, and 952 of Title 29, Labor, and enacting provisions set out as notes under this section and section 1102 of this title] may be cited as the 'Department of Education Organization Act'.''

INTERIM APPOINTMENTS

Section 602 of Pub. L. 96–88 provided that:

''(a) In the event that one or more officers required by this Act [see Short Title note above] to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act [May 4, 1980] and notwithstanding any other provisions of law, the President may designate an officer in the executive branch to act in such office for one hundred and twenty days or until the office is filled as provided in this Act, whichever occurs first.

''(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.''

EXECUTIVE ORDER NO. 12212

Ex. Ord. No. 12212, May 2, 1980, 45 F.R. 29557, which established the effective date for the Department of Education Organization Act, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

§ 3402. Congressional declaration of purpose

The Congress declares that the establishment of a Department of Education is in the public interest, will promote the general welfare of the United States, will help ensure that education issues receive proper treatment at the Federal level, and will enable the Federal Government to coordinate its education activities more effectively. Therefore, the purposes of this chapter are—

(1) to strengthen the Federal commitment to ensuring access to equal educational opportunity for every individual;

(2) to supplement and complement the efforts of States, the local school systems and other instrumentalities of the States, the private sector, public and private educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education;

(3) to encourage the increased involvement of the public, parents, and students in Federal education programs;

(4) to promote improvements in the quality and usefulness of education through federally supported research, evaluation, and sharing of information;

(5) to improve the coordination of Federal education programs;

(6) to improve the management and efficiency of Federal education activities, especially with respect to the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and

(7) to increase the accountability of Federal education programs to the President, the Congress, and the public.

(Pub. L. 96–88, title I, § 102, Oct. 17, 1979, 93 Stat. 670.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668, known as the Department of Education Organization Act, which enacted this chapter, amended sections 928, 929, 1102, 2390, 2711, and 3012 of this title, section 19 of Title 3, The President, sections 101, 5312, and 5314 to 5316 of Title 5, Government Organization and Employees, sections 2, 9, and 11 of the Inspector General Act of 1978, set out in the Appendix to Title 5, section 1004 of Title 21, Food and Drugs, and sections 761b, 794c, 821, 829, 873, 879, 882, 914, and 952 of Title 29, Labor, and enacted provisions set out as notes under sections 1102 and 3401 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

§ 3403. Relationship with States

(a) Rights of local governments and educational institutions

It is the intention of the Congress in the establishment of the Department to protect the rights of State and local governments and public and private educational institutions in the areas of educational policies and administration of programs and to strengthen and improve the control of such governments and institutions over their own educational programs and policies. The establishment of the Department of Education shall not increase the authority of the Federal Government over education or diminish the responsibility for education which is reserved to the States and the local school systems and other instrumentalities of the States.

(b) Curriculum, administration, and personnel; library resources

No provision of a program administered by the Secretary or by any other officer of the Department shall be construed to authorize the Secretary or any such officer to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system, except to the extent authorized by law.

(c) Funding under pre-existing programs

The Secretary shall not, during the period within eight months after May 4, 1980, take any action to withhold, suspend, or terminate funds under any program transferred by this chapter by reason of the failure of any State to comply with any applicable law requiring the administration of such a program through a single organizational unit.

(Pub. L. 96–88, title I, § 103, Oct. 17, 1979, 93 Stat. 670.)

CODIFICATION

In subsec. (c), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§ 3404. Definitions

As used in this chapter, unless otherwise provided or indicated by the context—

(1) the term ''Department'' means the Department of Education or any component thereof;

(2) the term ''Secretary'' means the Secretary of Education;

(3) the term ''Deputy Secretary'' means the Deputy Secretary of Education;

(4) the term ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(5) the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(6) the terms ''private'' and ''private educational'' refer to independent, nonpublic, and private institutions of elementary, secondary, and postsecondary education; and

(7) the term ''office'' includes any office, institute, council, unit, organizational entity, or component thereof.

(Pub. L. 96–88, title I, § 104, Oct. 17, 1979, 93 Stat. 671; Pub. L. 101–509, title V, § 529 [title I, § 112(a)(3)(A)], Nov. 5, 1990, 104 Stat. 1427, 1454.)

AMENDMENTS

1990—Par. (3). Pub. L. 101–509 substituted ''Deputy Secretary'' for ''Under Secretary'' in two places.

EFFECTIVE DATE OF 1990 AMENDMENT; CONTINUED SERVICE BY INCUMBENTS

Section 529 [title I, § 112(e)] of Pub. L. 101–509 provided that:

''(1) This section [amending this section, section 3412 of this title, sections 5313 and 5314 of Title 5, Government Organization and Employees, section 472a of Title 25, Indians, section 3533 of Title 42, The Public Health and Welfare, and section 1452 of Title 43, Public Lands and enacting provisions set out as notes under this section and section 3501 of Title 42] shall take effect on the first day of the first pay period that begins on or after the date of enactment of this Act [Nov. 5, 1990].

''(2)(A) The incumbent in the position of Under Secretary of Health and Human Services on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of Health and Human Services at the pleasure of the President after such day.

''(B) The incumbent in the position of Under Secretary of the Interior on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of the Interior at the pleasure of the President after such day.

''(C) The incumbent in the position of Under Secretary of Education on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of Education at the pleasure of the President after such day.

''(D) The incumbent in the position of Under Secretary of Housing and Urban Development on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of Housing and Urban Development at the pleasure of the President after such day.''

CONSTRUCTION OF REFERENCES

Section 529 [title I, § 112(c)] of Pub. L. 101–509 provided that: ''Any reference in any statute, reorganization plan, regulation, executive order, or any document issued pursuant thereto in force on the date this section takes effect [see Effective Date of 1990 Amendment; Continued Service by Incumbents note above] to the Under Secretary of Health and Human Services, the Under Secretary of the Interior, the Under Secretary of Education, or the Under Secretary of Housing and Urban Development shall be deemed to be a reference to the Deputy Secretary of Health and Human Services, the Deputy Secretary of the Interior, the Deputy Secretary of Education, or the Deputy Secretary of Housing and Urban Development, respectively.''

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER II—ESTABLISHMENT OF THE DEPARTMENT

§ 3411. Establishment of Department; appointment of Secretary

There is established an executive department to be known as the Department of Education. The Department shall be administered, in accordance with the provisions of this chapter, under the supervision and direction of a Secretary of Education. The Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(Pub. L. 96–88, title II, § 201, Oct. 17, 1979, 93 Stat. 671.)

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Secretary of Education, see Parts 1, 2, and 6 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out under section 5195 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 12729

Ex. Ord. No. 12729, Sept. 24, 1990, 55 F.R. 39389, which established the President's Advisory Commission on Educational Excellence for Hispanic Americans, directed Secretary of Education to establish the White House Initiative on Educational Excellence for Hispanic Americans, set forth reporting requirements, and required active involvement of executive departments and agencies, was revoked by Ex. Ord. No. 12900, § 10, Feb. 22, 1994, 59 F.R. 9061, formerly set out below.

EXECUTIVE ORDER NO. 12900

Ex. Ord. No. 12900, Feb. 22, 1994, 59 F.R. 9061, which established in the Department of Education the President's Advisory Commission on Educational Excellence for Hispanic Americans and the White House Initiative on Educational Excellence for Hispanic Americans and directed the Secretary of Education to submit to the President an Annual Federal Plan to Promote Hispanic American Educational Excellence and the Director of the Office of Personnel Management to develop a program to promote recruitment of Hispanic students for positions in the Federal Government, was revoked by Ex. Ord. No. 13230, § 9, Oct. 12, 2001, 66 F.R. 52843, set out below.

EX. ORD. NO. 13230. PRESIDENT'S ADVISORY COMMISSION ON EDUCATIONAL EXCELLENCE FOR HISPANIC AMERICANS

Ex. Ord. No. 13230, Oct. 12, 2001, 66 F.R. 52841, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to advance the development of human potential, strengthen the Nation's capacity to provide high-quality education, and increase opportunities for Hispanic Americans to participate in and benefit from Federal education programs, it is hereby ordered as follows:

SECTION 1. There is established, in the Department of Education, the President's Advisory Commission on Educational Excellence for Hispanic Americans (Commission). The Commission shall consist of not more than 25 members. Twenty-one of the members shall be appointed by the President. Those members shall be representatives of educational, business, professional, and community organizations who are committed to improving educational attainment within the Hispanic community, as well as other persons deemed appropriate by the President. The President shall designate two of the appointed members to serve as Co-Chairs of the Commission. The other four members of the Commission shall be ex officio members, one each from the Department of Education, the Department of Housing

and Urban Development, the Department of the Treasury, and the Small Business Administration. The ex officio members shall be the respective Secretaries of those agencies and the Administrator of the Small Business Administration, or their designees.

SEC. 2. The Commission shall provide advice to the Secretary of Education (''Secretary'') and shall issue reports to the President, as described in section 7 below, concerning:

(a) the progress of Hispanic Americans in closing the academic achievement gap and attaining the goals established by the President's ''No Child Left Behind'' educational blueprint;

(b) the development, monitoring, and coordination of Federal efforts to promote high-quality education for Hispanic Americans;

(c) ways to increase parental, State and local, private sector, and community involvement in improving education; and

(d) ways to maximize the effectiveness of Federal education initiatives within the Hispanic community.

SEC. 3. There is established, in the Department of Education, an office called the White House Initiative on Educational Excellence for Hispanic Americans (Initiative). The Initiative shall be located at, staffed, and supported by the Department of Education, and headed by a Director, who shall be a senior level executive branch official who reports to the Secretary. The Initiative shall provide the necessary staff, resources, and assistance to the Commission and shall assist and advise the Secretary in carrying out his responsibilities under this order. The staff of the Initiative shall gather and disseminate information relating to the educational achievement gap of Hispanic Americans, using a variety of means, including conducting surveys, conferences, field hearings, and meetings, and other appropriate vehicles designed to encourage the participation of organizations and individuals interested in such issues, including parents, community leaders, academicians, business leaders, teachers, employers, employees and public officials at the local, State, and Federal levels. To the extent permitted by law, executive branch departments and agencies shall cooperate in providing resources, including personnel detailed to the Initiative, to meet the objectives of this order. The Initiative shall include both career civil service and appointed staff with expertise in the area of education.

SEC. 4. Executive branch departments and agencies, to the extent permitted by law and practicable, shall provide any appropriate information requested by the Commission or the staff of the Initiative, including data relating to the eligibility for and participation by Hispanic Americans in Federal education programs and the progress of Hispanic Americans in closing the academic achievement gap and in achieving the goals of the President's ''No Child Left Behind'' education blueprint. Where adequate data are not available, the Commission shall suggest the means for collecting the data. In accordance with the accountability goals established by the President, executive branch departments and agencies involved in relevant programs shall report to the President through the Initiative by September 30, 2002, on:

(a) efforts to increase participation of Hispanic Americans in Federal education programs and services;

(b) efforts to include Hispanic-serving school districts, Hispanic-serving institutions, and other educational institutions for Hispanic Americans in Federal education programs and services;

(c) levels of participation attained by Hispanic Americans in Federal education programs and services; and

(d) the measurable impact resulting from these efforts and levels of participation. The Department of Education's report also shall describe the overall condition of Hispanic American education and such other aspects of the educational status of Hispanic Americans, as the Secretary considers appropriate.

SEC. 5. Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App), may apply to the Commission, any functions of the President under that Act, except that of reporting to the Congress, shall be performed by the Department of Education in accordance with the guidelines that have been issued by the Administrator of General Services.

SEC. 6. (a) Members of the Commission shall serve without compensation, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707).

(b) To the extent permitted by law, the Department of Education shall provide funding and administrative support for the Commission and the Initiative.

SEC. 7. The Commission shall prepare and submit an interim and final report to the President outlining its findings and recommendations as follows:

(a) The Commission shall submit an Interim Report no later than September 30, 2002. The Interim Report shall describe the Commission's examination of:

(i) available research and information on the effectiveness of current practices at the local, State, and Federal levels in closing the educational achievement gap for Hispanic Americans and attaining the goals established by the President's ''No Child Left Behind'' educational blueprint;

(ii) available research and information on the effectiveness of current practices involving Hispanic parents in the education of their children; and

(iii) the appropriate role of Federal agencies' education programs in helping Hispanic parents successfully prepare their children to graduate from high school and attend post secondary institutions.

(b) The Commission shall issue a Final Report no later than March 31, 2003. The Final Report shall set forth the Commission's recommendations regarding:

(i) a multi-year plan, based on the data collected concerning identification of barriers to and successful models for closing the educational achievement gap for Hispanic Americans, that provides for a coordinated effort among parents, community leaders, business leaders, educators, and public officials at the local, State, and Federal levels to close the educational achievement gap for Hispanic Americans and ensure attainment of the goals established by the President's ''No Child Left Behind'' educational blueprint.

(ii) the development of a monitoring system that measures and holds executive branch departments and agencies accountable for the coordination of Federal efforts among the designated executive departments and agencies to ensure the participation of Hispanic Americans in Federal education programs and promote high-quality education for Hispanic Americans;

(iii) the identification of successful methods employed throughout the Nation in increasing parental, State and local, private sector, and community involvement in improving education for Hispanic Americans;

(iv) ways to improve on and measure the effectiveness of Federal agencies' education programs in ensuring that Hispanic Americans close the educational achievement gap and attain the goals established by the President's ''No Child Left Behind'' educational blueprint; and

(v) how Federal Government education programs can best be applied to ensure Hispanic parents successfully prepare their children to attend post secondary institutions.

SEC. 8. The Commission shall terminate 30 days after submitting its final report, unless extended by the President.

SEC. 9. Executive Order 12900 of February 22, 1994, as amended, is revoked.

GEORGE W. BUSH.

EXTENSION OF TERM OF PRESIDENT'S ADVISORY COMMISSION ON EDUCATIONAL EXCELLENCE FOR HISPANIC AMERICANS

Term of President's Advisory Commission on Educational Excellence for Hispanic Americans extended

until Sept. 30, 1997, by Ex. Ord. No. 12974, Sept. 29, 1995, 60 F.R. 51875, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5, Government Organization and Employees.

Term of President's Advisory Commission on Educational Excellence for Hispanic Americans extended until Sept. 30, 1999, by Ex. Ord. No. 13062, § 1(d), Sept. 29, 1997, 62 F.R. 51755, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Advisory Commission on Educational Excellence for Hispanic Americans extended until Sept. 30, 2001, by Ex. Ord. No. 13138, Sept. 30, 1999, 64 F.R. 53879, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

Term of President's Advisory Commission on Educational Excellence for Hispanic Americans extended until Sept. 30, 2003, by Ex. Ord. No. 13225, Sept. 28, 2001, 66 F.R. 50291, formerly set out as a note under section 14 of the Federal Advisory Committee Act in the Appendix to Title 5.

§ 3412. Principal officers

(a) Deputy Secretary of Education

(1) There shall be in the Department a Deputy Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Deputy Secretary shall act as Secretary. The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Deputy Secretary or in the event of vacancies in both of those offices.

(2)(A) The Deputy Secretary shall have responsibility for the conduct of intergovernmental relations of the Department, including assuring (i) that the Department carries out its functions in a manner which supplements and complements the education policies, programs, and procedures of the States and the local school systems and other instrumentalities of the States, and (ii) that appropriate officials of the Department consult with individuals responsible for making policy relating to education in the States and the local school systems and other instrumentalities of the States concerning differences over education policies, programs, and procedures and concerning the impact of the rules and regulations of the Department on the States and the local school systems and other instrumentalities of the States.

(B) Local education authorities may inform the Deputy Secretary of any rules or regulations of the Department which are in conflict with another rule or regulation issued by any other Federal department or agency or with any other office of the Department. If the Deputy Secretary determines, after consultation with the appropriate Federal department or agency, that such a conflict does exist, the Deputy Secretary shall report such conflict or conflicts to the appropriate Federal department or agency together with recommendations for the correction of the conflict.

(b) Assistant Secretaries and General Counsel

(1) There shall be in the Department—

(A) an Assistant Secretary for Elementary and Secondary Education;

(B) an Assistant Secretary for Postsecondary Education;

(C) an Assistant Secretary for Vocational and Adult Education;

(D) an Assistant Secretary for Special Education and Rehabilitative Services;

(E) an Assistant Secretary for Civil Rights; and

(F) a General Counsel.

(2) Each of the Assistant Secretaries and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(3) There shall be in the Department, a Special Assistant for Gender Equity who shall be appointed by the Secretary. The Special Assistant shall promote, coordinate, and evaluate gender equity programs, including the dissemination of information, technical assistance, and coordination of research activities. The Special Assistant shall advise the Secretary and Deputy Secretary on all matters relating to gender equity.

(4) There shall be in the Department a Director of the Institute of Education Sciences who shall be appointed in accordance with section 114(a) of the Education Sciences Reform Act of 2002 [20 U.S.C. 9514(a)] and perform the duties described in that Act [20 U.S.C. 9501 et seq.].

(c) Inspector General

There shall be in the Department an Inspector General appointed in accordance with the Inspector General Act of 1978.

(d) Under Secretary of Education

There may be in the Department an Under Secretary of Education who shall perform such functions as the Secretary may prescribe. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(e) Additional officers

There shall be in the Department four additional officers who shall be appointed by the President, by and with the advice and consent of the Senate. The officers appointed under this subsection shall perform such functions as the Secretary shall prescribe, including—

(1) congressional relations functions;

(2) public information functions, including the provision, through the use of the latest technologies, of useful information about education and related opportunities to students, parents, and communities;

(3) functions related to monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs;

(4) management and budget functions;

(5) planning, evaluation, and policy development functions, including development of policies to promote the efficient and coordinated administration of the Department and its programs and to encourage improvements in education; and

(6) functions related to encouraging and promoting the study of foreign languages and the

study of cultures of other countries at the elementary, secondary, and postsecondary levels.

(f) Statements of functions of nominees

Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office.

(g) Supervision by Secretary

Each officer of the Department established under this section shall report directly to the Secretary and shall, in addition to any functions vested in or required to be delegated to such officer, perform such additional functions as the Secretary may prescribe.

(h) Coordination of literacy related functions by Assistant Secretary for Vocational and Adult Education

The Assistant Secretary for Vocational and Adult Education, in addition to performing such functions as the Secretary may prescribe, shall have responsibility for coordination of all literacy related programs and policy initiatives in the Department. The Assistant Secretary for Vocational and Adult Education shall assist in coordinating the related activities and programs of other Federal departments and agencies.

(i) Liaison for Community and Junior Colleges

(1) There shall be in the Department a Liaison for Community and Junior Colleges, who shall be an officer of the Department appointed by the Secretary.

(2) The Secretary shall appoint, not later than 6 months after July 23, 1992, as the Liaison for Community and Junior Colleges a person who—

(A) has attained an associate degree from a community or junior college; or

(B) has been employed in a community or junior college setting for not less than 5 years.

(3) The Liaison for Community and Junior Colleges shall—

(A) serve as principal advisor to the Secretary on matters affecting community and junior colleges;

(B) provide guidance to programs within the Department dealing with functions affecting community and junior colleges; and

(C) work with the Federal Interagency Committee on Education to improve coordination of—

(i) the outreach programs in the numerous Federal departments and agencies that administer education and job training programs;

(ii) collaborative business education partnerships; and

(iii) education programs located in, and regarding, rural areas.

(Pub. L. 96–88, title II, §202, Oct. 17, 1979, 93 Stat. 671; Pub. L. 99–145, title XII, §1204(a)(1), Nov. 8, 1985, 99 Stat. 720; Pub. L. 101–509, title V, §529 [title I, §112(a)(3)(B)], Nov. 5, 1990, 104 Stat. 1427, 1454; Pub. L. 102–73, title I, §101, July 25, 1991, 105 Stat. 334; Pub. L. 102–103, title II, §201, Aug. 17, 1991, 105 Stat. 498; Pub. L. 102–325, title XV, §1553(a), July 23, 1992, 106 Stat. 838; Pub. L. 103–227, title IX, §913, Mar. 31, 1994, 108 Stat. 223; Pub. L. 103–382, title II, §271(b), Oct. 20, 1994, 108 Stat. 3929; Pub. L. 107–110, title X, §1072(e)(2), Jan. 8, 2002, 115 Stat. 2089; Pub. L. 107–279, title IV, §402(1), Nov. 5, 2002, 116 Stat. 1984.)

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in subsec. (b)(4), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, which is classified generally to subchapter I (§9501 et seq.) of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

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

AMENDMENTS

2002—Subsec. (b)(4). Pub. L. 107–279 added par. (4) and struck out former par. (4) which read as follows: ''There shall be in the Department an Assistant Secretary for Educational Research and Improvement who shall be—

''(A) appointed by the President, by and with the consent of the Senate; and

''(B) selected (giving due consideration to recommendations from the National Educational Research Policy and Priorities Board) from among individuals who—

''(i) are distinguished educational researchers or practitioners;

''(ii) have proven management ability; and

''(iii) have substantial knowledge of education within the United States.''

Subsec. (b)(3), (4). Pub. L. 107–110 redesignated par. (3), relating to Assistant Secretary for Educational Research and Improvement, as (4).

1994—Subsec. (b)(1)(E) to (G). Pub. L. 103–227, §913(1), redesignated subpars. (F) and (G) as (E) and (F), respectively, and struck out former subpar. (E) which read as follows: ''an Assistant Secretary for Educational Research and Improvement;''.

Subsec. (b)(3). Pub. L. 103–382 added par. (3) relating to Special Assistant for Gender Equity.

Pub. L. 103–227, §913(2), added par. (3) relating to Assistant Secretary for Educational Research and Improvement.

1992—Subsec. (i). Pub. L. 102–325 added subsec. (i).

1991—Subsecs. (d), (e). Pub. L. 102–103 added subsec. (d) and redesignated former subsec. (d) as (e).

Subsec. (h). Pub. L. 102–73 added subsec. (h).

1990—Subsec. (a). Pub. L. 101–509 substituted ''a Deputy Secretary'' for ''an Under Secretary'' in first sentence of par. (1) and ''Deputy Secretary'' for ''Under Secretary'' wherever appearing elsewhere in pars. (1) and (2).

1985—Subsec. (e). Pub. L. 99–145 struck out subsec. (e) which provided for presence in the Department of Education of an Administrator of Education for Overseas Dependents.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Section 203 of title II of Pub. L. 102–103 provided that: ''(a) IN GENERAL.—This Act [probably should be ''this title'', meaning title II of Pub. L. 102–103, amending

this section and section 5314 of Title 5, Government Organization and Employees] shall take effect on the first day of the first Department of Education pay period that begins on or after the date of enactment of this Act [Aug. 17, 1991].

''(b) SPECIAL RULE.—An incumbent in a position within the Department of Education on the day preceding the day that this Act takes effect who has been appointed by the President to a position within the Department of Education with the advice and consent of the Senate may serve as the Under Secretary at the pleasure of the President after the day preceding the day that this Act takes effect.''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–509 effective on first day of first pay period beginning on or after Nov. 5, 1990, with continued service by incumbent Under Secretary of Education, see section 529 [title I, § 112(e)] of Pub. L. 101–509, set out as a note under section 3404 of this title.

§ 3413. Office for Civil Rights

(a) Establishment; administration; delegation of functions

There shall be in the Department an Office for Civil Rights, to be administered by the Assistant Secretary for Civil Rights appointed under section 3412(b) of this title. Notwithstanding the provisions of section 3472 of this title, the Secretary shall delegate to the Assistant Secretary for Civil Rights all functions, other than administrative and support functions, transferred to the Secretary under section 3441(a)(3) of this title.

(b) Compliance and enforcement reports; copies submitted to Secretary

(1) The Assistant Secretary for Civil Rights shall make an annual report to the Secretary, the President, and the Congress summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems as to which such Office has made a recommendation for corrective action and as to which, in the judgment of the Assistant Secretary, adequate progress is not being made.

(2) Notwithstanding any other provision of law, the report required by paragraph (1) shall be transmitted to the Secretary, the President, and the Congress by the Assistant Secretary for Civil Rights without further clearance or approval. The Assistant Secretary shall provide copies of the report required by paragraph (1) to the Secretary sufficiently in advance of its submission to the President and the Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the report.

(c) Authority of Assistant Secretary

In addition to the authority otherwise provided under this section, the Assistant Secretary for Civil Rights, in carrying out the provisions of this section, is authorized—

(1) to collect or coordinate the collection of data necessary to ensure compliance with civil rights laws within the jurisdiction of the Office for Civil Rights;

(2) to select, appoint, and employ such officers and employees, including staff attorneys, as may be necessary to carry out the functions of such Office, subject to the provisions of title 5 governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(3) to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private organizations and persons, and to make such payments as may be necessary to carry out the compliance and enforcement functions of such Office; and

(4) notwithstanding any other provision of this chapter, to obtain services as authorized by section 3109 of title 5 at a rate not to exceed the equivalent daily rate payable for grade GS–18 of the General Schedule under section 5332 of such title.

(Pub. L. 96–88, title II, § 203, Oct. 17, 1979, 93 Stat. 673.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (c)(2), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b)(1) of this section relating to making an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 82 of House Document No. 103–7.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 3414. Office of Elementary and Secondary Education; inclusion of Office of Migrant Education

There shall be in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions affecting elementary and secondary education, both public and private, as the Secretary shall delegate. There shall be within the Office of Elementary and Secondary Education and directly under the supervision of the Assistant Secretary for Elementary and Secondary Education, an Office of Migrant Education, which shall be responsible for the administration of programs established by part C of title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6391 et seq.] and by subpart 5 of part A of title IV of the Higher Education Act of 1965 [20 U.S.C. 1070d–2].

(Pub. L. 96–88, title II, § 204, Oct. 17, 1979, 93 Stat. 674; Pub. L. 98–511, title VII, § 701(a), Oct. 19, 1984, 98 Stat. 2405; Pub. L. 103–382, title III, § 391(h), Oct. 20, 1994, 108 Stat. 4023.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89–10, Apr. 11, 1965,

79 Stat. 27, as amended. Part C of title I of the Act is classified generally to part C (§ 6391 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in text, is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Subpart 5 of part A of title IV of this Act is classified generally to subpart 5 (§ 1070d–2) of part A of subchapter IV of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

1994—Pub. L. 103–382 substituted ''part C'' for ''subpart 1 of part B''.

1984—Pub. L. 98–511 inserted provisions establishing the Office of Migrant Education and specifying its functions.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–511 effective Oct. 19, 1984, see section 711(a) of Pub. L. 98–511, set out as a note under section 1226c of this title.

§ 3415. Office of Postsecondary Education

There shall be in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions affecting postsecondary education, both public and private, as the Secretary shall delegate, and shall serve as the principal adviser to the Secretary on matters affecting public and private postsecondary education.

(Pub. L. 96–88, title II, § 205, Oct. 17, 1979, 93 Stat. 674.)

§ 3416. Office of Vocational and Adult Education

There shall be in the Department an Office of Vocational and Adult Education, to be administered by the Assistant Secretary for Vocational and Adult Education appointed under section 3412(b) of this title. The Assistant Secretary shall administer such functions affecting vocational and adult education as the Secretary shall delegate, and shall serve as principal adviser to the Secretary on matters affecting vocational and adult education. The Secretary, through the Assistant Secretary, shall also provide a unified approach to rural education and rural family education through the coordination of programs within the Department and shall work with the Federal Interagency Committee on Education to coordinate related activities and programs of other Federal departments and agencies.

(Pub. L. 96–88, title II, § 206, Oct. 17, 1979, 93 Stat. 674.)

§ 3417. Office of Special Education and Rehabilitative Services

There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary for Special Education and Rehabilitative Services appointed under section 3412(b) of this title. Notwithstanding the provisions of section 3472 of this title, the Secretary shall delegate to the Assistant Secretary all functions, other than administrative and support functions, transferred to the Secretary under sections 3441(a)(1) of this title (with respect to the bureau for the education and training of the handicapped), 3441(a)(2)(H) of this title, and 3441(a)(4) of this title.

(Pub. L. 96–88, title II, § 207, Oct. 17, 1979, 93 Stat. 674.)

§ 3418. Repealed. Pub. L. 99–145, title XII, § 1204(a)(1), Nov. 8, 1985, 99 Stat. 720

Section, Pub. L. 96–88, title II, § 208, Oct. 17, 1979, 93 Stat. 674, provided for an Office of Education for Overseas Dependents in Department of Education.

§ 3419. Institute of Education Sciences

There shall be in the Department of Education the Institute of Education Sciences, which shall be administered in accordance with the Education Sciences Reform Act of 2002 [20 U.S.C. 9501 et seq.] by the Director appointed under section 114(a) of that Act [20 U.S.C. 9514(a)].

(Pub. L. 96–88, title II, § 208, as added Pub. L. 107–279, title IV, § 402(2), Nov. 5, 2002, 116 Stat. 1985.)

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in text, is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, which is classified generally to subchapter I (§ 9501 et seq.) of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

PRIOR PROVISIONS

A prior section 3419, Pub. L. 96–88, title II, § 208, formerly § 209, Oct. 17, 1979, 93 Stat. 674; Pub. L. 103–227, title IX, § 911(b), Mar. 31, 1994, 108 Stat. 213; renumbered § 208, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929, related to Office of Educational Research and Improvement, prior to repeal by Pub. L. 107–279, title IV, § 402(2), Nov. 5, 2002, 116 Stat. 1985.

A prior section 208 of Pub. L. 96–88 was classified to section 3418 of this title prior to repeal by Pub. L. 99–145.

§ 3420. Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students

There shall be in the Department an Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students, to be administered by a Director of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students, who shall be appointed by the Secretary. The Director shall coordinate the administration of bilingual education programs by the Department and shall consult with the Secretary concerning policy decisions affecting bilingual education and minority languages affairs. The Director shall report directly to the Secretary, and shall perform such additional functions as the Secretary may prescribe.

(Pub. L. 96–88, title II, § 209, formerly § 210, Oct. 17, 1979, 93 Stat. 675; renumbered § 209, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929; amended Pub. L. 107–110, title X, § 1072(b), (c)(2)(A), (d), Jan. 8, 2002, 115 Stat. 2089.)

PRIOR PROVISIONS

A prior section 209 of Pub. L. 96–88 was renumbered section 208 and was classified to section 3419 of this title, prior to repeal by Pub. L. 107–279.

AMENDMENTS

2002—Pub. L. 107–110, § 1072(d), substituted ''Director of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students'' for ''Director of Bilingual Education and Minority Languages Affairs''.

Pub. L. 107–110, § 1072(b), (c)(2)(A), substituted ''Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students'' for ''Office of Bilingual Education and Minority Languages Affairs'' in section catchline and in text.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 3421. Office of General Counsel

There shall be in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 3412(b) of this title. The General Counsel shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

(Pub. L. 96–88, title II, § 210, formerly § 211, Oct. 17, 1979, 93 Stat. 675; renumbered § 210, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 210 of Pub. L. 96–88 was renumbered section 209 and is classified to section 3420 of this title.

§ 3422. Office of Inspector General

There shall be in the Department an Office of Inspector General, established in accordance with the Inspector General Act of 1978.

(Pub. L. 96–88, title II, § 211, formerly § 212, Oct. 17, 1979, 93 Stat. 675; renumbered § 211, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

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

PRIOR PROVISIONS

A prior section 211 of Pub. L. 96–88 was renumbered section 210 and is classified to section 3421 of this title.

§ 3423. Repealed. Pub. L. 101–392, title VI, § 602(a)(1), Sept. 25, 1990, 104 Stat. 840

Section, Pub. L. 96–88, title II, § 213, Oct. 17, 1979, 93 Stat. 675, established the Intergovernmental Advisory Council on Education.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1991, see section 702(a) of Pub. L. 101–392, set out as an Effective Date note under section 3423a of this title.

§ 3423a. Office of Correctional Education

(a) Findings

The Congress finds and declares that—

(1) education is important to, and makes a significant contribution to, the readjustment of incarcerated individuals to society; and

(2) there is a growing need for immediate action by the Federal Government to assist State and local educational programs for criminal offenders in correctional institutions.

(b) Statement of purpose

It is the purpose of this subchapter to encourage and support educational programs for criminal offenders in correctional institutions.

(c) Establishment of Office

The Secretary of Education shall establish within the Department of Education an Office of Correctional Education.

(d) Functions of Office

The Secretary, through the Office of Correctional Education established under subsection (c) of this section, shall—

(1) coordinate all correctional education programs within the Department of Education;

(2) provide technical support to State and local educational agencies and schools funded by the Bureau of Indian Affairs on correctional education programs and curricula;

(3) provide an annual report to the Congress on the progress of the Office of Correctional Education and the status of correctional education in the United States;

(4) cooperate with other Federal agencies carrying out correctional education programs to ensure coordination of such programs;

(5) consult with, and provide outreach to, State directors of correctional education and correctional educators; and

(6) collect from States a sample of information on the number of individuals who complete a vocational education sequence, earn a high school degree or general equivalency diploma, or earn a postsecondary degree while incarcerated and the correlation with job placement, job retention, and recidivism.

(e) Definitions

As used in this section—

(1) the term ''criminal offender'' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender;

(2) the term ''correctional institution'' means any—

(A) prison,

(B) jail,

(C) reformatory,

(D) work farm,

(E) detention center, or

(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders; and

(3) the term ''State educational agency'' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(Pub. L. 96–88, title II, § 212, formerly § 214, as added Pub. L. 101–392, title VI, § 602(a)(3), Sept.

25, 1990, 104 Stat. 840; amended Pub. L. 103–322, title II, § 20408(a), Sept. 13, 1994, 108 Stat. 1827; renumbered § 212, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 212 of Pub. L. 96–88 was renumbered section 211 and is classified to section 3422 of this title.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103–322 substituted ''under subsection (c)'' for ''under subsection (a)'' in introductory provisions.

EFFECTIVE DATE

Section 702 of Pub. L. 101–392 provided that:

''(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act [enacting subchapter II of chapter 44 of this title, this section, sections 2311a, 2327, 2328, 2394 to 2394e, 2395 to 2395e, 2396 to 2396m, 2411 to 2420a, 2424, 2466b to 2466e, 2468, 2468b to 2468e, and 3423a of this title, and subchapter III of chapter 20 of Title 25, Indians, amending sections 2301, 2311 to 2313, 2321 to 2324, 2352, 2361 to 2363, 2382, 2391, 2392, 2401 to 2404, 2421 to 2423, 2451, 2463, and 2471 of this title, section 1812 of Title 25, and sections 49f, 1533, 1604, and 1661c of Title 29, Labor, repealing sections 1131, 2371 to 2373, 2376 to 2378, 2431, 2462, 2464, 2465, and 3423 of this title, and amending provisions set out as a note under section 2301 of this title] shall take effect on July 1, 1991.

''(b) SPECIAL RULE.—Sections 3, 115, 116, 504, and 512 and part H of title III of the Carl D. Perkins Vocational and Applied Technology Education Act [former sections 2302, 2325, 2326, 2466a, and 2468a of this title and former part H (§ 2397 et seq.) of subchapter III of chapter 44 of this title] (as amended by this Act) shall take effect upon the enactment of this Act [Sept. 25, 1990].''

§ 3423b. Office of Non-Public Education

There shall be in the Department an Office of Non-Public Education to ensure the maximum potential participation of non-public school students in all Federal educational programs for which such students are eligible.

(Pub. L. 96–88, title II, § 214, as added Pub. L. 103–382, title II, § 271(c), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 214 of Pub. L. 96–88 was renumbered section 212 and is classified to section 3423a of this title.

Another prior section 214 of Pub. L. 96–88 was renumbered section 217 and is classified to section 3424 of this title.

§ 3423c. Office of Indian Education

(a) Office of Indian Education

There shall be an Office of Indian Education (referred to in this section as ''the Office'') in the Department of Education.

(b) Director

(1) Appointment and reporting

The Office shall be under the direction of the Director, who shall be appointed by the Secretary and who shall report directly to the Assistant Secretary for Elementary and Secondary Education.

(2) Duties

The Director shall—

(A) be responsible for administering this title;[1]

(B) be involved in, and be primarily responsible for, the development of all policies affecting Indian children and adults under programs administered by the Office of Elementary and Secondary Education;

(C) coordinate the development of policy and practice for all programs in the Department relating to Indian persons; and

(D) assist the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities related to the education of Indian persons.

(c) Indian preference in employment

(1) In general

The Secretary shall give a preference to Indian persons in all personnel actions in the Office.

(2) Implementation

Such preference shall be implemented in the same fashion as the preference given to any veteran under section 45 of title 25.

(Pub. L. 96–88, title II, § 215, as added Pub. L. 103–382, title III, § 372(2), Oct. 20, 1994, 108 Stat. 3977.)

REFERENCES IN TEXT

This title, referred to in subsec. (b)(2)(A), is title II of Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 671, which is classified to this subchapter, but probably should have been a reference to part A of title IX of the Elementary and Secondary Education Act of 1965. Part A of title IX of that Act was classified generally to part A (§ 7801 et seq.) of subchapter IX of chapter 70 of this title, prior to general amendment by Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1956. Provisions similar to those formerly appearing in part A of title IX are contained in part A of title VII of that Act, which is classified generally to part A (§ 7401 et seq.) of subchapter VII of chapter 70 of this title. For complete classification of the Elementary and Secondary Education Act of 1965 to the Code, see Short Title note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 215 of Pub. L. 96–88 was renumbered section 217 and is classified to section 3424 of this title.

Provisions similar to those in this section were contained in section 2641 of Title 25, Indians, prior to repeal by Pub. L. 103–382, § 367.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

The Office of Educational Research and Improvement was established by section 3419 of this title. Section 3419 was repealed and a new section 3419 establishing the Institute of Educational Sciences was enacted by Pub. L. 107–279, title IV, § 402(2), Nov. 5, 2002, 116 Stat. 1985.

§ 3423d. Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students

(a) Establishment

There shall be, in the Department, an Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students through which the Secretary shall carry out functions relating to bilingual education.

(b) Director

(1) In general

The Office shall be headed by a Director of English Language Acquisition, Language En-

[1] See References in Text note below.

hancement, and Academic Achievement for Limited English Proficient Students, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for recommending improvements and providing technical assistance to other Federal programs serving language-minority and limited-English-proficient students and their families and for assisting the Assistant Secretary of the Office of Educational Research and Improvement in identifying research priorities which reflect the needs of language-minority and limited-English language proficient students.

(2) Organization

The Office shall be organized as the Director determines to be appropriate in order to carry out such functions and responsibilities effectively.

(3) Inclusion

The Secretary shall ensure that limited-English-proficient and language-minority students are included in ways that are valid, reliable, and fair under all standards and assessment development conducted or funded by the Department.

(Pub. L. 96–88, title II, § 216, as added Pub. L. 103–382, title III, § 372(2), Oct. 20, 1994, 108 Stat. 3978; amended Pub. L. 107–110, title X, § 1072(b), (c)(2)(B), (d), Jan. 8, 2002, 115 Stat. 2089.)

CODIFICATION

Another section 216 of Pub. L. 96–88 was renumbered section 218 and is classified to section 3425 of this title.

AMENDMENTS

2002—Pub. L. 107–110, § 1072(c)(2)(B), substituted ''Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students'' for ''Office of Bilingual Education and Minority Languages Affairs'' in section catchline.

Subsec. (a). Pub. L. 107–110, § 1072(b), substituted ''Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students'' for ''Office of Bilingual Education and Minority Languages Affairs''.

Subsec. (b)(1). Pub. L. 107–110, § 1072(d), substituted ''Director of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students'' for 'Director of Bilingual Education and Minority Languages Affairs''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

The Office of Educational Research and Improvement was established by section 3419 of this title. Section 3419 was repealed and a new section 3419 establishing the Institute of Educational Sciences was enacted by Pub. L. 107–279, title IV, § 402(2), Nov. 5, 2002, 116 Stat. 1985.

§ 3424. Federal Interagency Committee on Education

(a) Establishment and function

There is established a Federal Interagency Committee on Education (hereafter referred to in this section as the ''Committee''). The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) Coordination of Federal programs, policies and practices

The Committee shall study and make recommendations for assuring effective coordination of Federal programs, policies, and administrative practices affecting education, including—

(1) consistent administration and development of policies and practices among Federal agencies in the conduct of related programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities and repetitive collection of data;

(3) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this chapter;

(4) coordination of related programs to assure that recipients of Federal assistance are efficiently and responsively served; and

(5) full and effective involvement and participation of students and parents in Federal education programs.

(c) Membership

The Committee shall be composed of the Secretary, who shall chair the Committee, and senior policy making officials from those Federal agencies, commissions, and boards that the President may find appropriate.

(d) Designation of additional persons to attend meetings

The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Director of the Office of Science and Technology Policy, and the Executive Director of the Domestic Policy Staff may each designate a staff member to attend meetings of the Committee.

(e) Federal vocational education and training programs study; report

The Committee shall conduct a study concerning the progress, effectiveness, and accomplishments of Federal vocational education and training programs, and the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of October 17, 1979.

(f) Required meetings; establishment of subcommittees

The Committee shall meet at least twice each year. The Secretary may establish subcommittees of the Committee to facilitate coordination in important areas of Federal activity.

(g) Support assistance

The Secretary and the head of each agency represented on the Committee under subsection

(c) of this section shall furnish necessary assistance to the Committee.

(Pub. L. 96–88, title II, § 217, formerly § 214, Oct. 17, 1979, 93 Stat. 676; renumbered § 215, Pub. L. 101–392, title VI, § 602(a)(2), Sept. 25, 1990, 104 Stat. 840; renumbered § 217, Pub. L. 103–382, title III, § 372(1), Oct. 20, 1994, 108 Stat. 3977.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3425. Office of Educational Technology

(a) Establishment

There shall be in the Department of Education an Office of Educational Technology (hereafter in this section referred to as the ''Office''), to be administered by the Director of Educational Technology. The Director of Educational Technology shall report directly to the Secretary and shall perform such additional functions as the Secretary may prescribe.

(b) Director

The Director of the Office of Educational Technology (hereafter in this section referred to as the ''Director''), through the Office, shall—

(1) in support of the overall national technology policy and in consultation with other Federal departments or agencies which the Director determines appropriate, provide leadership to the Nation in the use of technology to promote achievement of the National Education Goals and to increase opportunities for all students to achieve State content and challenging State student performance standards;

(2) review all programs and training functions administered by the Department and recommend policies in order to promote increased use of technology and technology planning throughout all such programs and functions;

(3) review all relevant programs supported by the Department to ensure that such programs are coordinated with and support the national long-range technology plan developed pursuant to section 5862(b)[1] of this title; and

(4) perform such additional functions as the Secretary may require.

(c) Officers and employees

The Director is authorized to select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Office, subject to the provisions of title 5 (governing appointments in the competitive service), and the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

[1] See References in Text note below.

(d) Experts and consultants

The Secretary may obtain the services of experts and consultants in accordance with section 3109 of title 5.

(Pub. L. 96–88, title II, § 218, formerly § 216, as added Pub. L. 103–227, title II, § 233(a), Mar. 31, 1994, 108 Stat. 154; renumbered § 218, Pub. L. 107–110, title X, § 1072(e)(3), Jan. 8, 2002, 115 Stat. 2090.)

REFERENCES IN TEXT

Section 5862 of this title, referred to in subsec. (b)(3), was repealed by Pub. L. 103–382, title III, § 361(a), Oct. 20, 1994, 108 Stat. 3974.

The provisions of title 5 (governing appointments in the competitive service), referred to in subsec. (c), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

TRANSFER OF OFFICE OF TRAINING TECHNOLOGY TRANSFER

Section 236(a)(1) of Pub. L. 103–227 provided that: ''The Office of Training Technology Transfer as established under section 6103 of the Training Technology Transfer Act of 1988 ([former] 20 U.S.C. 5093) is transferred to and established in the Office of Educational Technology.''

§ 3426. Liaison for Proprietary Institutions of Higher Education

(a) Establishment

There shall be in the Department a Liaison for Proprietary Institutions of Higher Education, who shall be an officer of the Department appointed by the Secretary.

(b) Appointment

The Secretary shall appoint, not later than 6 months after October 7, 1998, a Liaison for Proprietary Institutions of Higher Education who shall be a person who—

(1) has attained a certificate or degree from a proprietary institution of higher education; or

(2) has been employed in a proprietary institution setting for not less than 5 years.

(c) Duties

The Liaison for Proprietary Institutions of Higher Education shall—

(1) serve as the principal advisor to the Secretary on matters affecting proprietary institutions of higher education;

(2) provide guidance to programs within the Department that involve functions affecting proprietary institutions of higher education; and

(3) work with the Federal Interagency Committee on Education to improve the coordination of—

(A) the outreach programs in the numerous Federal departments and agencies that administer education and job training programs;

(B) collaborative business and education partnerships; and

(C) education programs located in, and involving, rural areas.

(Pub. L. 96–88, title II, § 219, as added Pub. L. 105–244, title IX, § 961, Oct. 7, 1998, 112 Stat. 1836.)

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244,

set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 3427. Coordinator for the outlying areas

(a) Establishment

The Secretary shall designate an office of the Department to coordinate the activities of the Department as they relate to the outlying areas.

(b) Appointment

Not later than 90 days after January 8, 2002, the head of the office designated under subsection (a) of this section shall appoint a coordinator for the outlying areas, who shall be a person with substantial experience in the operation of Federal programs in the outlying areas.

(c) Duties

The coordinator for the outlying areas shall—

(1) serve as the principal advisor to the Department on Federal matters affecting the outlying areas;

(2) evaluate, on a periodic basis, the needs of education programs in the outlying areas;

(3) assist with the coordination of programs that serve the outlying areas; and

(4) provide guidance to programs within the Department that serve the outlying areas.

(d) Outlying areas defined

As used in this section, the term ''outlying areas'' includes Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Marianas Islands, but does not include the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(Pub. L. 96–88, title II, § 220, as added Pub. L. 107–110, title X, § 1072(a), Jan. 8, 2002, 115 Stat. 2088.)

EFFECTIVE DATE

Section effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as a note under section 6301 of this title.

SUBCHAPTER III—TRANSFERS OF AGENCIES AND FUNCTIONS

§ 3441. Transfers from Department of Health, Education, and Welfare

(a) Functions transferred to Secretary

There are transferred to the Secretary—

(1) all functions of the Assistant Secretary for Education and of the Commissioner of Education of the Department of Health, Education, and Welfare, and all functions of the Office of such Assistant Secretary and of the Education Division of the Department of Health, Education, and Welfare and of any officer or component of such Office or Division;

(2) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under—

(A) the General Education Provisions Act [20 U.S.C. 1221 et seq.];

(B) the Elementary and Secondary Education Act of 1965;

(C) the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.];

(D) the Education Amendments of 1978;

(E) the Act of August 30, 1890 (7 U.S.C. 321–328);

(F) the National Defense Education Act of 1958 [20 U.S.C. 401 et seq.];

(G) the International Education Act of 1966 [20 U.S.C. 1171 et seq.];

(H) the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(I) part B of title V of the Economic Opportunity Act of 1964 [42 U.S.C. 2929 et seq.];

(J) the National Commission on Libraries and Information Science Act [20 U.S.C. 1501 et seq.];

(K) the Vocational Education Act of 1963;

(L) the Career Education Incentive Act [20 U.S.C. 2601 et seq.];

(M) laws relating to the relationship between (i) Gallaudet College, Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(N) the Model Secondary School for the Deaf Act [20 U.S.C. 693 et seq.];

(O) subpart A[C] of part IV of title III of the Communications Act of 1934 [47 U.S.C. 395 et seq.] with respect to the telecommunications demonstration program;

(P) section 550 of title 40 with respect to donations of surplus property for educational purposes; and

(Q) the Alcohol and Drug Abuse Education Act [21 U.S.C. 1001 et seq.];

(3) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare with respect to or being administered by the Office for Civil Rights which relate to functions transferred by this section;

(4)(A) all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], except that the provisions of this subparagraph shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act [42 U.S.C. 422 and 1382d];

(B) all functions with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act of June 20, 1936, commonly referred to as the Randolph-Sheppard Act (20 U.S.C. 107 et seq.);

(C) all functions of the Commissioner of Rehabilitation and the Director of the National Institute of Handicapped Research of the Department of Health, Education, and Welfare under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.];

(5) all functions of the Advisory Council on Education Statistics; and

(6) all functions of the Federal Education Data Acquisition Council.

(b) Offices, etc., transferred to Department

There are transferred to the Department—

(1) all offices in the Office of the Assistant Secretary for Education or in the Education

Division of the Department of Health, Education, and Welfare;

(2) all offices in the Department of Health, Education, and Welfare established under the provisions of law listed in subparagraphs (A) through (Q) of subsection (a)(2) of this section;

(3) all offices in the Department of Health, Education, and Welfare established under the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.];

(4) the Advisory Council on Education Statistics;

(5) the Federal Education Data Acquisition Council; and

(6) any advisory committee of the Department of Health, Education, and Welfare giving advice or making recommendations that primarily concern education functions transferred by this section.

(c) Administrative functions transferred to Secretary

There are transferred to the Secretary all functions of the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(1) the Education Division of the Department of Health, Education, and Welfare;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics; and

(3) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education functions transferred by this section.

(d) Reservation of functions relating to Project Head Start

Nothing in the provisions of this section or in the provisions of this chapter shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964 [42 U.S.C. 2928 et seq.], relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

(Pub. L. 96–88, title III, §301, Oct. 17, 1979, 93 Stat. 677; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142; Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(b)(2)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (a)(2)(A), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(2)(B), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (a)(2)(C), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Education Amendments of 1978, referred to in subsec. (a)(2)(D), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, as amended. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of this title and Tables.

Act of August 30, 1890 (7 U.S.C. 321–328), referred to in subsec. (a)(2)(E), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§321 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 321 of Title 7 and Tables.

The National Defense Education Act of 1958, referred to in subsec. (a)(2)(F), is Pub. L. 85–864, Sept. 2, 1958, 72 Stat. 1580, as amended, which was classified principally to chapter 17 (§401 et seq.) of this title prior to omission from the Code. For complete classification of this Act to the Code, see Tables.

The International Education Act of 1966, referred to in subsec. (a)(2)(G), is Pub. L. 89–698, Oct. 29, 1966, 80 Stat. 1066, as amended, which was classified principally to chapter 29 (§1171 et seq.) of this title and was substantially repealed by section 601(c)(2) of Pub. L. 96–374. For complete classification of this Act to the Code, see Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a)(2)(H), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Economic Opportunity Act of 1964, referred to in subsecs. (a)(2)(I) and (d), is Pub. L. 88–452, Aug. 20, 1964, 78 Stat. 508, as amended. Parts A and B of title V of the Economic Opportunity Act of 1964 were classified generally to parts A (§2928 et seq.) and B (§2929 et seq.) of subchapter V of chapter 34 of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 97–35, title VI, §683(a), Aug. 13, 1981, 95 Stat. 519. For complete classification of this Act to the Code, see Tables.

The National Commission on Libraries and Information Science Act, referred to in subsec. (a)(2)(J), is Pub. L. 91–345, July 20, 1970, 84 Stat. 440, as amended, which is classified generally to chapter 34 (§1501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of this title and Tables.

The Vocational Education Act of 1963, referred to in subsec. (a)(2)(K), was title I of Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 94–482, title II, §202(a), Oct. 12, 1976, 90 Stat. 2169, which was classified to chapter 44 (§2301 et seq.) of this title, prior to amendment by Pub. L. 98–524, §1, Oct. 19, 1984, 98 Stat. 2435, striking out all after the enacting clause and inserting in lieu thereof titles I to V, to be cited as the Carl D. Perkins Vocational Education Act. The Act was subsequently amended extensively by Pub. L. 101–392, Sept. 25, 1990, 104 Stat. 753, which renamed it the Carl D. Perkins Vocational and Applied Technology Education Act, and amended generally by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076, which renamed it the Carl D. Perkins Vocational and Technical Education Act of 1998. For additional details, see Codification note preceding section 2301 of this title.

The Career Education Incentive Act, referred to in subsec. (a)(2)(L), is Pub. L. 95–207, Dec. 13, 1977, 91 Stat. 1464, as amended, which was classified principally to chapter 46 (§2601 et seq.) of this title prior to its repeal by Pub. L. 97–35, title V, §587(a)(4), Aug. 13, 1981, 95 Stat. 480.

The Model Secondary School for the Deaf Act, referred to in subsec. (a)(2)(N), is Pub. L. 89–694, Oct. 15, 1966, 80 Stat. 1027, which was classified to subchapter II (§693 et seq.) of chapter 20B of this title, and was repealed by Pub. L. 99–371, title IV, §410(c), Aug. 4, 1986, 100 Stat. 794. See section 4321 et seq. of this title.

The Communications Act of 1934, referred to in subsec. (a)(2)(O), is act June 19, 1934, ch. 652, 48 Stat. 1064, as amended. Subpart A of part IV of title III of the Act

(which is classified principally to subpart A (§ 390 et seq.) of part IV of subchapter III of chapter 5 of Title 47, Telegraphs, Telephones, and Radiotelegraphs) was amended by section 201 of Pub. L. 95–567, Nov. 2, 1978, 92 Stat. 2409, and, as so amended, the provisions relating to telecommunications demonstrations which had appeared in subpart A were restated in a new subpart B (§ 395 et seq.). Subpart B was subsequently redesignated subpart C by Pub. L. 101–437, title II, § 203(a)(2), Oct. 17, 1990, 104 Stat. 998. For complete classification of the 1934 Act to the Code, see section 609 of Title 47 and Tables.

The Alcohol and Drug Abuse Education Act, referred to in subsec. (a)(2)(Q), is Pub. L. 91–527, Dec. 3, 1970, 84 Stat. 1385, as amended, which was classified generally to chapter 14 (§ 1001 et seq.) of Title 21, Food and Drugs, prior to repeal by Pub. L. 97–35, title V, § 587(a)(3), Aug. 13, 1981, 95 Stat. 480.

The Rehabilitation Act of 1973, referred to in subsecs. (a)(4)(A), (C), and (b)(3), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

Act of June 20, 1936, referred to in subsec. (a)(4)(B), is act June 20, 1936, ch. 638, 49 Stat. 1559, as amended, known as the Randolph-Sheppard Act and also popularly known as the Randolph-Sheppard Vending Stand Act, which is classified generally to chapter 6A (§ 107 et seq.) of this title. For complete classification of this Act to the Code, see Short Title notes set out under section 107 of this title and Tables.

CODIFICATION

''Section 550 of title 40'' substituted in subsec. (a)(2)(P) for ''section 203(k) of the Federal Property and Administrative Services Act of 1949'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1996—Subsec. (a)(5) to (7). Pub. L. 104–208, § 101(e) [title VII, § 709(b)(2)(A)], redesignated pars. (6) and (7) as (5) and (6), respectively, and struck out former par. (5) which transferred all functions of the Institute of Museum Services of the Department of Health, Education, and Welfare to the Secretary of Education.

Subsec. (b)(4) to (7). Pub. L. 104–208, § 101(e) [title VII, § 709(b)(2)(B)], redesignated pars. (5) to (7) as (4) to (6), respectively, and struck out former par. (4) which transferred the offices, etc., of the Institute of Museum Services of the Department of Health, Education, and Welfare to the Department of Education.

1990—Subsec. (a)(2)(H). Pub. L. 101–476 substituted ''Individuals with Disabilities Education Act'' for ''Education of the Handicapped Act''.

CHANGE OF NAME

Gallaudet College, referred to in subsec. (a)(2)(M), redesignated Gallaudet University by Pub. L. 99–371, title I, § 101(a), Aug. 4, 1986, 100 Stat. 781, which is classified to section 4301(a) of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

§ 3442. Repealed. Pub. L. 99–145, title XII, § 1204(a)(1), Nov. 8, 1985, 99 Stat. 720

Section, Pub. L. 96–88, title III, § 302, Oct. 17, 1979, 93 Stat. 679; Pub. L. 97–252, title XI, § 1118, Sept. 8, 1982, 96 Stat. 753; Pub. L. 98–94, title XII, § 1223, Sept. 24, 1983, 97 Stat. 692, provided for transfers to Department and Secretary of Education from Department and Secretary of Defense of functions relating to operation of overseas schools for and education of dependents and personnel, effectuation of transfers, and operation of overseas institutions of higher education.

§ 3443. Transfers from Department of Labor

(a) Functions relating to programs for the education of migrant and seasonal farmworkers

Notwithstanding the provisions of section 601 of this Act, there shall be transferred to the Secretary, at such time on or after May 4, 1980, as the Secretary certifies that there has been established in the Department a single component responsible for the administration and the coordination of programs relating to the education of migrants, all functions of the Secretary of Labor or the Department of Labor relating to such education.

(b) Authorization to conduct functions

The Secretary is authorized to conduct the functions transferred by subsection (a) of this section.

(Pub. L. 96–88, title III, § 302, formerly § 303, Oct. 17, 1979, 93 Stat. 680; renumbered § 302, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(16)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–421.)

REFERENCES IN TEXT

Section 601 of this Act, referred to in subsec. (a), is section 601 of Pub. L. 96–88, which is set out as an Effective Date note under section 3401 of this title.

PRIOR PROVISIONS

A prior section 302 of Pub. L. 96–88 was classified to section 3442 of this title prior to repeal by Pub. L. 99–145.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277 substituted ''relating to such education'' for ''under section 303(c)(2) of the Comprehensive Employment and Training Act''.

§ 3444. Transfer of programs from National Science Foundation

(a) Science education; exceptions

(1) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the Director of the National Science Foundation established prior to May 4, 1980, pursuant to the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.], except the programs or parts of programs, as determined after review by the Director of the Office of Science and Technology Policy and the Director of the National Science Foundation, which relate to—

(A) scientific career development;

(B) the continuing education of scientific personnel;

(C) increasing the participation of women, minorities, and the handicapped in careers in science;

(D) the conduct of basic and applied research and development applied to science learning at all educational levels and the dissemination of results concerning such research and development; and

(E) informing the general public of the nature of science and technology and of attendant values and public policy issues.

(2) Except as provided in paragraph (1), no mission oriented research functions or programs of the National Science Foundation or any other Federal agency shall be transferred by this chapter.

(b) Authority of Secretary; consultation and advice

The Secretary is authorized to conduct the programs transferred by subsection (a) of this section. In conducting such programs the Secretary shall consult, as appropriate, with the Director of the National Science Foundation, and shall establish advisory mechanisms designed to assure that scientists and engineers are fully involved in the development, implementation, and review of science education programs.

(c) Report by Secretary

The annual report to be transmitted by the Secretary pursuant to section 3486 of this title shall include a description of arrangements, developed by the Secretary in consultation with the Director of the National Science Foundation, for coordinated planning and operation of science education programs, including measures to facilitate the implementations of successful innovations.

(d) Reservation of certain Foundation authority

Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs under the National Science Foundation Act of 1950 [42 U.S.C. 1861 et seq.].

(Pub. L. 96–88, title III, § 303, formerly § 304, Oct. 17, 1979, 93 Stat. 680; renumbered § 303, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

The National Science Foundation Act of 1950, referred to in subsecs. (a)(1) and (d), is act May 10, 1950, ch. 171, 64 Stat. 149, as amended, which is classified generally to chapter 16 (§ 1861 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1861 of Title 42 and Tables.

CODIFICATION

In subsec. (a)(1), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

PRIOR PROVISIONS

A prior section 303 of Pub. L. 96–88 was renumbered section 302 and is classified to section 3443 of this title.

§ 3445. Transfers from Department of Justice

There are transferred to the Secretary all functions of the Attorney General and of the Law Enforcement Assistance Administration with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406[1] of the Omnibus Crime Control and Safe Streets Act of 1968.

(Pub. L. 96–88, title III, § 304, formerly § 305, Oct. 17, 1979, 93 Stat. 680; renumbered § 304, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 406 of the Omnibus Crime Control and Safe Streets Act of 1968, referred to in text, is section 406 of title I of Pub. L. 90–351, June 19, 1968, 82 Stat. 204, which was classified to section 3746 of Title 42, The Public Health and Welfare. Title I of the Act was amended generally by Pub. L. 96–157, § 2, Dec. 27, 1979, 93 Stat. 1167, and provisions formerly contained in section 406 of the Act were contained in section 705 of part G of title I of the Act, which was classified to section 3775 of Title 42. Subsequently, part G of title I of the Act was amended generally by Pub. L. 98–473, title II, § 609A(a), Oct. 12, 1984, 98 Stat. 2090, and, as so amended, did not contain a section 705 or similar provisions.

PRIOR PROVISIONS

A prior section 304 of Pub. L. 96–88 was renumbered section 303 and is classified to section 3444 of this title.

§ 3446. Transfers from Department of Housing and Urban Development

There are transferred to the Secretary all functions relating to college housing loans of the Secretary of Housing and Urban Development and of the Department of Housing and Urban Development under title IV of the Housing Act of 1950 [12 U.S.C. 1749 et seq.].

(Pub. L. 96–88, title III, § 305, formerly § 306, Oct. 17, 1979, 93 Stat. 681; renumbered § 305, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

REFERENCES IN TEXT

The Housing Act of 1950, referred to in text, is act Apr. 20, 1950, ch. 94, 64 Stat. 48, as amended. Title IV of the Housing Act of 1950 which was classified generally to subchapter IX (§ 1749 et seq.) of chapter 13 of Title 12, Banks and Banking, was repealed by Pub. L. 99–498, title VII, § 702, Oct. 17, 1986, 100 Stat. 1545. For complete classification of this Act to the Code, see Short Title of 1950 Amendment note set out under section 1701 of Title 12 and Tables.

PRIOR PROVISIONS

A prior section 305 of Pub. L. 96–88 was renumbered section 304 and is classified to section 3445 of this title.

§ 3447. Effect of transfers

The transfer of a function or office from an officer or agency to the Secretary or to the Department includes any aspects of such function or office vested in a subordinate of such officer or in a component of such agency.

(Pub. L. 96–88, title III, § 306, formerly § 307, Oct. 17, 1979, 93 Stat. 681; renumbered § 306, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 306 of Pub. L. 96–88 was renumbered section 305 and is classified to section 3446 of this title.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

PART A—PERSONNEL PROVISIONS

§ 3461. Officers and employees

(a) Appointment and compensation

The Secretary is authorized to appoint and fix the compensation of such officers and employ-

ees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5.

(b) Applicability of General Schedule; termination of authority; exemption from limitations on executive positions

(1) At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 5108 of title 5, provide for the establishment in each of the grade levels GS–16, GS–17, and GS–18 of a number of positions in the Department equal to the number of positions in that grade level which were used primarily for the performance of functions and offices transferred under this chapter and which were assigned and filled on the day before May 4, 1980.

(2) Repealed. Pub. L. 107–279, title IV, § 403(3), Nov. 5, 2002, 116 Stat. 1985.

(3) Appointments to positions provided for under this subsection may be made without regard to the provisions of section 3324 of title 5, if the individual appointed in such position is an individual who is transferred in connection with the transfer of functions and offices under this chapter and, on the day preceding May 4, 1980, holds a position and has duties comparable to those of the position to which appointed hereunder.

(4) The authority under this subsection with respect to any position shall terminate when the person first appointed to fill such position ceases to hold such position.

(5) For purposes of section 414(a)(3)(A) of the Civil Service Reform Act of 1978, an individual appointed under this subsection shall be deemed to occupy the same position as the individual occupied on the day preceding May 4, 1980.

(c) Repealed. Pub. L. 99–498, title XIV, § 1401(d), Oct. 17, 1986, 100 Stat. 1597

(d) Senior Executive Service

Notwithstanding any other provision of law, the Director of the Office of Personnel Management shall establish positions within the Senior Executive Service for 15 limited-term appointees. The Secretary shall appoint individuals to such positions as provided by section 3394 of title 5. Such positions shall expire on the later of three years after May 4, 1980, or three years after the initial appointment to each position. Positions in effect under this subsection shall be taken into account in applying the limitations on positions prescribed under section 3134(e) and section 5108 of such title.

(e) Indian preference laws

Nothing in this chapter shall be construed to prevent the application of any Indian preference law in effect on the day before October 17, 1979, to any function or office transferred by this chapter and subject to any such law on the day before October 17, 1979. Any function or office transferred by this chapter and subject to any such law shall continue to be subject to any such law.

(Pub. L. 96–88, title IV, § 401, Oct. 17, 1979, 93 Stat. 681; Pub. L. 99–145, title XII, § 1204(a)(1), Nov. 8, 1985, 99 Stat. 720; Pub. L. 99–498, title XIV, § 1401(d), Oct. 17, 1986, 100 Stat. 1597; Pub. L. 103–382, title II, § 271(a)(3)(A), Oct. 20, 1994, 108 Stat. 3929; Pub. L. 107–279, title IV, § 403(3), Nov. 5, 2002, 116 Stat. 1985.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

Section 414(a)(3)(A) of the Civil Service Reform Act of 1978, referred to in subsec. (b)(5), is section 414(a)(3)(A) of Pub. L. 95–454, title IV, Oct. 13, 1978, 92 Stat. 1178, which is set out as a note under sections 3104 and 5108 of Title 5.

CODIFICATION

In subsecs. (a) and (d), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

AMENDMENTS

2002—Subsec. (b)(2). Pub. L. 107–279 struck out par. (2) which read as follows: ''At the request of the Secretary, the Director of the Office of Personnel Management shall, under section 3104 of title 5, provide for the establishment in the Office created by section 3419 of this title of a number of scientific, professional, and technical positions outside of the General Schedule equal to the number of such positions which were used primarily for the performance of functions and offices transferred under this chapter and which were assigned and filled on the day before May 4, 1980.''

1994—Subsec. (b)(2). Pub. L. 103–382 made technical amendment to reference to section 3419 of this title to reflect renumbering of corresponding section of original act.

1986—Subsec. (c). Pub. L. 99–498 struck out subsec. (c) which read as follows: ''The Secretary may appoint, without regard to the provisions of title 5 governing appointment in the competitive service, up to 175 scientific, technical, or professional employees of the Office created by section 3419 of this title and may compensate employees so appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates. The rate of basic compensation for such employees shall not be equal to or in excess of the minimum rate of pay currently paid for GS–16 of the General Schedule under section 5332 of such title.''

1985—Subsec. (f). Pub. L. 99–145 struck out subsec. (f) which deemed any reference to ''civilian component'' as including a reference to overseas personnel of the overseas dependents' education system for purposes of any status of forces agreement between the United States and any other country or any international organization.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 3462. Experts and consultants

(a) In general

The Secretary may as provided in appropriation Acts obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5 and may compensate such experts and consultants at rates not to exceed

the daily rate prescribed for GS–18 of the General Schedule under section 5332 of such title.

(b) Special rule

(1) In general

Notwithstanding any other provision of law, the Secretary may use not more than 1 percent of the funds appropriated for any education program that awards such funds on a competitive basis to pay the expenses and fees of non-Federal experts necessary to review applications and proposals for such funds.

(2) Applicability

The provisions of paragraph (1) shall not apply to any education program under which funds are authorized to be appropriated to pay the fees and expenses of non-Federal experts to review applications and proposals for such funds.

(Pub. L. 96–88, title IV, § 402, Oct. 17, 1979, 93 Stat. 682; Pub. L. 103–227, title IX, § 981, Mar. 31, 1994, 108 Stat. 263.)

AMENDMENTS

1994—Pub. L. 103–227 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 3463. Personnel reduction and annual limitations

(a) Work-years limitation; allocations; adjustments

(1) Notwithstanding any other provision of this chapter, there shall be included in each appropriation Act containing appropriations for the administration of the Department for any fiscal year beginning after September 30, 1981 (other than an appropriation Act containing only supplemental appropriations for the Department), an annual limitation on the total number of work-years for the personnel of the Department.

(2) The Secretary shall prescribe the allocation of the work-years available under paragraph (1) among the organizational units and components of the Department.

(3) If the President transmits any reorganization plan under chapter 9 of title 5 which would result in the transfer of functions or offices to the Secretary or the Department, the message transmitting the plan shall include any adjustments which may be necessary in a work-year limitation established under paragraph (1) to reflect changes in the work-years required as a result of such plan.

(b) Full-time equivalent personnel reductions

Not later than the end of the first fiscal year beginning after May 4, 1980, the number of full-time equivalent personnel positions available for performing functions transferred to the Secretary or the Department by this chapter shall be reduced by 500.

(c) Personnel computations

(1) Computations required to be made for purposes of this section shall be made on the basis of all personnel employed by the Department, including experts and consultants employed under section 3109 of title 5 and all other part-time and full-time personnel employed to perform functions of the Secretary or the Department, except personnel employed under special programs for students and disadvantaged youth (including temporary summer employment).

(2) The Director of the Office of Personnel Management shall, by rule, establish a method for computing work-years for personnel of the Department as described in paragraph (1).

(d) Report on effects of reorganization on employees

The Director of the Office of Personnel Management shall, as soon as practicable, but not later than one year after May 4, 1980, prepare and transmit to the Congress a report on the effects on employees of the reorganization under this chapter, which shall include—

(1) an identification of any position within the Department or elsewhere in the executive branch, which it considers unnecessary due to consolidation of functions under this chapter;

(2) a statement of the number of employees entitled to pay savings by reason of the organization under this chapter;

(3) a statement of the number of employees who are voluntarily or involuntarily separated by reason of such reorganization;

(4) an estimate of the personnel costs associated with such reorganization;

(5) the effects of such reorganization on labor management relations; and

(6) such legislative and administrative recommendations for improvements in personnel management within the Department as the Director considers necessary.

(Pub. L. 96–88, title IV, § 403, Oct. 17, 1979, 93 Stat. 682; Pub. L. 104–66, title I, § 1041(a), Dec. 21, 1995, 109 Stat. 714.)

CODIFICATION

In subsecs. (a) and (d), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

AMENDMENTS

1995—Subsec. (a)(2). Pub. L. 104–66 struck out before period at end ''and shall, within 120 days after the enactment of an appropriation Act containing a work-year limitation, prepare and transmit to the Congress a report on such allocation. Such report shall include explanations and justifications for the allocations made by the Secretary and shall indicate the necessary personnel actions which will be required as a consequence of such allocation. Not later than 120 days after the conclusion of any fiscal year to which a work-year limitation established under paragraph (1) applies, the Secretary shall prepare and transmit to the Congress a report on compliance with such limitation indicating the total work-years actually expended by the Department and by the organizational units and components to which such work-years were allocated''.

PART B—GENERAL ADMINISTRATIVE PROVISIONS

§ 3471. General authority

(a) Force and effect of actions by Secretary

In carrying out any function transferred by this chapter, the Secretary, or any officer or employee of the Department, may exercise any authority available by law (including appropriation Acts) with respect to such function to the official or agency from which such function is transferred, and the actions of the Secretary in exercising such authority shall have the same force and effect as when exercised by such official or agency.

(b) Reporting requirements

(1) The director of any office continued in the Department the director of which was required, prior to May 4, 1980, to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare, shall report to the Secretary.

(2) The Secretary is authorized to delegate reporting requirements vested in the Secretary by paragraph (1) to any officer or employee of the Department.

(Pub. L. 96–88, title IV, § 411, Oct. 17, 1979, 93 Stat. 683.)

CODIFICATION

In subsec. (b)(1), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§ 3472. Delegation of functions

Except as otherwise provided in this chapter, the Secretary may delegate any function to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this chapter shall relieve the Secretary of responsibility for the administration of such functions.

(Pub. L. 96–88, title IV, § 412, Oct. 17, 1979, 93 Stat. 684.)

§ 3473. Reorganization of Department

(a) Authorization; limitations

The Secretary is authorized, subject to the requirements of section 3412(f) of this title, to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate, but the authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity transferred to the Department and established by statute or any function vested by statute in such an entity or officer of such an entity, except as provided in subsection (b) of this section;

(2) the abolition of organizational entities established by this chapter; or

(3) the alteration of the delegation of functions to any specific organizational entity required by this chapter.

(b) Alteration, consolidation, or discontinuance of statutory and organizational entities

(1) The Secretary may, in accordance with paragraph (2) of this subsection, consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students;

(B) the Teacher Corps;

(C) the Community College Unit;

(D) the National Center for Education Statistics;

(E) the National Institute of Education;

(F) the Office of Environmental Education;

(G) the Office of Consumers' Education;

(H) the Office of Indian Education;

(I) the Office of Career Education;

(J) the Office of Non-Public Education;

(K) the bureau for the education and training for the handicapped; and

(L) the administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, upon the expiration of a period of ninety days after the receipt by the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(Pub. L. 96–88, title IV, § 413, Oct. 17, 1979, 93 Stat. 684; Pub. L. 96–496, title II, § 202, Dec. 4, 1980, 94 Stat. 2593; Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(c)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313; Pub. L. 107–110, title X, § 1072(b), Jan. 8, 2002, 115 Stat. 2089.)

AMENDMENTS

2002—Subsec. (b)(1)(A). Pub. L. 107–110 substituted ''Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students'' for ''Office of Bilingual Education''.

1996—Subsec. (b)(1)(H) to (M). Pub. L. 104–208 redesignated subpars. (I) to (M) as (H) to (L), respectively, and struck out former subpar. (H) which authorized Secretary to consolidate, alter, discontinue, or reallocate any functions vested by statute in Office of Libraries and Learning Resources.

1980—Subsec. (b)(1). Pub. L. 96–496 redesignated subpar. (N) as (M) and struck out former subpar. (M), which authorized the Secretary to reallocate the functions or to alter or discontinue the Institute of Museum Services.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor,

and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

NATIONAL INSTITUTE OF EDUCATION

The National Institute of Education was established by section 1221e of this title which as amended generally by Pub. L. 99–498, title XIV, § 1401(a), Oct. 17, 1986, 100 Stat. 1589, provided objectives and duties for the Office of Educational Research and Improvement and established the National Advisory Council on Educational Research and Improvement, and section 1401(b) of Pub. L. 99–498 transferred the property and records of the National Institute of Education to the Office of Educational Research and Improvement.

OFFICE OF MIGRANT EDUCATION

Pub. L. 98–511, title VII, § 701(b), Oct. 19, 1984, 98 Stat. 2405, provided that: ''For the purposes of section 413(a) of the Department of Education Organization Act (20 U.S.C. 3473), the Office of Migrant Education shall be considered to be an organizational entity established by such Act [20 U.S.C. 3401 et seq.] and shall not be subject to the reorganizational authority of the Secretary of Education under that section or any other provision of law.''

§ 3474. Rules and regulations

The Secretary is authorized to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department.

(Pub. L. 96–88, title IV, § 414, Oct. 17, 1979, 93 Stat. 685; Pub. L. 99–145, title XII, § 1204(a)(5), Nov. 8, 1985, 99 Stat. 720; Pub. L. 103–382, title II, § 271(d)(1), Oct. 20, 1994, 108 Stat. 3930.)

AMENDMENTS

1994—Pub. L. 103–382 struck out subsec. (a) designation and subsec. (b) which read as follows: ''The Secretary, in promulgating rules and regulations as authorized by statute, shall prescribe such rules and regulations in accordance with chapter 5 of title 5. Section 1232 of this title also shall apply to such rules and regulations to the extent applicable immediately prior to May 4, 1980, and to rules and regulations promulgated with respect to programs transferred under sections 3441(a)(1), (2), and (4), 3443, 3444, 3445, and 3446 of this title.''

1985—Subsec. (b). Pub. L. 99–145 struck out reference to section 3442 of this title.

§ 3475. Contracts

(a) Authorization of Secretary

Subject to the provisions of the Federal Property and Administrative Services Act of 1949,[1] the Secretary is authorized to make, enter into, and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and to make such payments, by way of advance or reimbursement, as the Secretary may determine necessary or appropriate to carry out functions of the Secretary or the Department.

(b) Limitations

Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subchapter shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 3481 of this title.

(Pub. L. 96–88, title IV, § 415, Oct. 17, 1979, 93 Stat. 685.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Except for title III of the Act, which is classified generally to subchapter IV (§ 251 et seq.) of chapter 4 of Title 41, Public Contracts, the Act was repealed and reenacted by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapters 1 to 11 of Title 40, Public Buildings, Property, and Works.

§ 3476. Regional and field offices

The Secretary is authorized to establish, alter, discontinue, or maintain such regional or other field offices as the Secretary may find necessary or appropriate to perform functions of the Secretary or the Department.

(Pub. L. 96–88, title IV, § 416, Oct. 17, 1979, 93 Stat. 685.)

§ 3477. Acquisition and maintenance of property

(a) Authorized properties; establishment of necessary facilities

The Secretary is authorized—

(1) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

(A) schools and related facilities (but only to the extent that operation of schools and related facilities by the Department is authorized by this chapter);

(B) laboratories;

(C) research and testing sites and facilities;

(D) quarters and related accommodations for employees and dependents of employees of the Department; and

(E) personal property (including patents), or any interest therein,

as may be necessary; and

(2) to provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) Day care center facilities

The authority available to the Secretary of Health, Education, and Welfare under section

[1] See References in Text note below.

2564 of this title, shall also be available to the Secretary.

(c) Special purpose facilities

The authority granted by subsection (a) of this section shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

(Pub. L. 96–88, title IV, § 417, Oct. 17, 1979, 93 Stat. 685.)

§ 3478. Facilities at remote locations

(a) Authorized services, supplies and facilities

The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) Reimbursements

The furnishing of medical treatment under paragraph (1) of subsection (a) of this section and the furnishing of services and supplies under paragraphs (2), (3), and (4) of subsection (a) of this section shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Appropriation credits and refunds

Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or used to refund excess sums when necessary.

(Pub. L. 96–88, title IV, § 418, Oct. 17, 1979, 93 Stat. 686.)

§ 3479. Use of facilities

(a) Federal, State, local and foreign government facilities

With their consent, the Secretary may, with or without reimbursement, use the research, equipment, services, and facilities of any agency or instrumentality of the United States, of any State or political subdivision thereof, or of any foreign government, in carrying out any function of the Secretary or the Department.

(b) Public and private permittees

The Secretary is authorized to permit public and private agencies, corporations, associations, organizations, or individuals to use any real property, or any facilities, structures, or other improvements thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such period as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 102(3) of title 40.

(c) Appropriation credits and refunds

Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such equipment or facilities provided or to refund excess sums when necessary.

(d) Interests in real property

Any interest in real property acquired pursuant to this chapter shall be acquired in the name of the United States Government.

(Pub. L. 96–88, title IV, § 419, Oct. 17, 1979, 93 Stat. 686; Pub. L. 99–145, title XII, § 1204(a)(2), Nov. 8, 1985, 99 Stat. 720.)

CODIFICATION

''Section 102(3) of title 40'' substituted in subsec. (b) for ''section 3(e) of the Federal Property and Administrative Services Act of 1949'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–145 struck out par. (1) designation and par. (2) which provided for treatment of personnel, upon transfer of functions and personnel from the Secretary of Defense to the Secretary of Education, as employees of the Department of Defense for the purpose of access to services and facilities provided by the Department of Defense.

§ 3480. Copyrights and patents

The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

(Pub. L. 96–88, title IV, § 420, Oct. 17, 1979, 93 Stat. 687.)

§ 3481. Gifts and bequests

The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, and to accept donations of services, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary.

(Pub. L. 96–88, title IV, § 421, Oct. 17, 1979, 93 Stat. 687; Pub. L. 103–382, title II, § 271(d)(2), Oct. 20, 1994, 108 Stat. 3930.)

AMENDMENTS

1994—Pub. L. 103–382 inserted ''and to accept donations of services,'' after ''personal,''.

§ 3482. Technical advice

(a) Authorization

The Secretary is authorized, upon request, to provide advice, counsel, and technical assistance to applicants or potential applicants for grants and contracts and other interested persons with respect to any functions of the Secretary or the Department.

(b) Consolidation of applications for grants and contracts

The Secretary may permit the consolidation of applications for grants or contracts with respect to two or more functions of the Secretary or the Department, but such consolidation shall not alter the statutory criteria for approval of applications for funding with respect to such functions.

(Pub. L. 96–88, title IV, § 422, Oct. 17, 1979, 93 Stat. 687.)

§ 3483. Working capital fund

(a) Establishment; administrative services included

The Secretary, with the approval of the Director of the Office of Management and Budget, is authorized to establish for the Department a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as—

(1) a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components;

(2) central messenger, mail, telephone, and other communications services;

(3) office space, central services for document reproduction, and for graphics and visual aids; and

(4) a central library service.

(b) Capital; reimbursement of funds; credit; miscellaneous receipts; transfers

The capital of the fund shall consist of any appropriations made for the purpose of providing working capital and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of agencies and offices in the Department, or from other sources, for supplies and services at rates that will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the Treasury as miscellaneous receipts any surplus of the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines, with the approval of the Director of the Office of Management and Budget, will be performed.

(Pub. L. 96–88, title IV, § 423, Oct. 17, 1979, 93 Stat. 687.)

§ 3484. Funds transfer

The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 percent and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

(Pub. L. 96–88, title IV, § 424, Oct. 17, 1979, 93 Stat. 688.)

§ 3485. Seal of Department

The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

(Pub. L. 96–88, title IV, § 425, Oct. 17, 1979, 93 Stat. 688.)

§ 3486. Annual report

(a) Contents

The Secretary shall, as soon as practicable after the close of each fiscal year, make a single, comprehensive report to the President for transmission to the Congress on the activities of the Department during such fiscal year. The report shall include a statement of goals, priorities, and plans for the Department together with an assessment of the progress made toward—

(1) the attainment of such goals, priorities, and plans;

(2) the more effective and efficient management of the Department and the coordination of its functions; and

(3) the reduction of excessive or burdensome regulation and of unnecessary duplication and fragmentation in Federal education programs,

accompanied where necessary by recommendations for proposed legislation for the achievement of such objectives.

(b) Estimate on non-Federal personnel employed

The report required by subsection (a) of this section shall also include an estimate of the extent of the non-Federal personnel employed pursuant to contracts entered into by the Department under section 3475 of this title or under any other authority (including any subcontract thereunder), the number of such contracts and subcontracts pursuant to which non-Federal personnel are employed, and the total cost of those contracts and subcontracts.

(Pub. L. 96–88, title IV, § 426, Oct. 17, 1979, 93 Stat. 688.)

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a) of this section relating to transmission of report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 80 of House Document No. 103–7.

§ 3487. Repealed. Pub. L. 103–382, title II, § 271(a)(1), Oct. 20, 1994, 108 Stat. 3929

Section, Pub. L. 96–88, title IV, § 427, Oct. 17, 1979, 93 Stat. 689, related to application of General Education Provisions Act, 20 U.S.C. 1221 et seq., to functions transferred by this chapter.

§ 3488. Authorization of appropriations

Subject to any limitation on appropriations applicable with respect to any function or office transferred to the Secretary or the Department, there are authorized to be appropriated for fiscal year 1980 and each succeeding fiscal year such sums as may be necessary to carry out the provisions of this chapter and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

(Pub. L. 96–88, title IV, § 427, formerly § 428, Oct. 17, 1979, 93 Stat. 689; renumbered § 427, Pub. L. 103–382, title II, § 271(a)(2), Oct. 20, 1994, 108 Stat. 3929.)

PRIOR PROVISIONS

A prior section 427 of Pub. L. 96–88 was classified to section 3487 of this title prior to repeal by Pub. L. 103–382.

§ 3489. General extension of authorizations

Subject to the limitations contained in subtitle A of this title, there are authorized to be appropriated for fiscal years 1982, 1983, and 1984 such sums as may be necessary to carry out each of the following provisions of law:

(1) the Act of September 30, 1950[1] (Public Law 874, 81st Congress);

(2) the Act of September 23, 1950[1] (Public Law 815, 81st Congress);

(3) the General Education Provisions Act [20 U.S.C. 1221 et seq.];

(4) the Indian Education Act;

(5) titles XI [25 U.S.C. 2000 et seq.], XIV [20 U.S.C. 921 et seq.], and XV of the Education Amendments of 1978 and part H of title XIII of the Education Amendments of 1980;

(6) the Adult Education Act;[1]

(7) section 342 of the Education Amendments of 1976 [20 U.S.C. 2532];

(8) the Asbestos School Hazards Detection and Control Act [20 U.S.C. 3601 et seq.];

(9) the Joint Resolution of October 19, 1972 (86 Stat. 907);

(10) the Vocational Education Act of 1963;[1]

(11) title IV of the Civil Rights Act of 1964 [42 U.S.C. 2000c et seq.];

(12) the Navajo Community College Act [25 U.S.C. 640a et seq.] and the Tribally Controlled College or University Assistance Act of 1978 [25 U.S.C. 1801 et seq.];

(13) part C of title IX of the Elementary and Secondary Education Act of 1965,[1] relating to Women's Educational Equity; and

(14) title VII of the Elementary and Secondary Education Act of 1965.[1]

(Pub. L. 97–35, title V, § 528, Aug. 13, 1981, 95 Stat. 450; Pub. L. 98–211, § 20, Dec. 8, 1983, 97 Stat. 1418; Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(a)(2)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312; Pub. L. 105–244, title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1828.)

REFERENCES IN TEXT

Subtitle A of this title, referred to in text, is subtitle A (§§ 502 to 528) of title V, of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 441. For complete classification of subtitle A to the Code, see Tables.

Act of September 30, 1950 (Public Law 874, 81st Congress), referred to in par. (1), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§ 236 et seq.) of this title, prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

Act of September 23, 1950 (Public Law 815, 81st Congress), referred to in par. (2), is act Sept. 23, 1950, ch. 995, as amended generally by Aug. 12, 1958, Pub. L. 85–620, title I, 72 Stat. 548, which was classified generally to chapter 19 (§ 631 et seq.) of this title, prior to repeal by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

The General Education Provisions Act, referred to in par. (3), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

The Indian Education Act, referred to in par. (4), is Pub. L. 92–318, title IV, June 23, 1972, 86 Stat. 334, as amended. For complete classification of this Act to the Code, see Tables.

The Education Amendments of 1978, referred to in par. (5), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, as amended. Title XI of the Education Amendments of 1978 is classified principally to chapter 22 (§ 2000 et seq.) of Title 25, Indians. Title XIV of the Education Amendments of 1978 is known as the Defense Dependents Education Act of 1978 and is classified principally to chapter 25A (§ 921 et seq.) of this title. Title XV of the Education Amendments of 1978 enacted sections 1221j and 1226c–1 of this title, repealed sections 1901, 1921, 1941 to 1944, 1961 to 1966, and 1981 to 1983 of this title, and enacted provisions set out as a note under section 1231a of this title, provisions formerly set out as notes under sections 1123 and 2711 of this title, and provisions set out as a note under section 287 of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of this title and Tables.

The Education Amendments of 1980, referred to in par. (5), is Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367, as amended. Part H of title XIII of the Education Amendments of 1980, Pub. L. 96–374, title XIII, §§ 1371–1373, 1376, 1377, 1381–1383, Oct. 3, 1980, 94 Stat. 1502, 1503, is not classified to the Code. For complete classification of this Act to the Code, see Short Title of 1980 Amendment note set out under section 1001 of this title and Tables.

The Adult Education Act, referred to in par. (6), was title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1216, as amended, which was classified generally to chapter 30 (§ 1201 et seq.) of this title, prior to repeal by Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079.

[1] See References in Text note below.

For complete classification of this Act to the Code, see Tables.

The Asbestos School Hazards Detection and Control Act, referred to in par. (8), is Pub. L. 96–270, June 14, 1980, 94 Stat. 487, which is classified generally to chapter 49 (§ 3601 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of this title and Tables.

The Joint Resolution of October 19, 1972 (86 Stat. 907), referred to in par. (9), is Pub. L. 92–506, Oct. 19, 1972, 86 Stat. 907, which is not classified to the Code.

The Vocational Education Act of 1963, referred to in par. (10), was title I of Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 94–482, title II, § 202(a), Oct. 12, 1976, 90 Stat. 2169, which was classified to chapter 44 (§ 2301 et seq.) of this title, prior to amendment by Pub. L. 98–524, § 1, Oct. 19, 1984, 98 Stat. 2435, striking out all after the enacting clause and inserting in lieu thereof titles I to V, to be cited as the Carl D. Perkins Vocational Education Act. The Act was subsequently amended extensively by Pub. L. 101–392, Sept. 25, 1990, 104 Stat. 753, which renamed it the Carl D. Perkins Vocational and Applied Technology Education Act, and amended generally by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076, which renamed it the Carl D. Perkins Vocational and Technical Education Act of 1998. For additional details, see the Codification note preceding section 2301 of this title.

The Civil Rights Act of 1964, referred to in par. (11), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title IV of the Civil Rights Act of 1964 is classified generally to subchapter IV (§ 2000c et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Navajo Community College Act, referred to in par. (12), is Pub. L. 92–189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 640a of Title 25 and Tables.

The Tribally Controlled College or University Assistance Act of 1978, referred to in par. (12), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Elementary and Secondary Education Act of 1965, referred to in pars. (13) and (14), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Prior to the general amendment of that Act by Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 140, part C of title IX of the Act was classified generally to part C (§ 3341 et seq.) of subchapter IX of chapter 47 of this title, and title VII of the Act, known as the Bilingual Education Act, was classified generally to subchapter VII (§ 3281 et seq.) of chapter 47 of this title.

CODIFICATION

Section was enacted as part of the Omnibus Education Reconciliation Act of 1981 and also as part of the Omnibus Budget Reconciliation Act of 1981, and not as part of the Department of Education Organization Act which comprises this chapter.

AMENDMENTS

1998—Par. (12). Pub. L. 105–244 substituted ''Tribally Controlled College or University Assistance Act of 1978'' for ''Tribally Controlled Community College Assistance Act of 1978''.

1996—Pars. (12) to (15). Pub. L. 104–208 redesignated pars. (13) to (15) as (12) to (14), respectively, and struck out former par. (12) which listed the Library Services and Construction Act as one of the laws for which funds were authorized to be appropriated under this section.

1983—Par. (15). Pub. L. 98–211 added par. (15).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

SHORT TITLE

Section 501 of title V of Pub. L. 97–35 provided that: ''This title [see Tables for classification of sections 501 to 596 of Pub. L. 97–35] may be cited as the 'Omnibus Education Reconciliation Act of 1981'.''

APPLICABILITY TO OTHER LAWS; GENERAL RESTRICTIONS

Section 502 of subtitle A of title V of Pub. L. 97–35 provided that:

''(a) Any provision of law which is not consistent with the provisions of this subtitle [see Tables for classification of sections 502 to 528 of Pub. L. 97–35] is hereby superseded and shall have only such force and effect during each of the fiscal years 1982, 1983, and 1984 which is consistent with this subtitle.

''(b) Notwithstanding any authorization of appropriations for fiscal year 1982, 1983, or 1984 contained in any provision of law which is specified in this subtitle (including any authorization of appropriations contained in section 528 of this title [this section]), no funds are authorized to be appropriated in excess of the limitations imposed upon appropriations by the provisions of this subtitle.

''(c) No funds are authorized to be appropriated for the fiscal year 1982, 1983, or 1984 to pay for the expenses of any advisory council which provides advice to a program for which there are no authorizations of appropriations made under this subtitle or made by an amendment made by this subtitle.''

SUBCHAPTER V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

§ 3501. Transfer and allocation of appropriations and personnel

(a) Personnel and appropriations in connection with functions and offices transferred by this chapter; use of unexpended funds

Except as otherwise provided in this chapter, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions and offices, or portions thereof transferred by this chapter, subject to section 1531 of title 31, shall be transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions specified to carry out functions or offices transferred by this chapter

Positions expressly specified by statute or reorganization plan to carry out functions or offices transferred by this chapter, personnel occupying those positions on the effective date of this chapter, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level IV or V of the Executive Schedule (5 U.S.C. 5315–5316) on May 4, 1980, shall be subject to the provisions of section 3503 of this title.

(Pub. L. 96–88, title V, § 501, Oct. 17, 1979, 93 Stat. 689.)

CODIFICATION

In subsec. (a), ''section 1531 of title 31'' substituted for ''section 202 of the Budget and Accounting Proce-

dures Act of 1950 [31 U.S.C. 581c]'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (b), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§ 3502. Effect on personnel

(a) Non-separation or non-reduction in grade or compensation of full-time personnel and part-time personnel holding permanent positions

Except as otherwise provided in this chapter, the transfer pursuant to this subchapter of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer to the Department.

(b) Positions compensated in accordance with Executive Schedule

Any person who, on the day preceding May 4, 1980, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5 and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

(Pub. L. 96–88, title V, § 502, Oct. 17, 1979, 93 Stat. 690.)

CODIFICATION

In subsec. (b), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

ABOLISHED POSITIONS DEEMED TRANSFERRED

Section 508(*l*)(4) of Pub. L. 96–88 provided that: ''Positions abolished as a consequence of the amendments made by this subsection [amending sections 1102, 2390, and 3012 of this title] shall, for purposes of section 502(a) [subsec. (a) of this section], be deemed to be permanent positions transferred pursuant to title V of this Act [this subchapter].''

§ 3503. Agency terminations

(a) Specific terminations

On May 4, 1980, the following entities shall terminate:

(A) the Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(B) the Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(C) the Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

(b) Positions authorized to be compensated at rate prescribed for level IV or V of the Executive Schedule

Each position which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rate prescribed for level IV or V of the Executive Schedule (5 U.S.C. 5315–5316), in an office terminated pursuant to this chapter shall also terminate.

(Pub. L. 96–88, title V, § 503, Oct. 17, 1979, 93 Stat. 690; Pub. L. 99–145, title XII, § 1204(a)(3), Nov. 8, 1985, 99 Stat. 720.)

CODIFICATION

In subsec. (a), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

AMENDMENTS

1985—Subsec. (a). Pub. L. 99–145 struck out par. (1) designation and par. (2) which provided for termination of Office of Dependents' Education of Department of Defense whenever President exercises authority under section 3442(a) of this title.

§ 3504. Incidental transfers

(a) Authorization of Director of Office of Management and Budget; termination of affairs

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the functions, offices, or portions thereof transferred by this chapter, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, offices, or portions thereof, as may be necessary to carry out the provisions of this chapter. The Director shall provide for the termination of the affairs of all entities terminated by this chapter and for such further measures and dispositions as may be necessary to effectuate the purposes of this chapter.

(b) Transfer of positions within Senior Executive Service

After consultation with the Director of the Office of Personnel Management, the Director of the Office of Management and Budget is authorized, at such time as the Director of the Office of Management and Budget provides, to make such determinations as may be necessary with regard to the transfer of positions within the Senior Executive Service in connection with functions and offices transferred by this chapter.

(Pub. L. 96–88, title V, § 504, Oct. 17, 1979, 93 Stat. 690.)

§ 3505. Savings provisions

(a) Orders, determinations, etc.

All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this chapter to the Secretary or the Department, and

(2) which are in effect on May 4, 1980,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) Proceedings and applications; transfer

(1) The provisions of this chapter shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on May 4, 1980, before any department, agency, commission, or component thereof, functions of which are transferred by this chapter; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this chapter had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this chapter had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Actions

Except as provided in subsection (e) of this section—

(1) the provisions of this chapter shall not affect suits commenced prior to May 4, 1980, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this chapter had not been enacted.

(d) Liabilities incurred

No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer of any department or agency, functions of which are transferred by this chapter, shall abate by reason of the enactment of this chapter. No cause of action by or against any department or agency, functions of which are transferred by this chapter, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this chapter.

(e) Parties

If, before May 4, 1980, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this chapter any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Review

Orders and actions of the Secretary in the exercise of functions transferred under this chapter shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this chapter shall apply to the exercise of such function by the Secretary.

(Pub. L. 96–88, title V, § 505, Oct. 17, 1979, 93 Stat. 691.)

CODIFICATION

In subsecs. (a)(2), (b)(1), (c)(1), and (e), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§ 3506. Separability

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, neither the remainder of this chapter nor the application of such provision to other persons or circumstances shall be affected thereby.

(Pub. L. 96–88, title V, § 506, Oct. 17, 1979, 93 Stat. 692.)

§ 3507. Existing references to transferor officials or bodies deemed references to transferee officials or bodies

With respect to any function transferred by this chapter and exercised on or after May 4, 1980, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which this chapter transfers such functions.

(Pub. L. 96–88, title V, § 507, Oct. 17, 1979, 93 Stat. 692.)

CODIFICATION

''May 4, 1980'' substituted in text for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

§ 3508. Department of Health and Human Services

(a) Redesignation of Department of Health, Education, and Welfare

The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Human Services, and the Secretary of Health, Education, and Welfare or any other official of the Department of Health, Education, and Welfare is hereby redesignated the Secretary or official, as appropriate, of Health and Human Services.

(b) Reference to Department, Secretary, etc., of Health, Education, and Welfare deemed reference to Department, Secretary, etc., of Health and Human Services

Any reference to the Department of Health, Education, and Welfare, the Secretary of Health,

Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on May 4, 1980, shall be deemed to refer and apply to the Department of Health and Human Services or the Secretary of Health and Human Services, respectively, except to the extent such reference is to a function or office transferred to the Secretary or the Department under this chapter.

(Pub. L. 96–88, title V, § 509, Oct. 17, 1979, 93 Stat. 695; Pub. L. 107–217, § 6(b), Aug. 21, 2002, 116 Stat. 1304; Pub. L. 108–178, § 2(b)(2), Dec. 15, 2003, 117 Stat. 2640.)

CODIFICATION

In subsec. (b), ''May 4, 1980'' substituted for ''the effective date of this chapter'' pursuant to section 601 of Pub. L. 96–88, set out as an Effective Date note under section 3401 of this title.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–178 amended Pub. L. 107–217, § 6(b). See 2002 Amendment note below.

2002—Subsec. (b). Pub. L. 107–217, § 6(b), which had repealed subsec. (b) of this section, was itself repealed by Pub. L. 108–178 insofar as it related to subsec. (b) of this section, and Pub. L. 108–178 further provided that subsec. (b) of this section was revived to read as if Pub. L. 107–217, § 6(b), had not been enacted.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under section 5334 of Title 5, Government Organization and Employees.

§ 3509. Coordination of programs for handicapped

The Secretary of Health and Human Services shall identify, assess, coordinate, and eliminate conflict, duplication, and inconsistencies among programs significantly affecting handicapped individuals carried out by or under the Department of Health and Human Services, shall promote efficiency among such programs, and shall seek to coordinate, to the maximum extent feasible, such programs with programs significantly affecting handicapped individuals carried out by or under the Department of Education.

(Pub. L. 96–88, title V, § 510, Oct. 17, 1979, 93 Stat. 695.)

§ 3510. Transitional provisions

With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies from which functions or offices have been transferred to the Secretary or the Department, and funds appropriated to such functions or offices for such period of time as may reasonably be needed to facilitate the orderly implementation of this chapter.

(Pub. L. 96–88, title V, § 511, Oct. 17, 1979, 93 Stat. 695.)

CHAPTER 49—ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL

Sec.

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§ 3601. Congressional statement of findings and purposes

(a) The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentrations far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for identifying hazardous conditions in schools or for remedying those conditions;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without an improved program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this chapter to identify and mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this chapter to—

(1) direct the Secretary of Education to establish a task force to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) require States receiving administrative funds for any applicable program (as defined under section 1221(c)(1)(A)[1] of this title) to prepare a plan describing the manner in which information relating to programs established under this chapter shall be distributed to local educational agencies;

(3) provide scientific, technical, and financial assistance to State educational agencies and local educational agencies to enable them to conduct an asbestos detection program to identify asbestos hazards in schools;

(4) provide loans to local educational agencies for the mitigation of asbestos hazards which constitute an imminent hazard to the health and safety of school children and employees; and

(5) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

(Pub. L. 96–270, § 2, June 14, 1980, 94 Stat. 487.)

REFERENCES IN TEXT

Section 1221 of this title, referred to in subsec. (b)(2), was amended generally by Pub. L. 103–382, title II, § 211, Oct. 20, 1994, 108 Stat. 3912, and, as so amended, no longer contains a subsec. (c)(1)(A). However, the term ''applicable program'' is defined in subsec. (c)(1) of that section.

SHORT TITLE

Section 1 of Pub. L. 96–270 provided that: ''This Act [enacting this chapter and amending section 1411 of this title] may be cited as the 'Asbestos School Hazard Detection and Control Act of 1980'.''

§ 3602. Asbestos Hazards School Safety Task Force

(a) Establishment; composition; membership; chairman; appointment; vacancies

(1) There is established a task force to be known as the Asbestos Hazards School Safety Task Force (hereinafter in this chapter referred to as ''Task Force''). The Task Force shall be composed of ten members, who shall be appointed by the Secretary within 30 days after June 14, 1980, as follows:

(A) One representative of the Department of Education, recommended by the Secretary of Education.

(B) One representative of the Department of Health and Human Services.

(C) One representative of the National Cancer Institute.

(D) One representative of the Environmental Protection Agency, recommended by the Administrator of such agency.

(E) One representative of the National Institute of Environmental Health Sciences.

(F) One representative of the Occupational Safety and Health Administration, recommended by the Secretary of Labor.

(G) Four representatives from among organizations concerned with education and health.

Members of the Task Force shall be individuals who have knowledge of the medical problems associated with exposure to asbestos, or individuals who are familiar with procedures for the following activities: the containment or removal of asbestos from buildings; the replacement of asbestos materials removed from school buildings with other appropriate building materials; and the restoration of such buildings to condi-

[1] See References in Text note below.

tions comparable to those existing before such containment or removal was carried out.

(2) The Secretary shall designate a chairman of the Task Force from among its members.

(3) Members shall be appointed for the life of the Task Force. Any vacancy in the Task Force shall be filled in the same manner in which the original appointment was made.

(b) Meetings; quorum; hearings

(1) The Task Force shall meet, no later than 30 days after the appointment of its members, at the call of the chairman of the Task Force.

(2) Five members of the Task Force shall constitute a quorum for purposes of conducting the business of the Task Force, but a lesser number may hold hearings.

(c) Compensation; travel expenses

(1) Members of the Task Force who are not full-time officers or employees of the Federal Government shall receive compensation at a rate determined by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of pay in effect for grade GS–16 of the General Schedule, for each day (including traveltime) during which they are engaged in the performance of the duties of the Task Force.

(2) While away from their homes or regular places of business in the performance of the duties of the Task Force, all members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(d) Availability of Department of Education personnel; use of mails

(1) Upon request of the Task Force, the Secretary shall make available to the Task Force personnel of the Department of Education to assist the Task Force in carrying out its duties.

(2) The Task Force may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) Duties

The duties of the Task Force shall include—

(1) the compilation of medical, scientific, and technical information explaining—

(A) the health and safety hazards associated with asbestos materials; and

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State educational agencies and to local educational agencies for the purpose of assisting such agencies in carrying out activities described in this chapter;

(3) the review of applications for grants and loans under sections 3604 and 3605 of this title, and the submission to the Secretary of recommendations respecting the approval or disapproval of such applications;

(4) the review of any guidelines established by the Environmental Protection Agency for identifying those schools in which exposure to asbestos fibers constitutes a health problem and for taking appropriate corrective actions at such schools, in order to determine whether any modifications of such guidelines should be recommended to the Secretary under paragraph (5); and

(5) providing the Secretary with assistance in formulating standards and procedures under section 3606 of this title by—

(A) submitting to the Secretary relevant information concerning the results of the review made under paragraph (4) of this subsection; and

(B) recommending such modifications to the guidelines referred to in such paragraph as the Task Force considers appropriate.

In carrying out its duties under this subsection, the Task Force shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

(f) Termination

The Task Force shall cease to exist at the end of the 180-day period beginning on the date that the authority of the Secretary to make loans under section 3605 of this title has expired.

(Pub. L. 96–270, § 3, June 14, 1980, 94 Stat. 488.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 3603. State plan

(a) Submission by State educational agency receiving administrative funds for programs; contents

Not later than six months after June 14, 1980, the State educational agency of any State which receives administrative funds for any applicable program (as defined under section 1221(c)(1)(A)[1] of this title) shall submit to the Secretary a plan which—

(1) describes the manner in which the State, not later than nine months after June 14, 1980, shall distribute to local educational agencies within that State's jurisdiction information describing—

(A) the programs established under this chapter;

(B) the health hazards associated with exposure to asbestos fibers; and

(C) the procedures established by the Secretary under section 3606 of this title for carrying out activities under programs under this chapter, and such other relevant information regarding such activities as the State considers desirable;

(2) contains a general description of the content of the information to be distributed in accordance with paragraph (1) and provides assurances that the State shall continually re-

[1] See References in Text note below.

vise such information and distribute such revised material to local educational agencies to ensure that such agencies have available to them the most recent material available with regard to the matters referred to in paragraph (1);

(3) describes the procedures to be used by the State for maintaining records on—

(A) the presence of asbestos materials in school buildings of local educational agencies;

(B) the asbestos detection, containment, or removal activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(C) repairs made to restore school buildings to conditions comparable to those existing before the containment or removal activities referred to in subparagraph (B) were undertaken; and

(4) designates a State agency or other administrative unit with the responsibility for submitting to the Secretary the reports described in subsection (b) of this section and provides assurances that such agency or unit shall carry out the duties specified under subsection (b) of this section.

(b) Reporting requirements respecting plan implementation

Not later than six months after the submission of the plan described in subsection (a) of this section, and each six months thereafter during the two-year period beginning on June 14, 1980, the State agency or unit designated under paragraph (4) of subsection (a) of this section shall submit to the Secretary a report which describes the actions taken by the State in accordance with its plan under such subsection.

(Pub. L. 96–270, § 4, June 14, 1980, 94 Stat. 490.)

REFERENCES IN TEXT

Section 1221 of this title, referred to in subsec. (a), was amended generally by Pub. L. 103–382, title II, § 211, Oct. 20, 1994, 108 Stat. 3912, and, as so amended, no longer contains a subsec. (c)(1)(A). However, the term ''applicable program'' is defined in subsec. (c)(1) of that section.

§ 3604. Asbestos hazards detection program

(a) Grants to local and State educational agencies for Federal share; duration of granting authority; amount of Federal share

(1)(A) The Secretary may make grants to local educational agencies for the Federal share of the costs of carrying out an asbestos detection program meeting the standards established by the Secretary under section 3606(a)(1) of this title. Grants may be made under this section only during the two-year period beginning on June 14, 1980.

(B) The Secretary may make grants to State educational agencies for the Federal share of the costs of carrying out any asbestos detection program if—

(i) the State, through the State educational agency or some other appropriate State agency, is making grants to local educational agencies for asbestos hazard detection programs, and

(ii) such programs meet the standards established by the Secretary under section 3606(a)(1) of this title.

(C) Grants may be made under this section only during the two-year period beginning after June 14, 1980.

(2) Subject to the second sentence of this paragraph, the Federal share of the costs referred to in paragraph (1) shall be 50 percent. Upon a determination by the Secretary that an applicant has limited fiscal resources and would be unable to participate in the program under this section without receiving from the Federal Government, as its Federal share of such costs, an amount greater than the amount permitted under the first sentence of this paragraph, the Secretary may increase the Federal share which may be paid to such applicant by such amount as the Secretary considers appropriate to permit the applicant to participate in the program.

(b) Application for grants; procedures applicable for approval; programs completed before January 1, 1976; determinations respecting amount of grant

(1) No grant may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force. The Secretary may not approve an application unless the application—

(A) contains a description of the methods to be used by the local educational agency, or in the case of an application by the State educational agency the methods to be used by the local educational agencies receiving grants from the State, to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agency;

(B) contains an estimate of the total cost of the detection program, including such detailed descriptions of the costs of each component of the program as the Secretary may require;

(C) designates the party which shall conduct the testing for the detection program and describes such party's qualifications for conducting such testing;

(D) contains assurances that the program shall be carried out in accordance with standards established by the Secretary under section 3606(a)(1) of this title and that any party employed to conduct such testing shall satisfy the competency standards established under such section; and

(E) contains such other information or assurances as the Secretary may require.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No grant may be awarded by the Secretary under this section for asbestos hazards detection programs conducted before June 14, 1980, unless the applicant has submitted an application to the Secretary—

(A) containing the information required under paragraph (1); and

(B) providing assurances that any program for which a grant is sought was carried out in a manner which substantially conforms to the requirements established by the Secretary under section 3606(a)(1) of this title.

No grant may be awarded under this section for any asbestos hazards detection program completed before January 1, 1976.

(4) After reviewing the application submitted under this section, together with any recommendations made by the Task Force, the Secretary shall determine the amount of any grant to be awarded under this section. Funds may be awarded by the Secretary for the administrative costs incurred in the preparation and supervision of the asbestos detection program and for the following activities:

(A) Visual inspections of school buildings.

(B) The sampling of building and insulation materials.

(C) Appropriate tests to determine the level of asbestos content in suspected materials, and tests determined to be essential to detect the likelihood of imminent danger to persons within school buildings.

(c) Reporting requirements for recipients

Local and State educational agencies receiving grants under this section shall file a report with the Secretary, not later than 120 days after the award of such grant, describing the detection activities which were undertaken, the results of the asbestos detection program, and plans for mitigating any imminent hazards which were detected by the testing. The report shall include a detailed accounting of the funds used to carry out the detection program.

(d) Availability of appropriated funds for education and technical assistance programs

During the period in which grants may be made under this section, not more than 20 percent of the funds appropriated to carry out this section may be made available by the Secretary to the Task Force to conduct education and technical assistance programs related to the detection of asbestos hazards in school buildings and the implementation of appropriate actions to mitigate such hazards.

(Pub. L. 96–270, § 5, June 14, 1980, 94 Stat. 491.)

§ 3605. Asbestos Hazards Control Loan Program

(a) Establishment; administration; loans to local educational agencies for share of project costs; project criteria; increase in amount of loans

(1) There is established within the Department of Education an Asbestos Hazards Control Loan Program (hereinafter in this chapter referred to as the ''Loan Program''), which shall be administered by the Secretary in accordance with this section.

(2) The Secretary may make loans under this section to local educational agencies in an amount equal to 50 percent of the costs of carrying out projects for—

(A) the containment or removal of any materials containing asbestos in school buildings in which such materials pose an imminent hazard to the health and safety of children or employees;

(B) the replacement of the asbestos materials removed from school buildings with other appropriate building materials; and

(C) making repairs which the Secretary determines to be necessary to restore school buildings to conditions comparable to those existing before containment or removal activities were undertaken under subparagraph (A).

Loans may be made under this section only for projects affecting more than 2,500 square feet of surface and in which the asbestos material to be contained or removed consists of a minimum asbestos level, as determined by the Secretary under section 3606(a)(2) of this title.

(3) If the Secretary determines that an applicant has limited fiscal resources and would be unable to carry out the projects described in paragraph (2) without receiving a loan under this section for an amount greater than the amount permitted under such paragraph, the Secretary may increase the amount of the loan payable to such applicant to an amount the Secretary considers appropriate to enable the applicant to carry out such projects.

(b) Loan agreements; required terms; additional terms and conditions

Loans under this section shall be made pursuant to loan agreements which shall provide for the following terms:

(1) The loan shall not bear any interest except as otherwise provided under paragraph (5).

(2) The loan shall have a maturity period of not more than 20 years (as determined by the Secretary) and shall be repayable during such period at such times and in such amounts as the Secretary may specify in the loan agreement.

(3) Repayment of the loan shall be made to the Secretary of the Treasury for deposit in the general fund of the Treasury.

Such loans shall be subject to such other terms and conditions as the Secretary may establish for the protection of the financial interest of the United States and in furtherance of the purposes of this chapter.

(c) Application for loans; procedures applicable for approval; projects completed before January 1, 1976

(1) No loan may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force, within the two-year period beginning on June 14, 1980. The Secretary may not approve an application unless—

(A) the application contains such information as the Secretary may require, including information describing—

(i) the nature of the asbestos problem for which the loan is sought;

(ii) the asbestos content of the material to be contained or removed by the local educational agency, as determined under preliminary testing which was conducted in accordance with the standards established by the Secretary under section 3606(a)(1) of this title, or, in the case of testing conducted before June 14, 1980, was conducted in a manner which substantially conforms to such standards; and

(iii) the methods which will be used to contain or remove the asbestos materials, in accordance with section 3606(b) of this title, and any other pertinent details relating to the project or projects to be conducted by the applicant (as described in subsection (a)(2) of this section); and

(B) the application contains assurances that—

(i) any employee engaged in any activity to carry out programs under this section shall be notified in writing by the local educational agency conducting the program of the hazards of working with asbestos, and shall be required to utilize all appropriate safety procedures to minimize health risks;

(ii) no child or school employee shall be permitted in the vicinity of any asbestos containment or removal activity; and

(iii) the local educational agency shall pay employees engaged in containment, removal, or replacement activities to carry out programs under this section at reasonable rates of pay, as established by the Secretary on the basis of prevailing wage rates in the location of such work.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No loans may be made by the Secretary under this section for projects described in subsection (a)(2) of this section which commenced before the availability of loans under the Loan Program unless the local educational agency submits to the Secretary an application which—

(A) meets the requirements of paragraph (1); and

(B) contains assurances that any work already completed by the applicant has been carried out in substantial conformity with section 3606(b) of this title.

No loan may be awarded under this section for any project described in subsection (a)(2) of this section which was completed before January 1, 1976.

(d) Reporting requirements for Secretary

During each of the three calendar years after 1980, the Secretary shall submit before February 1 of such year a report to the appropriate committees of the House of Representatives and the Senate, which shall—

(1) describe the number of loans made in the preceding calendar year and specify each applicant for and recipient of a loan;

(2) describe the nature of the asbestos problem of each applicant;

(3) describe the types of programs for which loans were made;

(4) specify the estimated total costs of such programs to the recipients of loans and specify the amount of loans made under the Loan Program; and

(5) specify the number of loan applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals.

(Pub. L. 96–270, § 6, June 14, 1980, 94 Stat. 492.)

§ 3606. Standards and safety procedures

(a) Establishment and distribution to designated State agency or unit; establishment of criteria for loan program eligibility

(1) Within 120 days after the first meeting of the Task Force, and after consultation with the Task Force, the Secretary shall establish and distribute to the State agency or unit designated under section 3603(a)(4) of this title—

(A) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(B) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(C) standards for determining which contractors are qualified to carry out the testing and evaluation described in this paragraph.

(2) After consulting with the Task Force, the Secretary shall establish criteria to be used for determining eligibility for loans under section 3605 of this title. The criteria shall be based on the assessment of the extent of the health hazards posed by the presence of asbestos fibers in schools, as determined in accordance with standards under paragraph (1)(B) of this subsection.

(b) Establishment of regulations

After reviewing recommendations submitted to the Secretary by the Task Force under section 3602(e)(5) of this title, the Secretary, with the concurrence of the Task Force, shall by regulation establish—

(1) procedures to be used by local educational agencies, in programs for which loans are made under section 3605 of this title, for—

(A) containing and removing asbestos materials in school buildings;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

(2) standards for determining which contractors are qualified to carry out the activities referred to in paragraph (1).

(c) Avoidance of duplication of similar activities of Environmental Protection Agency

In carrying out his duties under this section, the Secretary shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

(Pub. L. 96–270, § 7, June 14, 1980, 94 Stat. 494.)

§ 3607. Recovery of costs by United States

(a) Suit by United States on behalf of grant or loan recipient for recovery of costs of activities of recipient; proceeds of judgment

(1) As a condition of the award of any grant under section 3604 of this title or loan under section 3605 of this title, the recipient of any such grant or loan shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to

the recipient for the costs of any activities undertaken by the recipient under such sections.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from any judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount of any grant made to the recipient under section 3604 of this title;

(B) the amount outstanding on any loan made to the recipient under section 3605 of this title; and

(C) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Secretary).

(b) Investigation and report by Attorney General respecting feasibility of recovery of costs from any person determined by Attorney General to be liable

The Attorney General shall conduct an investigation to determine whether, by using all available means, the United States should or could recover, from any person determined by the Attorney General to be liable for such costs, the amounts expended by the United States to carry out this chapter. Within one year after June 14, 1980, the Attorney General shall submit to the Congress a report containing the results of the study, together with any appropriate recommendations.

(c) Expeditious proceedings by Attorney General

If the Attorney General determines in the report under subsection (b) of this section that the United States should seek to recover the amounts expended by the United States to carry out this chapter, the Attorney General shall proceed in an expeditious manner to recover such amounts from the persons referred to in subsection (b) of this section.

(Pub. L. 96–270, § 8, June 14, 1980, 94 Stat. 495.)

§ 3608. Employee protection

No State or local educational agency receiving assistance under this chapter may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

(Pub. L. 96–270, § 9, June 14, 1980, 94 Stat. 496.)

§ 3609. Retained rights

Except as otherwise provided in section 3607 of this title, nothing in this chapter shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

(Pub. L. 96–270, § 10, June 14, 1980, 94 Stat. 496.)

§ 3610. Definitions

For purposes of this chapter—

(1) the term ''asbestos'' means—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite;

(2) the term ''Attorney General'' means the Attorney General of the United States;

(3) the term ''imminent hazard to the health and safety'' means, for purposes of section 3605 of this title, that an asbestos material is, according to standards established by the Secretary, friable or easily damaged, or within easy reach of students or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;

(4) the term ''local educational agency'' means—

(A) any local educational agency as defined in section 198(a)(10)[1] of the Elementary and Secondary Education Act of 1965;

(B) the governing authority of any nonprofit elementary or secondary school;

(5) the term ''nonprofit elementary or secondary school'' means—

(A) any elementary or secondary school (as defined in section 198(a)(7)[1] of the Elementary and Secondary Education Act of 1965) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and

(B) any school of any agency of the United States;

(6) the term ''school buildings'' means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph;

(7) the term ''Secretary'' means the Secretary of Education, or his designee;

(8) the term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Bureau of Indian Affairs, and the Office of Overseas Schools of the Department of Defense; and

(9) the term ''State educational agency'' has the same meaning given such term by section

[1] See References in Text note below.

198(a)(17)[1] of the Elementary and Secondary Education Act of 1965.

(Pub. L. 96–270, § 11, June 14, 1980, 94 Stat. 496.)

REFERENCES IN TEXT

Section 198 of the Elementary and Secondary Education Act of 1965, referred to in pars. (4)(A), (5)(A), and (9), is section 198 of Pub. L. 89–10, title I, as added by Pub. L. 95–561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2198, which was classified to section 2854 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 140. For definitions, see section 7801 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 3611. Authorization of appropriations

(a) Sums available during obligation period for asbestos detection and asbestos hazards control loan programs

(1) There are authorized to be appropriated—

(A) for the asbestos detection program under section 3604 of this title, for the fiscal year ending September 30, 1981, and for the succeeding fiscal year, a total of not more than $22,500,000; and

(B) for the asbestos hazards control loan program under section 3605 of this title, not more than $75,000,000 for the fiscal year ending September 30, 1981, and $75,000,000 for the fiscal year ending September 30, 1982.

(2) Sums appropriated under paragraph (1) of this subsection shall remain available for obligation until September 30, 1983.

(b) Programs automatically eligible for contingent extension

Programs under this chapter shall be considered automatically eligible for the one-year contingent extension under section 1226a[1] of this title.

(c) Greatest financial need as basis for approval of applications in case of insufficient funds

If funds appropriated to carry out this chapter are insufficient to pay the total amount required to make all the grants and loans authorized under this chapter, the Secretary shall establish criteria to be used in determining which applicants for grants or loans under this chapter have the greatest financial need for receiving funds under this chapter and shall make determinations regarding the approval of applications for such grants or loans in accordance with such criteria.

(d) Authority of Secretary dependent on specific appropriations

Notwithstanding any other provision of this chapter, the authority of the Secretary to enter into agreements, or to make payments, under this chapter shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

(Pub. L. 96–270, § 12, June 14, 1980, 94 Stat. 497.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 1226a of this title, referred to in subsec. (b), was in the original a reference to section 414 of the General Education Provisions Act. Section 414 of that Act was renumbered as section 422 by Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and is classified to section 1226a of this title.

CHAPTER 50—NATIONAL CENTER FOR THE STUDY OF AFRO-AMERICAN HISTORY AND CULTURE

Sec.
3701. National Afro-American History and Culture Commission.
(a) Establishment and membership.
(b) Duties.
(c) Acquisition and disposal of property.
3702. Organization of Commission.
(a) Membership.
(b) Terms of office.
(c) Membership continuation.
(d) Vacancies.
(e) Quorum.
(f) Voting.
(g) Officers.
(h) Meetings.
(i) Seal; bylaws; rules and regulations.
(j) Compensation.
(k) Temporary services.
(*l*) Personnel details.
(m) Administrative support services.
3703. Omitted.

§ 3701. National Afro-American History and Culture Commission

(a) Establishment and membership

There is established a commission to be known as the National Afro-American History and Culture Commission (hereinafter in this chapter referred to as the ''Commission'') which shall be composed of fifteen members, as specified in section 3702 of this title.

(b) Duties

The Commission shall have the following duties:

(1) The Commission shall be responsible for the development of a definitive plan for the construction and operation of the National Center for the Study of Afro-American History and Culture and shall submit the plan, together with any recommendations for additional legislation, to the President of the United States and the Congress not later than twenty-four months after October 10, 1980. The plan shall include, but not be limited to, identification of—

(A) the main objectives to be achieved by the establishment, development, and operation of the National Center for the Study of Afro-American History and Culture;

(B) the types of uses, both public and private, to be accommodated by such a center;

(C) the criteria and recommendations for the design and appearance of such a center;

(D) the proposed ownership and operation of the center;

(E) the criteria and recommendations for interpretive, cultural, and educational programs and uses of the center;

(F) the areas where cooperative agreements might be developed between the center and Afro-American institutions, organi-

zations, and universities to enhance their programs and projects relating to the knowledge, preservation, and presentation of the history and culture of Afro-Americans;

(G) the estimates of costs, both public and private, for implementing the plan; and

(H) the procedures to be used in implementing the plan.

(2)(A) The Commission shall solicit subscriptions of funds from private and public sources to help meet the costs of carrying out its duties under this section; the costs of the construction, furnishing, and operation of the center; the costs of research programs and research staff positions, and reasonable administrative costs which may include, subject to the availability of funds, payment to members of the Commission of travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5. Any funds so received by the Commission shall be placed in a special deposit account with the Treasurer of the United States, and may be expended by the Commission only to meet the costs specified in this subparagraph.

(B) The General Services Administration, the Smithsonian Institution, and other agencies of the Government may donate or loan to the Commission for the purposes of the center any works of art, artifacts, or other materials under their control.

(c) Acquisition and disposal of property

For the purpose of carrying out this chapter, the Commission may—

(1) acquire by gift, purchase with appropriated or donated funds (including funds from State or local sources), transfer from any Federal or State agency, exchange, or otherwise, suitable land (together with any buildings or other improvements thereon) and interest in land in the vicinity of Wilberforce, Ohio, for the location of the headquarters of the center;

(2) borrow or acquire by gift, purchase with appropriated or donated funds (including funds from State or local sources), or otherwise, any other real or personal property necessary for the establishment and operation of the center; and

(3) sell, exchange, or otherwise dispose of any property acquired under this subsection and designate any proceeds from such disposal for the benefit of the center.

(Pub. L. 96–430, title II, § 202, Oct. 10, 1980, 94 Stat. 1846.)

SHORT TITLE

Section 201 of title II of Pub. L. 96–430 provided that: ''This title [enacting this chapter] may be cited as the 'National Center for the Study of Afro-American History and Culture Act'.''

§ 3702. Organization of Commission

(a) Membership

The Commission shall be composed of fifteen members as follows:

(1) The Secretary of the Interior (or his designee).

(2) The Secretary of Education (or his designee).

(3) The Librarian of Congress (or his designee).

(4) The President of the Association for the Study of Afro-American Life and History.

(5) The presidents of Wilberforce University and Central State University in Ohio.

(6) Nine members appointed by the President, who are especially qualified to serve on the Commission by reason of their background and experience. No more than two members appointed under this paragraph shall be from any one State.

(b) Terms of office

Subject to subsection (c) of this section, the members of the Commission specified in paragraphs (1) through (5) of subsection (a) of this section shall serve for the life of the Commission. The members of the Commission appointed under paragraph (6) of such subsection shall serve for terms of four years, except that of the members first appointed—

(1) three shall be appointed for terms of one year;

(2) three shall be appointed for terms of two years; and

(3) three shall be appointed for terms of four years;

as designated by the President at the time of appointment.

(c) Membership continuation

If any member of the Commission who was appointed to the Commission under paragraphs (1) through (5)[1] as an officer designated under such paragraphs leaves such office, such member may continue as a member of the Commission for not longer than the thirty-day period beginning on the date he leaves that office.

(d) Vacancies

(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Members may be reappointed.

(e) Quorum

Six members of the Commission shall constitute a quorum.

(f) Voting

The Commission shall act by affirmative majority vote.

(g) Officers

The Commission shall elect a chairman and other officers from among its members to serve for terms established by the Commission.

(h) Meetings

The Commission shall meet at the call of the chairman or a majority of its members, but not less than two times each year. The headquarters of the Commission shall be at Wilberforce, Ohio,

[1] So in original. Probably should be followed by ''of subsection (a) of this section''.

and the Commission shall conduct its meetings in such city unless circumstances otherwise require.

(i) Seal; bylaws; rules and regulations

The Commission may adopt an official seal which shall be judicially noticed and may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this chapter.

(j) Compensation

Members of the Commission shall serve without pay.

(k) Temporary services

The Commission may procure, subject to the availability of funds, temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5.

(*l*) Personnel details

Upon request of the Commission, and subject to the availability of funds, the head of any Federal agency may detail to the Commission on a reimbursable basis any of the personnel of such agency to assist the Commission in carrying out its duties under this chapter.

(m) Administrative support services

The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request to carry out its duties under this chapter.

(Pub. L. 96–430, title II, §203, Oct. 10, 1980, 94 Stat. 1847.)

§ 3703. Omitted

CODIFICATION

Section, Pub. L. 96–430, title II, §204, Oct. 10, 1980, 94 Stat. 1848, which required the National Afro-American History and Culture Commission to submit to appropriate committees of Congress a report containing a detailed statement of the financial transactions of the Commission and the activities undertaken by the Commission during the previous year, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 179 of House Document No. 103–7.

CHAPTER 51—ELEMENTARY AND SECONDARY EDUCATION BLOCK GRANT

SUBCHAPTER I—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF DISADVANTAGED CHILDREN

§§ 3801 to 3808. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3801, Pub. L. 97–35, title V, §552, Aug. 13, 1981, 95 Stat. 464, set out declaration of policy for program of financial assistance to meet the special educational needs of disadvantaged children.

Section 3802, Pub. L. 97–35, title V, §553, Aug. 13, 1981, 95 Stat. 464, related to duration of assistance.

Section 3803, Pub. L. 97–35, title V, §554(a)–(c), Aug. 13, 1981, 95 Stat. 464, related to applicability of title I of the Elementary and Secondary Education Act of 1965.

Section 3804, Pub. L. 97–35, title V, §555, Aug. 13, 1981, 95 Stat. 465; Pub. L. 98–211, §1, Dec. 8, 1983, 97 Stat. 1412; Pub. L. 98–312, §5, June 12, 1984, 98 Stat. 234, related to programs authorized for assistance.

Section 3805, Pub. L. 97–35, title V, §556, Aug. 13, 1981, 95 Stat. 465; Pub. L. 98–211, §§2–4, Dec. 8, 1983, 97 Stat. 1412–1414, related to approval of applications.

Section 3806, Pub. L. 97–35, title V, §557, Aug. 13, 1981, 95 Stat. 466; Pub. L. 98–211, §5, Dec. 8, 1983, 97 Stat. 1415, related to participation of children in private schools.

Section 3807, Pub. L. 97–35, title V, §558, Aug. 13, 1981, 95 Stat. 468; Pub. L. 98–211, §§6–8, Dec. 8, 1983, 97 Stat. 1415, related to general provisions for program of financial assistance to meet the special educational needs of disadvantaged children.

Section 3808, Pub. L. 97–35, title V, §559, as added Pub. L. 98–211, §22, Dec. 8, 1983, 97 Stat. 1418, related to national assessment of compensatory education assistance.

SHORT TITLE

Pub. L. 97–35, title V, §551, Aug. 13, 1981, 95 Stat. 463, provided that subtitle D [§§551 to 596] of title V of Pub. L. 97–35 was to be cited as the ''Education Consolidation and Improvement Act of 1981'', prior to repeal by Pub. L. 100–297, title I, §1003(a), Apr. 28, 1988, 102 Stat. 293.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER II—CONSOLIDATION OF FEDERAL PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION

§§ 3811 to 3816. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3811, Pub. L. 97–35, title V, §561, Aug. 13, 1981, 95 Stat. 469; Pub. L. 98–211, §9(a), Dec. 8, 1983, 97 Stat. 1415, related to statement of purpose of program of consolidating various Federal programs for elementary and secondary education.

Section 3812, Pub. L. 97–35, title V, §562, Aug. 13, 1981, 95 Stat. 469; Pub. L. 98–211, §10, Dec. 8, 1983, 97 Stat. 1416, related to authorization of appropriations.

Section 3813, Pub. L. 97–35, title V, §563, Aug. 13, 1981, 95 Stat. 470; Pub. L. 98–211, §11, Dec. 8, 1983, 97 Stat. 1416, related to allotment of funds to States.

Section 3814, Pub. L. 97–35, title V, §564, Aug. 13, 1981, 95 Stat. 470; Pub. L. 98–211, §§9(b), 12, Dec. 8, 1983, 97 Stat. 1415, 1416, related to State applications.

Section 3815, Pub. L. 97–35, title V, §565, Aug. 13, 1981, 95 Stat. 471; Pub. L. 98–211, §21(a), Dec. 8, 1983, 97 Stat. 1418, related to allocation of funds to local educational agencies.

Section 3816, Pub. L. 97–35, title V, §566, Aug. 13, 1981, 95 Stat. 471; Pub. L. 98–211, §§9(c), 13, Dec. 8, 1983, 97 Stat. 1416, related to local applications.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

PART A—BASIC SKILLS DEVELOPMENT

§§ 3821 to 3823. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3821, Pub. L. 97–35, title V, §571, Aug. 13, 1981, 95 Stat. 472, related to use of funds for program of basic skills development.

Section 3822, Pub. L. 97–35, title V, §572, Aug. 13, 1981, 95 Stat. 472, related to State leadership and support services.

Section 3823, Pub. L. 97–35, title V, §573, Aug. 13, 1981, 95 Stat. 473; Pub. L. 98–211, §14, Dec. 8, 1983, 97 Stat. 1416, related to school level programs.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

PART B—EDUCATIONAL IMPROVEMENT AND SUPPORT SERVICES

§§ 3831, 3832. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3831, Pub. L. 97–35, title V, § 576, Aug. 13, 1981, 95 Stat. 473, related to statement of purpose for program of educational improvement and support services.

Section 3832, Pub. L. 97–35, title V, § 577, Aug. 13, 1981, 95 Stat. 474, related to authorized activities.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

PART C—SPECIAL PROJECTS

§§ 3841, 3842. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3841, Pub. L. 97–35, title V, § 581, Aug. 13, 1981, 95 Stat. 475, related to statement of purpose for program of special projects.

Section 3842, Pub. L. 97–35, title V, § 582, Aug. 13, 1981, 95 Stat. 475; Pub. L. 97–300, title I, § 183, Oct. 13, 1982, 96 Stat. 1357; Pub. L. 97–313, Oct. 14, 1982, 96 Stat. 1462, related to authorized activities.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

PART D—SECRETARY'S DISCRETIONARY FUNDS

§ 3851. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section, Pub. L. 97–35, title V, § 583, Aug. 13, 1981, 95 Stat. 476; Pub. L. 98–312, § 4(b), June 12, 1984, 98 Stat. 234; Pub. L. 99–498, title XIV, § 1404, Oct. 17, 1986, 100 Stat. 1599, related to authorization of discretionary program.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

PART E—GENERAL PROVISIONS

§§ 3861 to 3863. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3861, Pub. L. 97–35, title V, § 585, Aug. 13, 1981, 95 Stat. 477, related to funding requirements for program of consolidating Federal programs for elementary and secondary education.

Section 3862, Pub. L. 97–35, title V, § 586, Aug. 13, 1981, 95 Stat. 477, related to participation of children enrolled in private schools.

Section 3863, Pub. L. 97–35, title V, § 587, Aug. 13, 1981, 95 Stat. 480, related to repeal of various programs included in consolidation of Federal programs for elementary and secondary education.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER III—GENERAL PROVISIONS

§§ 3871 to 3876. Repealed. Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293

Section 3871, Pub. L. 97–35, title V, § 591, Aug. 13, 1981, 95 Stat. 480; Pub. L. 98–211, § 15, Dec. 8, 1983, 97 Stat. 1416, related to Federal regulations.

Section 3872, Pub. L. 97–35, title V, § 592, Aug. 13, 1981, 95 Stat. 480; Pub. L. 98–211, § 16, Dec. 8, 1983, 97 Stat. 1417, related to withholding of payments.

Section 3873, Pub. L. 97–35, title V, § 593, Aug. 13, 1981, 95 Stat. 481; Pub. L. 98–211, § 17, Dec. 8, 1983, 97 Stat. 1417, related to judicial review.

Section 3874, Pub. L. 97–35, title V, § 594, Aug. 13, 1981, 95 Stat. 481, related to availability of appropriations.

Section 3875, Pub. L. 97–35, title V, § 595, Aug. 13, 1981, 95 Stat. 481, related to definitions.

Section 3876, Pub. L. 97–35, title V, § 596, Aug. 13, 1981, 95 Stat. 482; Pub. L. 98–211, § 18(a), Dec. 8, 1983, 97 Stat. 1417, related to application of other laws.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

CHAPTER 52—EDUCATION FOR ECONOMIC SECURITY

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§ 3901. Statement of purpose

It is the purpose of this chapter to improve the quality of mathematics and science teaching and instruction in the United States.

(Pub. L. 98–377, § 2, Aug. 11, 1984, 98 Stat. 1267.)

SHORT TITLE OF 1985 AMENDMENT

Pub. L. 99–159, § 1, Nov. 22, 1985, 99 Stat. 887, provided: ''That this Act [enacting sections 366, 1221e–1c, and 3911 to 3922 of this title, and section 1886 of Title 42, The Public Health and Welfare, amending sections 351a, 351c, 351d, 353, 1134h, 1221e–1b, 1411, 2007, 2311, 2312, 2322, 2323, 2333, 2361 to 2363, 2383, 2392, 2417, 2462, 2464, 2471, 2763, 3902, 3963 to 3973, 3982, 3983, 3985 to 3988, 4003, 4033, 4051, 4053, 4056, and 4059 of this title, sections 1503 and 1753 of Title 29, Labor, and sections 1862 to 1864, 1868 to 1872, 1873, 1874, 1881a, 1882, and 1885 to 1885d of Title 42, omitting sections 3911 to 3915, 3921 to 3923, 3931 to 3933, 3941, and 3951 to 3954 of this title, repealing sections 1873a and 1884 of Title 42, enacting provisions set out as notes under sections 351f, 1087bb, 1411, and 2311 of this title and section 1861 of Title 42, and amending provisions set out as notes under sections 1087bb and 2301 of this title and sections 1861 and 1882 of Title 42] may be cited as the 'National Science, Engineering, and Mathematics Authorization Act of 1986'.''

SHORT TITLE

Section 1 of Pub. L. 98–377 provided: ''That this Act [enacting this chapter] may be cited as the 'Education for Economic Security Act'.''

Part A of title III of Pub. L. 98–377, as amended, which enacted part A of subchapter III of this chapter, is known as ''Partnerships in Education for Mathematics, Science, and Engineering Act'', see note set out under section 3981 of this title.

Title V of Pub. L. 98–377, which enacted subchapter V of this chapter, is known as ''Asbestos School Hazard

Abatement Act of 1984'', see note set out under section 4011 of this title.

Title VIII of Pub. L. 98–377, which enacted subchapter VIII of this chapter, is known as ''The Equal Access Act'', see note set out under section 4071 of this title.

Title IX of Pub. L. 98–377, which enacted subchapter IX of this chapter, is known as the ''Star Schools Program Assistance Act'', see note set out under section 4081 of this title.

§ 3902. Definitions

For the purpose of this chapter—

(1) The term ''area vocational education school'' has the same meaning given that term under section 2471(3)[1] of this title..[2]

(2) The term ''Director'' means the Director of the National Science Foundation.

(3) The term ''elementary school'' has the same meaning given that term under section 7801 of this title.

(4) The term ''Governor'' means the chief executive of a State.

(5) The term ''Foundation'' means the National Science Foundation.

(6) The term ''institution of higher education'' has the same meaning given that term by section 1001 of this title.

(7) The term ''local educational agency'' has the same meaning given that term under section 7801 of this title.

(8) The term ''secondary school'' has the same meaning given that term under section 198(a)(7)[1] of the Elementary and Secondary Education Act of 1965.

(9) The term ''Secretary'' means the Secretary of Education.

(10) The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(11) The term ''State agency for higher education'' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this chapter[1] by the Governor or by State law.

(12) The term ''State educational agency'' has the meaning given that term under section 7801 of this title.

(Pub. L. 98–377, § 3, Aug. 11, 1984, 98 Stat. 1267; Pub. L. 99–159, title II, § 221, Nov. 22, 1985, 99 Stat. 897; Pub. L. 105–244, title I, § 102(a)(6)(F), Oct. 7, 1998, 112 Stat. 1618; Pub. L. 107–110, title X, § 1076(*l*)(1), Jan. 8, 2002, 115 Stat. 2092.)

REFERENCES IN TEXT

Section 2471 of this title, referred to in par. (1), was omitted in the general amendment of chapter 44 (§ 2301 et seq.) of this title by Pub. L. 105–332, § 1(b), Oct. 30, 1998, 112 Stat. 3076.

Section 198 of the Elementary and Secondary Education Act of 1965, referred to in par. (8), is section 198 of Pub. L. 89–10, title I, as added by Pub. L. 95–561, title I, § 101(a), Nov. 1, 1978, 92 Stat. 2198, which was classified to section 2854 of this title prior to the general amendment of Pub. L. 89–10 by Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 140. For definition of ''secondary school'', see section 7801 of this title.

This chapter, referred to in par. (11), was in the original ''this title'' and has been translated as if the reference was to ''this Act'' to reflect the probable intent of Congress inasmuch as this section is not part of a title of Pub. L. 98–377.

AMENDMENTS

2002—Par. (3). Pub. L. 107–110, § 1076(*l*)(1)(A), substituted ''7801 of this title'' for ''198(a)(7) of the Elementary and Secondary Education Act of 1965''.

Par. (7). Pub. L. 107–110, § 1076(*l*)(1)(B), substituted ''7801 of this title'' for ''198(a)(10) of the Elementary and Secondary Education Act of 1965''.

Par. (12). Pub. L. 107–110, § 1076(*l*)(1)(C), substituted ''7801 of this title'' for ''198(a)(17) of the Elementary and Secondary Education Act of 1965''.

1998—Par. (6). Pub. L. 105–244 substituted ''section 1001'' for ''section 1141(a)''.

1985—Par. (1). Pub. L. 99–159 substituted reference to section 2471(3) of this title for reference to section 195(2) of the Vocational Education Act of 1965.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER I—NATIONAL SCIENCE FOUNDATION SCIENCE AND ENGINEERING EDUCATION

§ 3911. Congressional declaration of policy

(a) The Congress declares that the science and engineering education responsibilities of the National Science Foundation are—

(1) to improve the quality of instruction in the fields of mathematics, science, and engineering;

(2) to support research, fellowships, teacher-faculty-business exchange programs in mathematics, science, and engineering;

(3) to improve the quality and availability of instrumentation for mathematics, science, and engineering instruction;

(4) to encourage partnerships in education between local and State education agencies, business and industry, colleges and universities, and cultural and professional institutions and societies; and

(5) to improve the quality of education at all levels in the fields of mathematics, science, and engineering.

(b) In exercising its responsibilities to strengthen scientific and engineering research potential and science and engineering education programs at all levels, the Foundation shall avoid undue concentration of support for research and education activities.

[1] See References in Text note below.

[2] So in original.

(Pub. L. 98–377, title I, § 101, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 893.)

PRIOR PROVISIONS

A prior section 3911, Pub. L. 98–377, title I, § 101, Aug. 11, 1984, 98 Stat. 1268, related to grants for teacher institutes, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See section 3913 of this title.

UNDERGRADUATE SCIENCE IMPROVEMENT

Pub. L. 100–570, title I, § 112, Oct. 31, 1988, 102 Stat. 2870, provided that:

''(a) The Congress finds that the support of undergraduate science and engineering education is a critical component in a comprehensive national policy intended to ensure the Nation's future supply of scientists and engineers.

''(b) In accordance with the provisions of this Act [see Tables for classification], the Foundation shall support undergraduate science and engineering activities in instrumentation and laboratory improvement, undergraduate faculty enhancement, undergraduate research opportunities, undergraduate curriculum development, and efforts to encourage the participation of women, minorities, and the disabled in such fields.

''(c) In carrying out the provisions of this section, the Foundation shall take into account the special needs of two-year and four-year colleges and universities.''

§ 3912. Functional objectives; uses of funds

(a) In carrying out its science and engineering education responsibilities, the Foundation shall have the following functional objectives: public understanding of science and technology, faculty enhancement, student education and training, instructional development and instrumentation, and materials development and dissemination.

(b) Funds under this subchapter shall, consistent with such functional objectives, be used for—

(1) enhancement of public understanding of science and engineering through informal education activities using a variety of mediums such as broadcasting, museums, clubs, and amateur science societies;

(2) development of new science and engineering faculty resources and talents;

(3) enhancement of the quality of science and engineering instruction in colleges of teacher education;

(4) development of four-year college faculty and instructors in high technology fields;

(5) development of two-year community college faculty and instructors especially in high technology fields;

(6) development of precollege mathematics, science and engineering education and training;

(7) encouragement of potential students, including underrepresented and underserved populations, to pursue careers in mathematics, science, engineering, and critical foreign languages;

(8) development of instructional instrumentation and systems for postsecondary technical, engineering, and scientific education; and

(9) development of science, engineering, and education networks to aid in the development and dissemination of successful curricula, methods, and materials.

(Pub. L. 98–377, title I, § 102, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 894.)

PRIOR PROVISIONS

A prior section 3912, Pub. L. 98–377, title I, § 102, Aug. 11, 1984, 98 Stat. 1268, related to submission, contents, etc., of applications, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159.

§ 3913. Teacher institutes

(a) Authorization to make competitive grants; covered institutions, businesses, etc.; purpose

The Foundation shall, in accordance with the provisions of this subchapter, make competitive grants to institutions of higher education, businesses, nonprofit private organizations (including schools), local education agencies, professional engineering and scientific associations, museums, libraries, public broadcasting entities (as defined in section 397(11) of title 47), and appropriate State agencies to support institutes and workshops for supervisors and teachers in public and private elementary and secondary schools for the purpose of improving the subject knowledge and teaching skills of such teachers in the areas of mathematics and science.

(b) Equitable distribution of grants; awards in each State

In making grants under this section, the Foundation shall assure that there is an equitable distribution among States of institutes established and operated with funds made available under this section. The Foundation shall award not less than one institute in each State, except that the Foundation may waive this requirement if there is no proposal from a State which meets the requirements of this subchapter. Proposals which exceed $300,000 in any fiscal year incorporating the services or resources of more than two entities in the design and operation of the institute, may be funded at the discretion of the Director of the Foundation.

(c) Cooperation of advanced technology businesses and other businesses

Institutes assisted under this subchapter may, to the extent possible, involve the cooperation of advanced technology businesses and other businesses which are able to supply assistance in the teaching of mathematics and science.

(d) Requirement of involvement in planning and development

In making grants under this subchapter, the Foundation shall require assurances that local education agencies will be involved in the planning and development of the institute in the case of applications submitted by other eligible applicants described in subsection (a) of this section, or that one or more such applicants will be involved in the planning and development of the institute in the case of applications submitted by State or local education agencies.

(Pub. L. 98–377, title I, § 103, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 894.)

PRIOR PROVISIONS

A prior section 3913, Pub. L. 98–377, title I, § 113, Aug., 11, 1984, 98 Stat. 1269, related to distribution of assistance and limitation on grants, prior to the general re-

vision of this subchapter by section 201 of Pub. L. 99–159. See subsec. (b) of this section.

§ 3914. Materials development and methods research for mathematics, science, and engineering

(a) Authorization to award competitive grants; covered institutions, businesses, etc.; purposes

The Foundation is authorized, in accordance with the provisions of this subchapter, to award competitive grants to institutions of higher education, businesses, nonprofit private organizations, local education agencies, professional engineering and scientific associations, museums, libraries, public broadcasting entities (as defined in section 397(11) of title 47), and appropriate State agencies—

(1) for instructional curriculum improvement and faculty development in mathematics, science, and engineering;

(2) for programs designed to enhance public understanding of mathematics, science, and engineering, including the use of public broadcasting entities; and

(3) for research on methods of instruction and educational programs in mathematics, science, engineering, and critical foreign languages.

(b) Scope of studies

Studies conducted under subsection (a)(3) of this section may include—

(1) teaching and learning research and its application to local and private sector instructional materials development and to improved teacher training programs;

(2) research on the use of local and informal science education activities;

(3) research on recruitment, retention, and improvement of mathematics, science, engineering, and critical languages faculties; and

(4) analysis of materials and methods for mathematics, science, and engineering education used in other countries and their potential application in the United States.

(c) Matching grant requirements

Funds awarded for such competitive grants shall be expended through a system requiring matching of the grant. The minimum amount required as a match shall be equal to a percentage of the grant that is determined by the Foundation. Funds made available for matching purposes may include in-kind services or other resources.

(d) Materials or methods research application requirements

In making grant applications for materials or methods research for the purposes described in subsections (a)(1) and (a)(3) of this section, the Foundation shall assure the involvement of appropriate State or local education agencies in the case of applications submitted by other entities described in subsection (a) of this section, or that one or more of such other entities will be consulted in the case of applications submitted by State or local education agencies.

(Pub. L. 98–377, title I, § 104, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 895.)

PRIOR PROVISIONS

A prior section 3914, Pub. L. 98–377, title I, § 114, Aug. 11, 1984, 98 Stat. 1269, related to cooperation with business concerns, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See section 3913(c) of this title.

§ 3915. Graduate fellowships

The Foundation is authorized, in accordance with the provisions of this subchapter, to establish and carry out a program of graduate fellowships for the purpose of encouraging and assisting promising students to continue their education and research in mathematics, science, and engineering.

(Pub. L. 98–377, title I, § 105, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 896.)

PRIOR PROVISIONS

A prior section 3915, Pub. L. 98–377, title I, § 115, Aug. 11, 1984, 98 Stat. 1269, related to special consideration for applications meeting the needs of underrepresented and underserved populations, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See section 3919 of this title.

§ 3916. Other functional activities

(a) The Foundation is authorized to expend up to 15 per centum of the funds available for science and engineering education for applications which the Foundation determines will meet one or more of the functional objectives described in section 3912(b) of this title.

(b) Such programs may include a program for the exchange of mathematics, science, or engineering faculty between institutions of higher education (particularly institutions having nationally recognized research facilities) and eligible institutions. For the purposes of this section, the term ''eligible institution'' means an institution of higher education which—

(1) has an enrollment which includes a substantial percentage of students who are members of a minority group, or who are economically or educationally disadvantaged; or

(2) is located in a community that is not within commuting distance of a major institution of higher education; and

(3) demonstrates a commitment to meet the special educational needs of students who are members of a minority group or are economically or educationally disadvantaged.

(Pub. L. 98–377, title I, § 106, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 896.)

§ 3917. Repealed. Pub. L. 104–66, title II, § 2141(a), Dec. 21, 1995, 109 Stat. 731

Section, Pub. L. 98–377, title I, § 107, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 896; amended Pub. L. 103–437, § 7(c), Nov. 2, 1994, 108 Stat. 4588, related to developing and annual update of a strategic plan for science and engineering education.

§ 3918. Approval of proposals

The Foundation shall adopt approval procedures designed to assure that awards are made on the basis of the scientific and educational merit as determined by the peer review process. To the maximum extent possible, the Foundation shall assure that there is an equitable dis-

tribution of resources with respect to institutions and geographical areas.

(Pub. L. 98–377, title I, § 108, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 896.)

§ 3919. Special consideration of underrepresented and underserved population

In providing financial assistance under this subchapter, the Foundation shall make every effort to ensure that consideration is given to proposals which contain provisions designed to meet the needs of underrepresented and underserved populations.

(Pub. L. 98–377, title I, § 109, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 897.)

§ 3920. Availability of funds

Funds to carry out this subchapter for any fiscal year shall be made available from amounts appropriated pursuant to annual authorizations of appropriations for the National Science Foundation for Science and Engineering Education. For fiscal year 1986, funds to carry out this subchapter shall be available from amounts authorized by section 102(a)(8) of the National Science Foundation Authorization Act for fiscal year 1986.

(Pub. L. 98–377, title I, § 110, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 897.)

REFERENCES IN TEXT

Section 102(a)(8) of the National Science Foundation Authorization Act for fiscal year 1986, referred to in text, is section 102(a)(8) of Pub. L. 99–159, title I, Nov. 22, 1985, 99 Stat. 887, which is not classified to the Code.

§ 3921. Prohibition against the Federal control of education

The provisions of section 1232a[1] of this title, relating to prohibition against Federal control of education, shall apply to each program and award authorized by this subchapter.

(Pub. L. 98–377, title I, § 111, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 897.)

REFERENCES IN TEXT

Section 1232a of this title, referred to in text, was in the original a reference to section 432 of the General Education Provisions Act. Sections 425 and 432 of that Act were renumbered as sections 432 and 438, respectively, by Pub. L. 103–382, title II, § 212(b)(1), Oct. 20, 1994, 108 Stat. 3913, and are classified to sections 1231b–2 and 1232a, respectively, of this title.

PRIOR PROVISIONS

A prior section 3921, Pub. L. 98–377, title I, § 121, Aug. 11, 1984, 98 Stat. 1269, related to programs authorized for mathematics and science education development, prior to the general revision of this subchapter by section 201 of Pub. L. 99–159. See section 3914 of this title.

§ 3922. Participation of teachers from private schools

The Foundation shall, after consultation with appropriate private school representatives, make provision for the benefit of teachers in private elementary and secondary schools in the programs authorized by this subchapter, in order to assure equitable participation of such teachers.

(Pub. L. 98–377, title I, § 112, as added Pub. L. 99–159, title II, § 201, Nov. 22, 1985, 99 Stat. 897.)

PRIOR PROVISIONS

Prior sections 3922 to 3954 were omitted in the general revision of this subchapter by section 201 of Pub. L. 99–159.

Prior section 3922, Pub. L. 98–377, title I, § 122, Aug. 11, 1984, 98 Stat. 1269, related to requirements, contents, etc., for applications and defined ''eligible applicant''.

Prior section 3923, Pub. L. 98–377, title I, § 123, Aug. 11, 1984, 98 Stat. 1270, related to special consideration for applications meeting the needs of underrepresented and underserved populations. See section 3919 of this title.

Prior section 3931, Pub. L. 98–377, title I, § 132, Aug. 11, 1984, 98 Stat. 1270, related to establishment, etc., of the merit scholarship program.

Prior section 3932, Pub. L. 98–377, title I, § 133, Aug. 11, 1984, 98 Stat. 1271, related to criteria, etc., for selection of merit scholars.

Prior section 3933, Pub. L. 98–377, title I, § 134, Aug. 11, 1984, 98 Stat. 1271, related to amount of stipends and conditions for scholarships.

Prior section 3941, Pub. L. 98–377, title I, § 141, Aug. 11, 1984, 98 Stat. 1272, related to authority, etc., of the Director to make grants, to enter into contracts, and to conduct programs from discretionary funds. See section 3916 of this title.

Prior section 3951, Pub. L. 98–377, title I, § 161, Aug. 11, 1984, 98 Stat. 1272, related to the administrative authorities of the Foundation and reporting requirements.

Prior section 3952, Pub. L. 98–377, title I, § 162, Aug. 11, 1984, 98 Stat. 1273, related to participation of teachers from private schools. See section 3922 of this title.

Prior section 3953, Pub. L. 98–377, title I, § 163, Aug. 11, 1984, 98 Stat. 1273, related to prohibition against Federal control of education. See section 3921 of this title.

Prior section 3954, Pub. L. 98–377, title I, § 164, Aug. 11, 1984, 98 Stat. 1273, related to authorization of appropriations for purposes of former provisions. See section 3920 of this title.

SUBCHAPTER II—EDUCATION FOR ECONOMIC SECURITY

§§ 3961 to 3973. Repealed. Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324

Section 3961, Pub. L. 98–377, title II, § 201, Aug. 11, 1984, 98 Stat. 1273, related to purpose of subchapter.

Section 3962, Pub. L. 98–377, title II, § 202, Aug. 11, 1984, 98 Stat. 1274, defined ''junior or community college''.

Section 3963, Pub. L. 98–377, title II, § 203, Aug. 11, 1984, 98 Stat. 1274; Pub. L. 99–159, title II, § 222(a), Nov. 22, 1985, 99 Stat. 897; Pub. L. 100–418, title VI, § 6005, Aug. 23, 1988, 102 Stat. 1471, related to program authorized.

Section 3964, Pub. L. 98–377, title II, § 204, Aug. 11, 1984, 98 Stat. 1274; Pub. L. 99–159, title II, § 223, Nov. 22, 1985, 99 Stat. 897, related to allotment to States.

Section 3965, Pub. L. 98–377, title II, § 205, Aug. 11, 1984, 98 Stat. 1275; Pub. L. 99–159, title II, § 222(b), Nov. 22, 1985, 99 Stat. 897, related to in-State apportionment.

Section 3966, Pub. L. 98–377, title II, § 206, Aug. 11, 1984, 98 Stat. 1275; Pub. L. 99–159, title II, § 224, Nov. 22, 1985, 99 Stat. 898, related to elementary and secondary education programs.

Section 3967, Pub. L. 98–377, title II, § 207, Aug. 11, 1984, 98 Stat. 1277; Pub. L. 99–159, title II, § 225, Nov. 22, 1985, 99 Stat. 899, related to higher education programs.

Section 3968, Pub. L. 98–377, title II, § 208, Aug. 11, 1984, 98 Stat. 1278; Pub. L. 99–159, title II, § 226, Nov. 22, 1985, 99 Stat. 899, related to State assessments of mathematics, science, foreign languages, and computer learning.

Section 3969, Pub. L. 98–377, title II, § 209, Aug. 11, 1984, 98 Stat. 1279; Pub. L. 99–159, title II, § 227, Nov. 22, 1985, 99 Stat. 899, related to State applications.

[1] See References in Text note below.

Section 3970, Pub. L. 98–377, title II, § 210, Aug. 11, 1984, 98 Stat. 1280; Pub. L. 99–159, title II, § 228, Nov. 22, 1985, 99 Stat. 900, related to local educational agency assessments.

Section 3971, Pub. L. 98–377, title II, § 211, Aug. 11, 1984, 98 Stat. 1281; Pub. L. 99–159, title II, § 228A, Nov. 22, 1985, 99 Stat. 900, related to participation of children and teachers from private nonprofit schools.

Section 3972, Pub. L. 98–377, title II, § 212, Aug. 11, 1984, 98 Stat. 1281; Pub. L. 99–159, title II, § 229, Nov. 22, 1985, 99 Stat. 900, related to Secretary's discretionary fund for programs of national significance.

Section 3973, Pub. L. 98–377, title II, § 213, Aug. 11, 1984, 98 Stat. 1282; Pub. L. 99–159, title II, § 230, Nov. 22, 1985, 99 Stat. 900, related to payments.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER III—PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

PART A—HIGHER EDUCATION PARTNERSHIPS

§ 3981. Statement of purpose

It is the purpose of this part to supplement State and local resources to—

(1) improve the quality of instruction in the fields of mathematics, science, and engineering in the State;

(2) furnish additional resources and support for research, student scholarships, and faculty exchange programs in the fields of mathematics, science, and engineering; and

(3) encourage partnerships in education between the business community, institutions of higher education, and elementary and secondary schools in the community.

(Pub. L. 98–377, title III, § 302, Aug. 11, 1984, 98 Stat. 1283; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Pub. L. 100–418 substituted ''part'' for ''subchapter'' in introductory text.

SHORT TITLE

Section 301 of Pub. L. 98–377, as amended by Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483, provided that: ''This part [part A (§§ 301–309) of title III of Pub. L. 98–377 enacting this part] may be cited as the 'Partnerships in Education for Mathematics, Science, and Engineering Act'.''

§ 3982. Definitions

As used in this part—

(1) the term ''applicant'' means with respect to activities described in section 3984(a) of this title an institution of higher education and the other participants described in paragraph (3) of section 3984(a) of this title, and with respect to activities described in section 3984(b) of this title a local educational agency and the other participants described in paragraph (3) of section 3984(b) of this title;

(2) the term ''equipment'' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials; and

(3) the term ''State agency for higher education'' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(Pub. L. 98–377, title III, § 303, Aug. 11, 1984, 98 Stat. 1283; Pub. L. 99–159, title II, § 232, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Pub. L. 100–418 substituted ''part'' for ''subchapter'' in introductory text.

1985—Pub. L. 99–159 struck out pars. (3), (4), and (5) which defined ''Foundation'', ''institution of higher education'', and ''States'', respectively, and redesignated par. (6) as (3).

§ 3983. Program authorized

(a) Authority of Secretary

The Secretary is authorized, in accordance with the provisions of this part, to make grants to applicants to pay the Federal share of the costs of the activities described in section 3984 of this title.

(b) Authorization of appropriations

There are authorized to be appropriated $50,000,000 for each of the fiscal years 1986 and 1987. There are authorized to be appropriated to carry out the provisions of this part $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(Pub. L. 98–377, title III, § 304, Aug. 11, 1984, 98 Stat. 1284; Pub. L. 99–159, title II, §§ 231, 233, Nov. 22, 1985, 99 Stat. 900, 901; Pub. L. 100–297, title II, § 2301, Apr. 28, 1988, 102 Stat. 319; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Pub. L. 100–418 substituted ''part'' for ''subchapter'' wherever appearing.

Subsec. (b). Pub. L. 100–297 substituted ''1986 and 1987'' for ''1986, 1987, and 1988, to carry out the provisions of this subchapter'' and inserted provision authorizing appropriations to carry out provisions of this part of $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

1985—Subsec. (a). Pub. L. 99–159, § 231, substituted ''Secretary'' for ''Foundation''.

Subsec. (b). Pub. L. 99–159, § 233, amended subsec. (b) generally, substituting authorizations of $50,000,000 for each of the fiscal years 1986, 1987, and 1988, for authorizations of $30,000,000 for fiscal year 1984 and $60,000,000 for fiscal year 1985.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.

§ 3984. Authorized activities

(a) Higher education partnership in education programs and activities; eligible applicants

(1) An applicant may use payments received under this part in any fiscal year for higher education programs and activities described in this subsection.

(2) Grants under this subsection may be used for partnership in education programs—

(A) for the improvement of instruction in mathematics, science, computer science, and engineering education at the postsecondary level;

(B) for awarding scholarships to students at institutions of higher education in the fields of mathematics, science, computer science, and engineering;

(C) for the operation of faculty exchange programs by the institutions of higher education and business concerns within the State;

(D) for research in the fields of mathematics, science, computer science, and engineering;

(E) for the acquisition, rehabilitation, and renovation of equipment and instrumentation for use in instruction in the fields of mathematics, science, computer science, and engineering; and

(F) to promote public understanding of science, mathematics, and computer science.

(3) Education partnerships under this subsection may include institutions of higher education, business concerns, nonprofit private organizations, local educational agencies, professional mathematic and scientific associations, museums, libraries, educational television stations, and if the State so desires, appropriate State agencies.

(b) Elementary and secondary partnership in education programs and activities; eligible applicants

(1) An applicant may use payments received under this part in any fiscal year for programs and activities described in this subsection.

(2) A local educational agency may carry out an elementary and secondary school partnership in education program under which—

(A) elementary and secondary school teachers in the schools of local educational agencies who teach mathematics, science, or computer science are made available to local business concerns and business concerns with establishments located in the community to serve in such concerns or establishments;

(B) personnel of local business concerns and business concerns with establishments located in the community serve as consultants, lecturers, teaching assistants, or teachers of mathematics, science, or computer science in the elementary and secondary schools within the State;

(C) training and retraining is furnished to elementary and secondary school teachers of mathematics, science, and computer science under a cooperative arrangement between the State or local educational agency and appropriate business concerns;

(D) secondary school students observe, participate, and work in local business concerns and business concerns with establishments located in the community; and

(E) computer clubs and extracurricular activities involving modern technologies are established in elementary and secondary schools.

(3) Partnerships under this subsection may include local educational agencies, business concerns, nonprofit private organizations, institutions of higher education, professional mathematic and scientific associations, museums, libraries, educational television stations, and, if the State so desires, appropriate State agencies.

(Pub. L. 98–377, title III, § 305, Aug. 11, 1984, 98 Stat. 1284; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Subsecs. (a)(1), (b)(1). Pub. L. 100–418 substituted ''part'' for ''subchapter'' wherever appearing.

§ 3985. Application

(a) Requirements; terms, assurances, and conditions

Any applicant which desires to receive a grant under this part shall submit an application approved under section 3986 of this title to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities for which assistance under this part is sought;

(2) provide assurances that not more than 5 per centum of the amount received by the applicant in any fiscal year may be expended on administrative expenses;

(3) with respect to each program for which assistance is sought, provide assurances that—

(A) 30 per centum of the funds for each such project will be furnished by business concerns within the community;

(B) 20 per centum of the funds will be supplied by—

(i) the State,

(ii) the institution of higher education or the local educational agency, as the case may be, participating in the program; and

(iii) the other parties participating in the program;

(C) no stipend will be paid directly to employees of a profitmaking business concern; and

(D) teachers participating in the exchange program may not be employed by the participating business concern with which the teacher served within three years after the end of the exchange program unless the teacher repays the full cost of the exchange program to the State and local educational agency, as the case may be; and

(4) provide assurances that whenever the program for which assistance is sought includes scholarships, the scholarships be awarded to undergraduate students at institutions of higher education within the State who wish to pursue a course of study in mathematics or science, engineering or computer science, and that each student awarded a scholarship under this part will receive a stipend which shall not

exceed the cost of tuition at the institution of higher education plus a stipend of not to exceed $750 for each academic year of study for which the scholarship is awarded;

(5) set forth policies and procedures to assure that whenever the application includes a local educational agency, to the extent consistent with the number and location of children in the school district of such agency who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted under this part;

(6) provide assurances that consideration is given to programs and activities designed to meet the needs of underrepresented and underserved populations;

(7) provide assurances that in the consideration of applications submitted under section 3986(a) of this title that equitable consideration is given to applications submitted by private and public institutions of higher education; and

(8) provide such additional assurances as the Secretary determines essential to ensure compliance with the requirements of this part.

(b) Regional joint application

A regional consortium of applicants in two or more States may file a joint application under the provisions of subsection (a) of this section.

(Pub. L. 98–377, title III, § 306, Aug. 11, 1984, 98 Stat. 1285; Pub. L. 99–159, title II, § 231, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–418 substituted ''part'' for ''subchapter'' wherever appearing.

1985—Subsec. (a). Pub. L. 99–159 substituted ''Secretary'' for ''Foundation'' in two places in provisions preceding par. (1) and in par. (8).

§ 3986. Submission of applications

Each applicant within a State which desires to receive a grant under this part shall submit the application prepared in accordance with section 3985 of this title to the State agency on[1] higher education or the State educational agency, as the case may be, for approval and shall submit the approved application to the Secretary under section 3985 of this title. Each such application shall be submitted jointly by the local educational agency in the case of activities described in section 3984(a) of this title, or an institution of higher education in the case of activities described in section 3984(b) of this title, and each business concern or other party that is to participate in the program for which assistance is sought.

(Pub. L. 98–377, title III, § 307, Aug. 11, 1984, 98 Stat. 1286; Pub. L. 99–159, title II, § 231, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Pub. L. 100–418 substituted ''part'' for ''subchapter''.

1985—Pub. L. 99–159 substituted ''Secretary'' for ''Foundation''.

[1] So in original. Probably should be ''for''.

§ 3987. Approval of applications

(a) Criteria; consistency of applications with State plans

(1) The Secretary shall establish criteria for approval of applications under this part.

(2) No application may be approved by the Secretary unless the State educational agency or the State agency for higher education, as the case may be, determines that the application is consistent with State plans for elementary and secondary education or State plans for higher education, as the case may be, in the State.

(b) Procedures for equitable distribution of grants among States

The Secretary shall adopt approval procedures designed to assure that there is equitable distribution of grants among the States.

(Pub. L. 98–377, title III, § 308, Aug. 11, 1984, 98 Stat. 1286; Pub. L. 99–159, title II, § 231, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–418 substituted ''part'' for ''subchapter''.

1985—Pub. L. 99–159 substituted ''Secretary'' for ''Foundation'' in pars. (1) and (2) of subsec. (a) and in subsec. (b).

§ 3988. Payments; Federal share; limitation

(a) Federal and non-Federal shares

(1) The Secretary shall pay, to each applicant having an application approved under section 3987 of this title, the Federal share of the cost of the program described in the application.

(2) The Federal share for each fiscal year shall be 50 per centum.

(3) The non-Federal share of payments under this part may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(b) Fiscal year State limitation

Not more than 15 per centum of the funds appropriated under this part in any fiscal year may be paid to applicants in any single State.

(Pub. L. 98–377, title III, § 309, Aug. 11, 1984, 98 Stat. 1286; Pub. L. 99–159, title II, § 231, Nov. 22, 1985, 99 Stat. 900; Pub. L. 100–418, title VI, § 6031(b)(2), Aug. 23, 1988, 102 Stat. 1483.)

AMENDMENTS

1988—Subsecs. (a)(3), (b). Pub. L. 100–418 substituted ''part'' for ''subchapter''.

1985—Subsec. (a)(1). Pub. L. 99–159 substituted ''Secretary'' for ''Foundation''.

PART B—ELEMENTARY AND SECONDARY EDUCATION PARTNERSHIPS

§ 3991. Purpose

It is the purpose of this part to supplement State and local resources to—

(1) improve the quality of instruction in the fields of mathematics and science in elementary and secondary schools;

(2) furnish additional resources and support for the acquisition of equipment, and instructional and reference materials and improvement of laboratory facilities in elementary and secondary schools; and

(3) encourage partnerships in science and mathematics education between the business community, museums, libraries, professional mathematics and scientific associations, private nonprofit organizations, appropriate State agencies and elementary and secondary schools.

(Pub. L. 98–377, title III, § 321, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1479.)

CLUBS FOR BOYS AND GIRLS INTERESTED IN SCIENCE; AUTHORIZATION OF APPROPRIATIONS; PURPOSES; PERSONNEL AND FACILITIES

Pub. L. 85–875, Sept. 2, 1958, 72 Stat. 1700, provided: ''That in order to strengthen future scientific accomplishment in our Nation by assisting in the development of a body of boys and girls with a special interest in science, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1959, and for each fiscal year thereafter, such sums, not in excess of $50,000, as may be necessary to enable the Commissioner of Education [now Secretary of Education] to encourage, foster, and assist in the establishment in localities throughout the Nation of clubs which are composed of boys and girls who have an especial interest in science.

''SEC. 2. (a) The Commissioner of Education [now Secretary of Education] shall carry out his duties under the first section with a view to the ultimate chartering by the Congress of a Corporation, similar to the Future Farmers of America, which will seek to—

''(1) develop an interest in science on the part of the young people of America,

''(2) provide an opportunity for the exchange of scientific information and ideas among members of the clubs,

''(3) encourage the promotion of science fairs at which members of the clubs may display their scientific works and projects, and

''(4) develop an awareness of the satisfactions to be derived through a career devoted to science.

''(b) The Commissioner of Education [now Secretary of Education] may utilize any of the personnel and facilities of the Office of Education [now Department of Education] in carrying out this Act.''

§ 3992. Programs authorized

(a) Grants

The Secretary may make grants to States to pay the Federal share of the cost of the programs described in section 3994 of this title.

(b) Authorization of appropriations

There are authorized to be appropriated for purposes of carrying out this part[1] $20,000,000 for fiscal year 1988.

(Pub. L. 98–377, title III, § 322, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1480.)

REFERENCES IN TEXT

This part, referred to in subsec. (b), was in the original ''this chapter'' and was translated as reading ''this part'' to reflect the probable intent of Congress because title III of Pub. L. 98–377, which comprises this subchapter, does not contain chapters.

§ 3993. Amendment to State application

(a) Application

A State shall be eligible to receive a grant under this part if—

(1) the State submits to the Secretary as part of its application under section 209[1] such information and assurances as the Secretary may require at such time as the Secretary shall establish; and

(2) the Secretary approves such application.

(b) Application requirements

The Secretary shall require each application to include—

(1) a description of the State's procedures relating to the use of funds from grants received under this part, including the approval process for local applications;

(2) an assurance that not more than 1 percent of the amount received shall be used for administrative expenses; and

(3) an assurance that the State will, to the extent possible, assist local school districts in economically depressed areas to obtain matching funds from business concerns.

(Pub. L. 98–377, title III, § 323, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1480.)

REFERENCES IN TEXT

Section 209, referred to in subsec. (a)(1), is section 209 of Pub. L. 98–377, title II, Aug. 11, 1984, 98 Stat. 1279, as amended, which was classified to section 3969 of this title prior to repeal by Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324.

§ 3994. Eligible programs

(a) In general

A State may use funds from grants received in any fiscal year under this part for elementary and secondary programs described in this section. The State educational agency shall administer such funds, which shall be awarded to such programs on a competitive basis.

(b) Use of funds

Funds from grants received under this part may be used for the following:

(1) Improvement of elementary and secondary resources

Such funds may be used for acquisition of equipment, instructional and reference materials, and partnership in education programs designed to—

(A) improve instruction in mathematics and science education at the elementary and secondary level;

(B) improve laboratory facilities, classroom and library resources in elementary and secondary mathematics and science education; and

(C) attract matching dollars and in kind contributions of equipment, learning resources or shared time from business concerns, libraries, museums, nonprofit private organizations, professional mathematics and scientific associations, and appropriate State agencies.

(2) Advanced placement programs

(A) Such funds may be used for advanced placement programs operated by local educational agencies that are designed to allow

[1] See References in Text note below.

[1] See References in Text note below.

qualified secondary students to attend college preparatory schools, colleges, or universities on a part-time or full-time basis with respect to science and mathematics instruction.

(B) A local educational agency that receives funds from a grant under this part for an advanced placement program described in subparagraph (A) shall allocate to such program a percentage of funds received from the State on a per student basis according to—

(i) the number of students participating in the program; and

(ii) the instruction time such students receive under the program.

(Pub. L. 98–377, title III, § 324, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1480.)

§ 3995. Local applications

(a) Eligibility

An applicant that desires to receive a grant under this part shall submit an application to the State educational agency, at such time, and in such manner, as the State may require. Such application may take the form of an amendment to an assessment submitted by the local educational agency under section 210,[1] if appropriate.

(b) Requirements for application

The State shall require each application to include—

(1) a description of the activities for which assistance under this part is sought;

(2) assurances that not more than 5 percent of the amount received by the applicant in any fiscal year shall be expended on administrative expenses;

(3) if the funds are to be used for improvement of elementary and secondary resources as described in subsection (b)(1) of this section—

(A) an estimate of the amount to be spent on equipment, facilities improvement, library resources, and classroom instructional material;

(B) an estimate of the number of elementary and secondary students who will be aided by activities and expenditures under the grant;

(C) assurances that—

(i) except as provided in subsection (c) of this section, a minimum of 25 percent of the funds for each project will be supplied by business concerns within the community;

(ii) no stipend shall be paid directly to employees of a profitmaking business concern;

(iii) provision shall be made for the equitable participation in the project of children who are enrolled in private elementary and secondary schools; and

(iv) consideration will be given to programs and activities designed to meet the needs of educationally disadvantaged and other traditionally underserved populations; and

(4) if the funds are to be used for advanced placement programs as described in subsection (b)(2) of this section, a commitment as to the percentage of funds received from the State on a per student basis that shall be used by the local educational agency to defray costs of the advanced placement program.

(c) Waiver

The State may waive or reduce the amount of matching funds required under subsection (b)(3)(C)(i) of this section if the State determines that—

(1) substantial need exists in the area served by the applicant for a grant under this part; and

(2) the required amount of matching funds cannot be made available.

(d) Joint applications

A regional consortium of applicants in 2 or more local school districts may file a joint application under subsection (a) of this section.

(Pub. L. 98–377, title III, § 325, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1481.)

REFERENCES IN TEXT

Section 210, referred to in subsec. (a), is section 210 of Pub. L. 98–377, title II, Aug. 11, 1984, 98 Stat. 1280, as amended, which was classified to section 3970 of this title prior to repeal by Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324.

§ 3996. Submission of applications

An applicant within a State that desires to receive a grant under this part[1] shall submit an application prepared in accordance with section 3995 of this title to the State educational agency for approval. Each application with respect to funds for improvement of elementary and secondary resources under section 3994(b)(1) of this title shall be submitted jointly by the local educational agency and each business concern or other party that is to participate in the activities for which assistance is sought.

(Pub. L. 98–377, title III, § 326, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1482.)

REFERENCES IN TEXT

This part, referred to in text, was in the original ''this chapter'' and was translated as reading ''this part'' to reflect the probable intent of Congress because title III of Pub. L. 98–377, which comprises this subchapter, does not contain chapters.

§ 3997. Approval of applications

(a) Criteria

The State shall establish criteria for approval of applications under this section. Such criteria shall include—

(1) consideration of the local district's need for, and inability to locally provide for, the activities, equipment, library and instructional materials requested;

(2) the number and nature of elementary and secondary students who will benefit from the planned program; and

[1] See References in Text note below.

[1] See References in Text note below.

(3) the expressed level of financial and in-kind commitment from other parties to the program.

(b) Approval procedures

The State shall adopt approval procedures designed to ensure that grants are equitably distributed among—

(1) rural, urban, and suburban areas; and

(2) small, medium, and large local educational agencies.

(Pub. L. 98–377, title III, § 327, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1482.)

§ 3998. Computation of grant amounts

(a) Payments to grantees

(1) Payment by State

The State shall pay to the extent of amounts received by it from the Secretary under this part, to each applicant having an application approved under section 3997 of this title, the Federal share of the cost of the program described in the application.

(2) Amount

(A) Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 75 percent.

(B) In the case of an applicant that receives a waiver under section 3995(c) of this title, the Federal share for each fiscal year may be as much as 100 percent.

(3) Non-Federal share

The non-Federal share of payments under this part may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(b) Payments to States

Except as provided in subsection (c) of this section, each State shall receive under this part the greater of—

(1) an amount equal to its share of funds appropriated under chapter 1 of the Education Consolidation and Improvement Act; or

(2) $225,000.

(c) Reduction for insufficient funding

If sums appropriated to carry out this part are not sufficient to permit the Secretary to pay in full the grants which States may receive under subsection (b) of this section, the amount of such grants shall be ratably reduced.

(Pub. L. 98–377, title III, § 328, as added Pub. L. 100–418, title VI, § 6031(a)(2), Aug. 23, 1988, 102 Stat. 1482.)

REFERENCES IN TEXT

The Education Consolidation and Improvement Act, referred to in subsec. (b)(1), probably means the Education Consolidation and Improvement Act of 1981, which is subtitle D [§§ 551 to 596] of title V of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 463, as amended. Chapter 1 of the Act was classified generally to subchapter I (§ 3801 et seq.) of chapter 51 of this title, prior to repeal by Pub. L. 100–297, title I, § 1003(a), Apr. 28, 1988, 102 Stat. 293. For complete classification of this Act to the Code, see Tables.

SUBCHAPTER IV—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE

§§ 4001 to 4003. Repealed. Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324

Section 4001, Pub. L. 98–377, title IV, § 401, Aug. 11, 1984, 98 Stat. 1287, related to Presidential awards.

Section 4002, Pub. L. 98–377, title IV, § 402, Aug. 11, 1984, 98 Stat. 1287, related to administrative provisions.

Section 4003, Pub. L. 98–377, title IV, § 403, Aug. 11, 1984, 98 Stat. 1287; Pub. L. 99–159, title II, § 241, Nov. 22, 1985, 99 Stat. 901, related to authorization of appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER V—ASBESTOS SCHOOL HAZARD ABATEMENT

§ 4011. Findings and purpose

(a) Findings

The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentration far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for remedying hazardous conditions in schools;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without a program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this subchapter to mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) Purpose

It is the purpose of this subchapter to—

(1) direct the Administrator of the Environmental Protection Agency to establish a program to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos hazards in schools;

(3) provide financial assistance for the abatement of asbestos threats to the health and safety of school children or employees; and

(4) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

(Pub. L. 98–377, title V, § 502, Aug. 11, 1984, 98 Stat. 1287; Pub. L. 101–637, § 14(a)(2), (b)(1), (2), Nov. 28, 1990, 104 Stat. 4594, 4595.)

AMENDMENTS

1990—Pub. L. 101–637, § 14(a)(2), made technical amendment to section catchline.

Subsecs. (a), (b). Pub. L. 101–637, § 14(b)(1), (2), inserted headings.

SHORT TITLE OF 1990 AMENDMENT

Section 1 of Pub. L. 101–637 provided that: ''This Act [enacting section 2656 of Title 15, Commerce and Trade, amending this section, sections 4012 to 4022 of this title, and sections 2643, 2646, and 2647 of Title 15, enacting provisions set out as notes under this section and sections 2646 and 2656 of Title 15, and amending provisions set out as a note under this section] may be cited as the 'Asbestos School Hazard Abatement Reauthorization Act of 1990'.''

SHORT TITLE

Section 501 of title V of Pub. L. 98–377, as amended by Pub. L. 101–637, § 14(a)(1), Nov. 28, 1990, 104 Stat. 4594, provided that: ''This title [enacting this subchapter] may be cited as the 'Asbestos School Hazard Abatement Act of 1984'.''

FINDINGS AND PURPOSES

Section 2 of Pub. L. 101–637 provided that:

''(a) FINDINGS.—Congress finds the following:

''(1) The Environmental Protection Agency has estimated that more than forty-four thousand school buildings contain friable asbestos, exposing more than fifteen million school children and one million five hundred thousand school employees to unwarranted health hazards.

''(2) All elementary and secondary schools are required by the Asbestos Hazard Emergency Response Act [of 1986, see Short Title of 1986 Amendment note set out under section 2601 of Title 15, Commerce and Trade] to inspect for asbestos, develop an asbestos management plan, and implement such plan.

''(3) The Environmental Protection Agency has estimated it will cost local education agencies more than $3,000,000,000 to comply with the Asbestos Hazard Emergency Response Act.

''(4) Without a continuing program of information assistance, technical and scientific assistance, training, and financial support, many local educational agencies will be unable to carry out sufficient response actions to prevent the release of asbestos fibers into the air.

''(5) Without the provisions of sufficient financial support, the cost to local educational agencies of implementing asbestos response actions may have an adverse impact in their educational mission.

''(6) The effective regulation of interstate commerce for the protection of human health and the environment requires the continuation of programs to mitigate hazards of asbestos fibers and materials emitting such fibers.

''(b) PURPOSES.—The purposes of this Act [see Short Title of 1990 Amendment note above] are the following:

''(1) To direct the Environmental Protection Agency to maintain a program to assist local schools in carrying out their responsibilities under the Asbestos Hazard Emergency Response Act.

''(2) To provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos health hazards.

''(3) To provide financial assistance to State and local agencies for training of persons involved with inspections and abatement of asbestos, for conducting necessary reinspections of school buildings, and for the actual abatement of asbestos threats to the health and safety of school children or employees.

''(4) To assure that no employee of a local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.''

§ 4012. Asbestos hazard abatement program

(a) Abatement program

There is hereby established a program within the Environmental Protection Agency to be known as the Asbestos Hazards Abatement Program (hereinafter in this subchapter referred to as ''Program'').

(b) Duties

The duties of the Administrator in implementing and effectuating the Program shall include—

(1) the compilation of medical, scientific, and technical information including, but not limited to—

(A) the health and safety hazards associated with asbestos materials;

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers; and

(C) the means of abating the threat posed by asbestos and asbestos containing materials;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State and local educational agencies and to other institutions, including parent and employee organizations, for the purpose of carrying out activities described in this subchapter;

(3) not later than November 15 of each year for which this subchapter is authorized, the development and distribution of applications, or notifications to all local educational agen-

cies of the availability of application forms including information for obtaining such forms; and

(4) the review of applications for financial assistance, and the approval or disapproval of such applications, in accordance with the provisions of section 4014 of this title.

(Pub. L. 98–377, title V, § 503, Aug. 11, 1984, 98 Stat. 1288; Pub. L. 101–637, §§ 4, 14(a)(3), (b)(3), (4), Nov. 28, 1990, 104 Stat. 4590, 4594, 4595.)

AMENDMENTS

1990—Pub. L. 101–637, § 14(a)(3), made technical amendment to section catchline.

Subsec. (a). Pub. L. 101–637, § 14(b)(3), inserted heading and struck out par. (1) designation before ''There is hereby established''.

Subsec. (b). Pub. L. 101–637, § 14(b)(4), inserted heading.

Subsec. (b)(2). Pub. L. 101–637, § 4(1), (2), substituted ''educational agencies'' for ''agencies'' and ''institutions, including parent and employee organizations,'' for ''institutions''.

Subsec. (b)(3). Pub. L. 101–637, § 4(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''the development within forty-five days of August 11, 1984, of an interim or final application form, which shall be distributed promptly to local educational agencies; and''.

§ 4013. State records and priority lists

(a) Records

The Governor of each State shall maintain records on—

(1) the presence of asbestos materials in school buildings of local educational agencies;

(2) the asbestos detection and abatement activities and other response actions conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(3) repairs made to restore school buildings to conditions comparable to those which existed before the abatement activities referred to in paragraph (2) were undertaken.

(b) Priority list

(1) Each year, in accordance with procedures established by the Administrator, the Governor of each State shall:

(A) submit to the Administrator a priority list of all schools under the authority of a local educational agency within the State, without regard to the public or private nature of the school involved, that are candidates for abatement activities and other response actions; and

(B) forward to the Administrator for each candidate for abatement activities and other response actions all applications for financial assistance prepared by the local educational agencies in accordance with the provisions of section 4014 of this title; and[1]

(2) The priority list shall rank the potential candidates for abatement action based on the nature and magnitude of the existing and potential exposure presented by the asbestos materials.

(3) For each school listed, the Governor shall certify that the statement of need contained in the application for assistance accurately reflects the financial resources available to the local educational agency for the asbestos abatement program.

(4) For the purpose of determining the adequacy of the financial resources available to a local educational agency for the abatement of asbestos threats the Governor shall, to the extent practicable, consider the following:

(A) A measure of financial need used by the State in which the local educational agency is located.

(B) The estimated per capita income of the locality of such agency or of those directly or indirectly providing financial support for such agency.

(C) The extent to which the local school millage rate falls above or below (i) the millage rate average of the State and (ii) the millage rate of other local educational agencies with comparable enrollment, per capita income, and resource base.

(D) The ratio, expressed as a percentage, of the estimated cost of the project to the total budget of the local educational agency.

(E) The borrowing capacity of the local educational agency.

(F) Any additional costs to the local educational agency of meeting the special needs of disadvantaged students.

(G) Any other factor that demonstrates that the local educational agency has limited financial resources.

(Pub. L. 98–377, title V, § 504, Aug. 11, 1984, 98 Stat. 1289; Pub. L. 101–637, §§ 5, 14(a)(4), (b)(5), (6), Nov. 28, 1990, 104 Stat. 4590, 4594, 4595.)

AMENDMENTS

1990—Pub. L. 101–637, § 14(a)(4), substituted ''State records and priority lists'' for ''State plans'' in section catchline.

Subsec. (a). Pub. L. 101–637, §§ 5(a)(1), 14(b)(5), inserted heading and substituted ''The Governor of each State shall maintain records on'' for ''Not later than three months after August 11, 1984, the Governor of each State shall submit to the Administrator a plan which describes the procedures to be used by the State for maintaining records on'' in introductory provisions.

Subsec. (a)(2). Pub. L. 101–637, § 5(a)(2), (3), inserted ''and other response actions'' after ''abatement activities'' and inserted ''and'' after semicolon at end.

Subsec. (a)(3). Pub. L. 101–637, § 5(a)(4), substituted ''paragraph (2)'' for ''subparagraph (B)''.

Subsec. (b). Pub. L. 101–637, § 14(b)(6)(A), inserted heading.

Subsec. (b)(1). Pub. L. 101–637, § 5(b)(1), substituted ''Each year, in accordance with procedures established by the Administrator,'' for ''Not later than six months after August 11, 1984, and annually thereafter,'' in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 101–637, §§ 5(b)(2), (3), 14(b)(6)(B), substituted ''abatement activities and other response actions'' for ''abatement'', struck out ''and the Secretary of the Department of Education'' after ''submit to the Administrator'', and inserted ''and'' after semicolon at end.

Subsec. (b)(1)(B). Pub. L. 101–637, §§ 5(b)(2), 14(b)(6)(B), (C), substituted ''abatement activities and other response actions'' for ''abatement'', struck out ''section 4012(b)(3) of this title and'' before ''section 4014'', and struck out ''and the Secretary of the Department of Education'' after ''forward to the Administrator''.

[1] So in original. Probably should end with a period instead of ''; and''.

Subsec. (b)(1)(C). Pub. L. 101–637, § 5(b)(4), struck out subpar. (C) which read as follows: ''forward to the Secretary of the Department of Education a copy of all information submitted to the Administrator in accordance with subsection (b)(3) of this section.''

Subsec. (b)(4)(C). Pub. L. 101–637, § 14(b)(6)(D), inserted a comma after ''per capita income''.

Subsec. (b)(4)(F), (G). Pub. L. 101–637, § 5(c), added subpar. (F) and redesignated former subpar. (F) as (G).

Subsec. (c). Pub. L. 101–637, § 5(d), struck out subsec. (c) which read as follows: ''Not later than nine months after the submission of the plan described in subsection (a) of this section, and each twelve months thereafter, the Governor shall submit to the Administrator a report which describes the actions taken by the State in accordance with its plan under such subsection.''

§ 4014. Financial assistance

(a) Assistance Program

There is hereby established within the Environmental Protection Agency an Asbestos Hazards Abatement Assistance Program (hereinafter in this chapter referred to as the ''Assistance Program''), which shall be administered in accordance with this section.

(b) Application submission

(1) Applications for financial assistance shall be submitted by a local educational agency to the Governor, or the Governor's designee, who shall establish a priority list based on the criteria of section 4013(b)(2) of this title.

(2) Pursuant to section 4013 of this title, the Governor shall submit applications, together with the Governor's report and priority list, to the Administrator who shall review and rank such applications pursuant to subsection (c)(2) of this section and propose financing pursuant to the criteria of section 4013(b)(4) of this title. The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year.

(c) Review of application

(1) The Administrator shall provide financial assistance on a school-by-school basis to local educational agencies in accordance with other provisions of this section to carry out projects for—

(A) abating the threat posed by materials containing asbestos to the health and safety of children or employees;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring school buildings to conditions comparable to those existing before abatement activities were undertaken pursuant to this section.

(2) The Administrator shall review and list in priority order applications for financial assistance. In ranking applications, the Administrator shall consider—

(A) the priority assigned to the abatement program by the Governor pursuant to section 4013(b)(2) of this title; and

(B)(i) the likelihood of release of asbestos fibers into a school environment;

(ii) any other evidence of the risk caused by the presence of asbestos including, but not limited to, situations in which there is a substantial quantity of dry loose asbestos-containing material on horizontal surfaces or asbestos-containing material is substantially deteriorated or damaged, and there is asbestos-containing material in an air plenum or in a high traffic area, confined space, or within easy reach of a passerby;

(iii) the extent to which the corrective action proposed by the applicant will reduce the exposure of school children and school employees; and

(iv) the extent to which the corrective action proposed by the applicant uses the least burdensome methods which protect human health and the environment.

(3) In determining whether an applicant is eligible for assistance, and the nature and amount of financial assistance, the Administrator shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 4013(b)(4) of this title.

(d) Limitation

In no event shall financial assistance be provided under this subchapter to an applicant if—

(1) the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program; or

(2) the applicant is not in compliance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

(e) Amount of loan or grant

(1) An applicant for financial assistance may be granted a loan of up to 100 percent of the costs of an abatement program or, if the Administrator determines the applicant is unable to undertake and complete an asbestos materials abatement program with a loan, such applicant may also receive a grant (alone or in combination with a loan) not to exceed 50 percent of the total costs of abatement, in the amount which the Administrator deems necessary.

(2) In approving any grant, the Administrator shall state with particularity the reasons why the applicant is unable to undertake and complete the abatement program with loan funds.

(f) Loan agreement

Loans under this section shall be made pursuant to agreements which shall provide for the following:

(1) the loan shall not bear interest;

(2) the loan shall have a maturity period of not more than twenty years (as determined by the Administrator) and shall be repayable during such period at such times and in such amounts as the Administrator may specify in the loan agreement;

(3) repayment shall be made to the Secretary of the Treasury for deposit in the Asbestos Trust Fund established by section 4022 of this title; and

(4) such other terms and conditions that the Administrator determines necessary to protect the financial interest of the United States.

(g) Application requirements

(1) No financial assistance may be provided under this section unless an application has been submitted to the Administrator in accord-

ance with such procedures as may be developed by the Administrator.

(2) The Administrator shall not approve an application unless—

(A) the application contains such information as the Administrator may require, including but not limited to information describing—

(i) the nature and extent of the asbestos problem for which the assistance is sought;

(ii) the asbestos content of the material to be abated;

(iii) the methods which will be used to abate the asbestos materials;

(iv) the amount and type of financial assistance requested;

(v) a description of the financial resources of the local educational agency; and

(vi) a justification for the type and amount of the financial assistance requested.

(B) the application contains a certification that—

(i) the local educational agency has prepared and is implementing an asbestos management plan, as required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.); and

(ii) all activities to be conducted with the financial assistance will be performed by individuals trained and accredited in conformance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) and regulations promulgated under that title;

(C) the application contains assurances that the local educational agency will furnish such information as is necessary for the Administrator to make the report required by section 4016 of this title.

(3) No financial assistance may be provided by the Administrator under this section for projects described in subsection (a)(2) of this section on which abatement action was completed prior to January 1, 1984.

(4) Except as provided in section 4021(b)(1) of this title, in approving applications the Administrator shall provide assistance to the local educational agencies having the highest priority among applications being considered in order of ranking until the appropriated funds are expended.

(Pub. L. 98–377, title V, §505, Aug. 11, 1984, 98 Stat. 1290; Pub. L. 99–519, §3(a), Oct. 22, 1986, 100 Stat. 2988; Pub. L. 100–368, §6(b), July 18, 1988, 102 Stat. 833; Pub. L. 101–637, §§6, 14(a)(5), (b)(7), (c)(1)–(4), Nov. 28, 1990, 104 Stat. 4591, 4594–4596.)

REFERENCES IN TEXT

The Toxic Substances Control Act, referred to in subsecs. (d)(2) and (g)(2)(B), is Pub. L. 94–469, Oct. 11, 1976, 90 Stat. 2003, as amended. Title II of the Act, as added by Pub. L. 99–519, §2, Oct. 22, 1986, 100 Stat. 2970, is classified generally to subchapter II (§2641 et seq.) of chapter 53 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

AMENDMENTS

1990—Pub. L. 101–637, §14(a)(5), made technical amendment to section catchline.

Subsec. (a). Pub. L. 101–637, §14(b)(7)(A), inserted heading.

Subsec. (b). Pub. L. 101–637, §14(b)(7)(B), inserted heading.

Subsec. (b)(1). Pub. L. 101–637, §14(c)(1), struck out comma after ''educational agency''.

Subsec. (b)(2). Pub. L. 101–637, §6(a)(1), (2), substituted ''the Governor shall submit applications,'' for ''applications shall be submitted,'' and inserted ''The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year.''

Subsec. (b)(3). Pub. L. 101–637, §6(a)(3), struck out par. (3) which read as follows: ''Within sixty days of receipt of the information described in section 4013(b)(1) of this title, the Secretary of the Department of Education shall review such information and, in the Secretary's discretion, provide to the Administrator comments and recommendations based upon the needs of local educational agencies for financial assistance. Within sixty days of receipt of the Secretary's report, or expiration of the time allowed for such report, the Administrator shall approve or disapprove applications for financial assistance.''

Subsec. (c). Pub. L. 101–637, §14(b)(7)(C), inserted heading.

Subsec. (c)(2)(A). Pub. L. 101–637, §14(c)(2)(A), inserted ''and'' after semicolon at end.

Subsec. (c)(2)(B)(ii). Pub. L. 101–637, §14(c)(2)(B), inserted a comma after ''confined space''.

Subsec. (c)(2)(B)(iv). Pub. L. 101–637, §14(c)(2)(B), which directed the insertion of a comma after ''techniques'', could not be executed because of the intervening amendment by Pub. L. 101–637, §6(b). See below.

Pub. L. 101–637, §6(b), substituted ''uses the least burdensome methods which protect human health and the environment'' for ''is cost-effective compared to other techniques including management of material containing asbestos''.

Subsec. (c)(3). Pub. L. 101–637, §6(c), substituted ''shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 4013(b)(4) of this title.'' for ''shall consider—

''(A) the financial resources available to the applicant as certified by the Governor pursuant to section 4013(b)(4) of this title; and

''(B) the report, if any, of the Secretary of Education pursuant to section 4013(b)(5) of this title.''

Subsec. (d). Pub. L. 101–637, §6(d), inserted heading and amended text generally. Prior to amendment, text read as follows: ''In no event shall financial assistance be provided under this subchapter to an applicant if the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program. In making such a determination, the Administrator may consult with the Secretary of Education.''

Subsec. (e). Pub. L. 101–637, §14(b)(7)(D), inserted heading.

Subsec. (e)(1). Pub. L. 101–637, §14(c)(3), substituted ''percent'' for ''per centum'' in two places.

Subsec. (f). Pub. L. 101–637, §14(b)(7)(E), inserted heading.

Subsec. (f)(3). Pub. L. 101–637, §6(e), substituted ''for deposit in the Asbestos Trust Fund established by section 4022 of this title'' for ''for deposit in the general fund''.

Subsec. (g). Pub. L. 101–637, §14(b)(7)(F), inserted heading.

Subsec. (g)(1). Pub. L. 101–637, §6(f)(1), substituted ''in accordance with such procedures as may be developed by the Administrator'' for ''within the five-year period beginning on August 11, 1984''.

Subsec. (g)(2)(B)(i), (ii). Pub. L. 101–637, §6(f)(2), amended cls. (i) and (ii) generally. Prior to amendment, cls. (i) and (ii) read as follows:

''(i) any employee engaged in an asbestos material abatement program will be trained and equipped pursuant to section 4015(b)(2)(B) of this title; and

''(ii) no child or inadequately informed or protected school employee will be permitted in the vicinity of any asbestos abatement activity;''.

Subsec. (g)(3), (4). Pub. L. 101–637, §§ 6(f)(3), 14(c)(4), redesignated subpar. (B) appearing after par. (3) as par. (4), inserted a comma after ''section 4021(b)(1) of this title'', and struck out former par. (4) which read as follows:

''(A) No financial assistance may be provided under this section to any school—

''(i) which uses any person who has not been accredited pursuant to section 2646(b) or (c) of title 15, to carry out activities described in section 2646(a) of title 15, or

''(ii) which uses any laboratory which has not been accredited pursuant to section 2646(d) of title 15, to carry out activities described in such section.

''(B) This paragraph shall apply to any financial assistance provided under this section after October 22, 1986, for activities performed after the following dates:

''(i) In the case of activities performed by persons, after the date which is one year after October 22, 1986.

''(ii) In the case of activities performed by laboratories, after the date which is 180 days after the date on which a laboratory accreditation program is completed under section 2646(d) of title 15.''

1988—Subsec. (g)(4)(B)(i). Pub. L. 100–368, § 6(b)(1), substituted reference to October 22, 1986, for reference to August 11, 1984.

Subsec. (g)(4)(B)(ii). Pub. L. 100–368, § 6(b)(2), substituted ''section 2646(d) of title 15'' for ''subsection (d)''.

1986—Subsec. (g)(4). Pub. L. 99–519 added par. (4).

FINANCIAL ASSISTANCE TO CARRY OUT INSPECTIONS FOR ASBESTOS-CONTAINING MATERIAL

Section 4(b) of Pub. L. 99–519 provided that:

''(1) Notwithstanding section 505(c) of the Asbestos School Hazard Abatement Act of 1984 [20 U.S.C. 4014(c)], for fiscal years 1988 and 1989 the Administrator shall provide financial assistance under section 505 of such Act in the form of grants to States or local educational agencies to carry out inspections for asbestos-containing material in school buildings and preparation of management plans for school buildings under this title [probably means title II of the Toxic Substances Control Act, 15 U.S.C. 2641 et seq.].

''(2) Not more than 2 percent of any grant awarded to a State pursuant to paragraph (1) may be used by the State for administrative purposes. For purposes of the preceding sentence, administrative purposes do not include salaries of persons who inspect for asbestos-containing material or assist in the preparation of management plans.

''(3) In determining which local educational agencies to approve grants for, the Administrator shall take into account the financial need of the agency. Of the amount available under the Asbestos School Hazard Abatement Act of 1984 [20 U.S.C. 4011 et seq.] for fiscal years 1988 and 1989, not more than 10 percent may be obligated for the purposes described in this subsection.''

§ 4015. Administrative provisions

(a) Regulations

The Administrator shall promulgate rules and regulations as necessary to implement the authorities and requirements of this subchapter.

(b) Procedures

The Administrator also shall establish procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 4014 of this title, for—

(1) abating asbestos materials in school buildings;

(2) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(3) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken.

(c) Relationship to other laws

Nothing contained in this subchapter shall be construed, interpreted, or applied to diminish in any way the level of protection required under any other State or Federal worker protection or other applicable laws.

(d) Other authority

In order to effectuate the purposes of this subchapter, the Administrator may also adopt such other procedures, standards, and regulations as the Administrator deems necessary, including—

(1) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(2) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(3) periodic reporting with respect to the activities that have taken place using funds loaned or granted under this subchapter.

(Pub. L. 98–377, title V, § 506, Aug. 11, 1984, 98 Stat. 1292; Pub. L. 101–637, §§ 7, 14(a)(6), (b)(8), (9), Nov. 28, 1990, 104 Stat. 4592, 4594, 4595.)

AMENDMENTS

1990—Pub. L. 101–637 inserted section catchline.

Subsec. (a). Pub. L. 101–637, § 14(b)(8), inserted heading.

Subsec. (b). Pub. L. 101–637, § 7(2), added subsec. (b) and struck out former subsec. (b) which read as follows: ''The Administrator shall also establish—

''(1) procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 4014 of this title for—

''(A) abating asbestos materials in school buildings;

''(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

''(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

''(2) within ninety days, standards for determining—

''(A) which contractors are qualified to carry out the activities referred to in paragraph (1), and

''(B) what training, equipment, protective clothing and other information and material must be supplied to adequately advise and protect school employees utilized to carry out the activities in paragraph (1).

''(3) nothing contained in this subchapter shall be construed, interpreted or applied to diminish in any way the level of protection required under State or Federal worker protection laws.''

Subsec. (c). Pub. L. 101–637, § 7(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 101–637, §§ 7(1), 14(b)(9), redesignated subsec. (c) as (d), inserted heading, and inserted a comma after ''standards'' in introductory provisions.

§ 4016. Annual report

During each calendar year until 1999, the Administrator shall prepare and submit, not later than June 1 of each year, to the Committee on Environment and Public Works of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report on the

loan and grant program authorized by section 4014 of this title.

(1) describe the number of applications received;

(2) describe the number of loans and grants made in the preceding calendar year and specify each applicant for and recipient of a loan or grant;

(3) specify the number of loan or grant applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals;

(4) describe the types of programs for which loans or grants were made;

(5) specify the estimated total costs of such programs to the recipients of loans or grants and specify the amount of loans or grants made under the program authorized by this section; and

(6) estimate the number of schools still in need of assistance and the amount of resources needed by such schools, categorized by State, to abate all remaining asbestos hazards.

(Pub. L. 98–377, title V, § 507, Aug. 11, 1984, 98 Stat. 1293; Pub. L. 101–637, §§ 8, 14(a)(7), Nov. 28, 1990, 104 Stat. 4592, 4594.)

AMENDMENTS

1990—Pub. L. 101–637, § 14(a)(7), made technical amendment to section catchline.

Pub. L. 101–637, § 8(a), amended first sentence generally. Prior to amendment, first sentence read as follows: ''During each of the ten calendar years after 1984, the Administrator shall prepare and submit not later than February 1 of each year a report to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives on the loan and grant program authorized by section 4014 of this title.''

Par. (6). Pub. L. 101–637, § 8(b), inserted before period at end ''and the amount of resources needed by such schools, categorized by State, to abate all remaining asbestos hazards''.

CHANGE OF NAME

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§ 4017. Recovery of costs

(a) Loan condition

(1) As a condition of the award of any financial assistance under section 4014 of this title, the recipient of any such loan or grant shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such section.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from a judgment recovered by the recipient in such suit) shall be used to repay to the United States, by deposit in the Asbestos Trust Fund established by section 4022 of this title, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount (i) outstanding on any loan and (ii) of any grant made to the recipient; and

(B) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Administrator).

(b) Expeditious recovery

The Attorney General shall, where appropriate, proceed in an expeditious manner to recover the amounts expended by the United States to carry out this subchapter from the persons identified by the Attorney General as being liable for such costs.

(Pub. L. 98–377, title V, § 508, Aug. 11, 1984, 98 Stat. 1293; Pub. L. 101–637, §§ 9, 14(a)(8), (b)(10), (11), (c)(5), Nov. 28, 1990, 104 Stat. 4592, 4594–4596.)

AMENDMENTS

1990—Pub. L. 101–637, § 14(a)(8), inserted section catchline.

Subsec. (a). Pub. L. 101–637, § 14(b)(10), inserted heading.

Subsec. (a)(1). Pub. L. 101–637, § 14(c)(5), substituted ''section'' for ''sections'' after ''such''.

Subsec. (a)(2). Pub. L. 101–637, § 9, inserted ''by deposit in the Asbestos Trust Fund established by section 4022 of this title,'' after ''repay to the United States,''.

Subsec. (b). Pub. L. 101–637, § 14(b)(11), inserted heading.

§ 4018. Employee protection

No State or local educational agency receiving assistance under this subchapter may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

(Pub. L. 98–377, title V, § 509, Aug. 11, 1984, 98 Stat. 1294; Pub. L. 101–637, § 14(a)(9), Nov. 28, 1990, 104 Stat. 4594.)

AMENDMENTS

1990—Pub. L. 101–637 inserted section catchline.

§ 4019. Affect on rights under other laws

Except as otherwise provided in section 4017 of this title, nothing in this subchapter shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

(Pub. L. 98–377, title V, § 510, Aug. 11, 1984, 98 Stat. 1294; Pub. L. 101–637, § 14(a)(10), Nov. 28, 1990, 104 Stat. 4594.)

AMENDMENTS

1990—Pub. L. 101–637 inserted section catchline.

§ 4020. Definitions

For purposes of this subchapter:

(1) The term ''asbestos'' means—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite.

(2) The term ''Attorney General'' means the Attorney General of the United States.

(3) The term ''threat'' or ''hazard'' means that an asbestos material is friable or easily damaged, or within reach of students or employees or otherwise susceptible to damage (including damage from water, vibration, or air circulation) which could result in the dispersal of asbestos fibers into the school environment.

(4) The term ''local educational agency'' means—

(A) any local educational agency as defined in section 7801 of this title; and

(B) the governing authority of any nonprofit elementary or secondary school.

(5) The term ''nonprofit elementary or secondary school'' means—

(A) any elementary or secondary school as defined in section 7801 of this title owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(B) any school of any agency of the United States.

(6) The term ''school buildings'' means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph.

(7) The term ''Administrator'' means the Administrator of the Environmental Protection Agency, or the Administrator's designee.

(8) The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Bureau of Indian Affairs.

(9) The term ''response action'' has the meaning given such term by section 2642(11) of title 15.

(Pub. L. 98–377, title V, § 511, Aug. 11, 1984, 98 Stat. 1294; Pub. L. 101–637, §§ 10, 14(a)(11), (c)(6), Nov. 28, 1990, 104 Stat. 4592, 4594, 4596; Pub. L. 103–382, title III, § 394(c), Oct. 20, 1994, 108 Stat. 4027; Pub. L. 107–110, title X, § 1076(*l*)(2), Jan. 8, 2002, 115 Stat. 2092.)

AMENDMENTS

2002—Par. (4)(A). Pub. L. 107–110, § 1076(*l*)(2)(A), which directed amendment of subpar. (A) by substituting in the original ''9101'' for ''198(a)(10)'', was executed by substituting ''section 7801 of this title'' for ''section 8801 of this title'', to reflect the probable intent of Congress and prior amendment by Pub. L. 103–382, § 394(c)(1), which had substituted ''14101'' for ''198(a)(10)'' in the original. See 1994 Amendment note below.

Par. (5)(A). Pub. L. 107–110, § 1076(*l*)(2)(B), which directed amendment of subpar. (A) by substituting in the original ''9101'' for ''198(a)(7)'', was executed by substituting ''section 7801 of this title'' for ''section 8801 of this title'', to reflect the probable intent of Congress and prior amendment by Pub. L. 103–382, § 394(c)(2), which had substituted ''14101'' for ''198(a)(7)'' in the original. See 1994 Amendment note below.

1994—Par. (4)(A). Pub. L. 103–382, § 394(c)(1), substituted ''section 8801 of this title'' for ''section 198(a)(10) of the Elementary and Secondary Education Act of 1965''.

Par. (5)(A). Pub. L. 103–382, § 394(c)(2), substituted ''section 8801 of this title'' for ''section 198(a)(7) of the Elementary and Secondary Education Act of 1965''.

1990—Pub. L. 101–637, § 14(a)(11), (c)(6)(A), inserted section catchline and substituted ''this subchapter:'' for ''this subchapter—''.

Pars. (1), (2). Pub. L. 101–637, § 14(c)(6)(B), (C), substituted ''The'' for ''the'' at beginning and a period for semicolon at end.

Par. (3). Pub. L. 101–637, §§ 10(1), 14(c)(6)(B)–(D), substituted ''The'' for ''the'' at beginning and a period for semicolon at end, struck out ''each'' before ''reach of students'', and inserted '', vibration,'' after ''damage from water''.

Par. (4). Pub. L. 101–637, § 14(c)(6)(B), (C), substituted ''The'' for ''the'' at beginning and a period for semicolon at end.

Par. (5). Pub. L. 101–637, § 14(c)(6)(E), which directed the insertion of ''secondary'' before ''school'', was executed by making the insertion in the introductory provisions to reflect the probable intent of Congress.

Pub. L. 101–637, § 14(c)(6)(B), (C), substituted ''The'' for ''the'' at beginning and a period for semicolon at end.

Pars. (6), (7). Pub. L. 101–637, § 14(c)(6)(B), (C), substituted ''The'' for ''the'' at beginning and a period for semicolon at end.

Par. (8). Pub. L. 101–637, § 14(c)(6)(B), substituted ''The'' for ''the'' at beginning.

Par. (9). Pub. L. 101–637, § 10(2), added par. (9).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 4021. Authorization

(a) Amount; availability until expended

(1) There are hereby authorized to be appropriated for the asbestos abatement program not more than $200,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995. In addition, for such purposes and for each of such fiscal years there are authorized to be appropriated out of the Asbestos Trust Fund established by section 4022 of this title such sums as are contained in such trust fund in each of such fiscal years.

(2) The sums appropriated under this subchapter shall remain available until expended.

(b) Minimum State amount; fiscal year obligation requirement; reserved funds for administration and asbestos abatement oriented program expenditures; appropriations out of Asbestos Trust Fund

(1) A State with qualified applicants shall receive no less than one-half of 1 per centum of the sums appropriated under this subchapter or the total of the amounts requested by such applicants, whichever is less. Those amounts available in each fiscal year under this paragraph shall be obligated before the end of that fiscal year. For the purposes of this paragraph the term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Bureau of Indian Affairs and, taken together, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Of those sums appropriated for the implementation of this subchapter, not more than 5 percent may be reserved during each fiscal year for the administration of this subchapter and for programs including (but not limited to) the following:

(A) The establishment of training centers for contractors, engineers, school employees, parents, and other personnel to provide instruction, in accordance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.), on asbestos assessment and abatement.

(B) The development and dissemination of abatement guidance documents to assist in evaluation of potential hazards and the determination of proper abatement programs.

(C) The development of rules and regulations regarding inspection, reporting, and record-keeping.

(D) The development of a comprehensive testing and technical assistance program.

(3) Of those sums appropriated for any fiscal year for the implementation of this subchapter, the Administrator may use not more than 5 percent to provide grants to States for the following purposes:

(A) Assisting local educational agencies in performing the periodic reinspections and training activities required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

(B) Establishing and maintaining programs to accredit personnel performing asbestos inspections and response actions.

(Pub. L. 98–377, title V, §512, Aug. 11, 1984, 98 Stat. 1295; Pub. L. 99–519, §4(a), Oct. 22, 1986, 100 Stat. 2989; Pub. L. 100–368, §6(a), July 18, 1988, 102 Stat. 833; Pub. L. 101–637, §§11, 14(a)(12), Nov. 28, 1990, 104 Stat. 4592, 4595.)

REFERENCES IN TEXT

The Toxic Substances Control Act, referred to in subsec. (b)(2)(A), (3)(A), is Pub. L. 94–469, Oct. 11, 1976, 90 Stat. 2003, as amended. Title II of the Act, as added by Pub. L. 99–519, §2, Oct. 22, 1986, 100 Stat. 2970, is classified generally to subchapter II (§2641 et seq.) of chapter 53 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 15 and Tables.

AMENDMENTS

1990—Pub. L. 101–637, §14(a)(12), inserted section catchline.

Subsec. (a)(1). Pub. L. 101–637, §11(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''There are hereby authorized to be appropriated for the asbestos abatement program not more than $50,000,000 for the fiscal year ending on September 30, 1984, $50,000,000 for the fiscal year ending on September 30, 1985, and $100,000,000 for each of the five succeeding fiscal years. In addition, for such purposes there are authorized to be appropriated out of the Asbestos Trust Fund established by section 4022 of this title $25,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.''

Subsec. (b)(2). Pub. L. 101–637, §11(b), added par. (2) and struck out former par. (2) which read as follows: ''Of those sums appropriated for the implementation of this subchapter, up to 10 per centum shall be reserved during the fiscal year ending September 30, 1984, and up to 5 per centum for the fiscal year ending September 30, 1985, for the administration of this subchapter and for programs including, but not limited to, the following:

''(A) the establishment of a training center for contractors, engineers, school employees, parents and other personnel to provide instruction on asbestos assessment and abatement;

''(B) the development and dissemination of abatement guidance documents to assist in evaluation of potential hazards, and the determination of proper abatement programs;

''(C) the development of rules and regulations regarding inspection, reporting and record-keeping; and

''(D) the development of a comprehensive testing and technical assistance program.''

Subsec. (b)(3). Pub. L. 101–637, §11(b), added par. (3).

1988—Pub. L. 100–368 moved last sentence (as added by Pub. L. 98–377) to end of subsec. (a)(1).

1986—Pub. L. 99–519 inserted sentence at end authorizing appropriations out of the Asbestos Trust Fund for years 1987, 1988, 1989, and 1990.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 4022. Asbestos Trust Fund

(a) Creation of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the ''Asbestos Trust Fund'', consisting of such amounts as may be transferred or credited to such Trust Fund as provided in this section.

(b) Transfers to Trust Fund

(1) Transfer

There are hereby transferred to the Asbestos Trust Fund amounts equivalent to—

(A) amounts received in the Treasury on or after January 1, 1987, as repayments of loans made under section 4014 of this title,

(B) amounts received as deposits from local educational agencies under section 2647(a) of title 15, and

(C) amounts received as proceeds from any judgment recovered in any suit brought pursuant to section 4017(a)(1) of this title.

(2) Monthly transfers

The amounts transferred by paragraph (1) shall be transferred at least monthly from the general fund of the Treasury to the Asbestos Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in such paragraph. Adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were

more or less than the amounts required to be transferred.

(c) Management of Trust Fund

(1) Investment

(A) In general

The Secretary of the Treasury shall invest such portion of the Asbestos Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States and may be acquired—

(i) on original issue at the issue price, or

(ii) by purchase of outstanding obligations at the market price.

(B) Sale of obligations

Any obligation acquired by the Asbestos Trust Fund may be sold by the Secretary of the Treasury at the market price.

(C) Interest on certain proceeds

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Asbestos Trust Fund shall be credited to and form a part of the Trust Fund.

(2) Repealed. Pub. L. 104–66, title I, § 1131(c), Dec. 21, 1995, 109 Stat. 725

(d) Expenditures from Asbestos Trust Fund

Amounts in the Asbestos Trust Fund shall be available, as provided by appropriation Acts, only for purposes of carrying out the Asbestos Hazards Abatement Assistance Program under section 4014 of this title.

(e) Authority to borrow

(1) In general

There are authorized to be appropriated to the Asbestos Trust Fund, as repayable advances, $25,000,000 for each of fiscal years 1987, 1988, 1989, and 1990.

(2) Repayment of advances

(A) In general

Advances made under this subsection shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury when the Secretary determines that moneys are available for such purposes in the Asbestos Trust Fund.

(B) Rate of interest

Interest on advances made under this subsection shall be at a rate determined by the Secretary (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding and shall be compounded annually.

(f) Effective date

The amendments made by this section shall take effect on January 1, 1986.

(Pub. L. 99–519, § 5, Oct. 22, 1986, 100 Stat. 2990; Pub. L. 101–637, § 12, Nov. 28, 1990, 104 Stat. 4593; Pub. L. 104–66, title I, § 1131(c), Dec. 21, 1995, 109 Stat. 725.)

CODIFICATION

Section was enacted as part of the Asbestos Hazard Emergency Response Act of 1986, and not as part of the Asbestos School Hazard Abatement Act of 1984 which comprises this subchapter nor as part of the Education for Economic Security Act which comprises this chapter.

AMENDMENTS

1995—Subsec. (c)(2). Pub. L. 104–66 struck out heading and text of par. (2). Text read as follows: ''It shall be the duty of the Secretary of the Treasury to hold the Asbestos Trust Fund and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next 5 fiscal years.''

1990—Subsec. (b)(1). Pub. L. 101–637, § 12(a), substituted a comma for ''as in effect on October 22, 1986, and'' in subpar. (A) and '', and'' for period at end of subpar. (B), and added subpar. (C).

Subsec. (d). Pub. L. 101–637, § 12(b), struck out before period at end ''as in effect on October 22, 1986''.

SUBCHAPTER VI—EXCELLENCE IN EDUCATION PROGRAM

§§ 4031 to 4037. Repealed. Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324

Section 4031, Pub. L. 98–377, title VI, § 602, Aug. 11, 1984, 98 Stat. 1295, related to statement of purpose.

Section 4032, Pub. L. 98–377, title VI, § 603, Aug. 11, 1984, 98 Stat. 1296, related to definitions.

Section 4033, Pub. L. 98–377, title VI, § 604, Aug. 11, 1984, 98 Stat. 1296; Pub. L. 99–159, title II, § 251, Nov. 22, 1985, 99 Stat. 901; Pub. L. 99–425, title VII, § 701, Sept. 30, 1986, 100 Stat. 977, related to school excellence awards.

Section 4034, Pub. L. 98–377, title VI, § 605, Aug. 11, 1984, 98 Stat. 1296, related to selection of schools for awards.

Section 4035, Pub. L. 98–377, title VI, § 606, Aug. 11, 1984, 98 Stat. 1298, related to amount and conditions of awards.

Section 4036, Pub. L. 98–377, title VI, § 607, Aug. 11, 1984, 98 Stat. 1298, related to special school awards.

Section 4037, Pub. L. 98–377, title VI, § 608, Aug. 11, 1984, 98 Stat. 1298, related to research, evaluation, dissemination, and monitoring activities.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SHORT TITLE

Pub. L. 98–377, title VI, § 601, Aug. 11, 1984, 98 Stat. 1295, which provided that title VI of Pub. L. 98–377 was to be cited as the ''Excellence in Education Act'', was repealed by Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324.

SUBCHAPTER VII—MAGNET SCHOOLS ASSISTANCE

§§ 4051 to 4062. Repealed. Pub. L. 100–297, title II, § 2303, Apr. 28, 1988, 102 Stat. 324

Section 4051, Pub. L. 98–377, title VII, § 701, Aug. 11, 1984, 98 Stat. 1299; Pub. L. 99–159, title II, § 261, Nov. 22, 1985, 99 Stat. 901, related to authorization of appropriations.

Section 4052, Pub. L. 98–377, title VII, § 702, Aug. 11, 1984, 98 Stat. 1299, related to eligibility requirements.

Section 4053, Pub. L. 98–377, title VII, § 703, Aug. 11, 1984, 98 Stat. 1299; Pub. L. 99–159, title II, § 262, Nov. 22, 1985, 99 Stat. 901, related to statement of purpose.

Section 4054, Pub. L. 98–377, title VII, § 704, Aug. 11, 1984, 98 Stat. 1299, related to program authorization.

Section 4055, Pub. L. 98–377, title VII, §705, Aug. 11, 1984, 98 Stat. 1300, defined term ''magnet school''.

Section 4056, Pub. L. 98–377, title VII, §706, Aug. 11, 1984, 98 Stat. 1300; Pub. L. 99–159, title II, §263, Nov. 22, 1985, 99 Stat. 902, related to uses of funds.

Section 4057, Pub. L. 98–377, title VII, §707, Aug. 11, 1984, 98 Stat. 1300, related to applications and requirements.

Section 4058, Pub. L. 98–377, title VII, §708, Aug. 11, 1984, 98 Stat. 1301, related to special considerations in approving applications.

Section 4059, Pub. L. 98–377, title VII, §709, Aug. 11, 1984, 98 Stat. 1301; Pub. L. 99–159, title II, §264, Nov. 22, 1985, 99 Stat. 902, related to prohibitions on use of grants.

Section 4060, Pub. L. 98–377, title VII, §710, Aug. 11, 1984, 98 Stat. 1301, related to limitation on payments.

Section 4061, Pub. L. 98–377, title VII, §711, Aug. 11, 1984, 98 Stat. 1301; Pub. L. 98–558, title VII, §702, Oct. 30, 1984, 98 Stat. 2900, related to payments.

Section 4062, Pub. L. 98–377, title VII, §712, Aug. 11, 1984, 98 Stat. 1302, related to withholding.

For similar provisions, see section 7201 et seq. of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER VIII—EQUAL ACCESS

§ 4071. Denial of equal access prohibited

(a) Restriction of limited open forum on basis of religious, political, philosophical, or other speech content prohibited

It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.

(b) "Limited open forum" defined

A public secondary school has a limited open forum whenever such school grants an offering to or opportunity for one or more noncurriculum related student groups to meet on school premises during noninstructional time.

(c) Fair opportunity criteria

Schools shall be deemed to offer a fair opportunity to students who wish to conduct a meeting within its limited open forum if such school uniformly provides that—

(1) the meeting is voluntary and student-initiated;

(2) there is no sponsorship of the meeting by the school, the government, or its agents or employees;

(3) employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity;

(4) the meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school; and

(5) nonschool persons may not direct, conduct, control, or regularly attend activities of student groups.

(d) Construction of subchapter with respect to certain rights

Nothing in this subchapter shall be construed to authorize the United States or any State or political subdivision thereof—

(1) to influence the form or content of any prayer or other religious activity;

(2) to require any person to participate in prayer or other religious activity;

(3) to expend public funds beyond the incidental cost of providing the space for student-initiated meetings;

(4) to compel any school agent or employee to attend a school meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee;

(5) to sanction meetings that are otherwise unlawful;

(6) to limit the rights of groups of students which are not of a specified numerical size; or

(7) to abridge the constitutional rights of any person.

(e) Federal financial assistance to schools unaffected

Notwithstanding the availability of any other remedy under the Constitution or the laws of the United States, nothing in this subchapter shall be construed to authorize the United States to deny or withhold Federal financial assistance to any school.

(f) Authority of schools with respect to order, discipline, well-being, and attendance concerns

Nothing in this subchapter shall be construed to limit the authority of the school, its agents or employees, to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary.

(Pub. L. 98–377, title VIII, §802, Aug. 11, 1984, 98 Stat. 1302.)

SHORT TITLE

Section 801 of title VIII of Pub. L. 98–377 provided that: ''This title [enacting this subchapter] may be cited as 'The Equal Access Act'.''

§ 4072. Definitions

As used in this subchapter—

(1) The term ''secondary school'' means a public school which provides secondary education as determined by State law.

(2) The term ''sponsorship'' includes the act of promoting, leading, or participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.

(3) The term ''meeting'' includes those activities of student groups which are permitted under a school's limited open forum and are not directly related to the school curriculum.

(4) The term ''noninstructional time'' means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends.

(Pub. L. 98–377, title VIII, §803, Aug. 11, 1984, 98 Stat. 1303.)

§ 4073. Severability

If any provision of this subchapter or the application thereof to any person or circumstances is judicially determined to be invalid, the provisions of the remainder of the subchapter and the application to other persons or circumstances shall not be affected thereby.

(Pub. L. 98–377, title VIII, § 804, Aug. 11, 1984, 98 Stat. 1304.)

§ 4074. Construction

The provisions of this subchapter shall supersede all other provisions of Federal law that are inconsistent with the provisions of this subchapter.

(Pub. L. 98–377, title VIII, § 805, Aug. 11, 1984, 98 Stat. 1304.)

SUBCHAPTER IX—STAR SCHOOLS PROGRAM

§§ 4081 to 4086. Repealed. Pub. L. 103–382, title III, § 364, Oct. 20, 1994, 108 Stat. 3975

Section 4081, Pub. L. 98–377, title IX, § 902, as added Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 320; amended Pub. L. 102–103, title III, § 301, Aug. 17, 1991, 105 Stat. 499, related to purpose of star schools program.

Section 4082, Pub. L. 98–377, title IX, § 903, as added Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 320; amended Pub. L. 102–103, title III, § 302, Aug. 17, 1991, 105 Stat. 499, authorized grants for telecommunications facilities and equipment, instructional programming, and technical assistance.

Section 4083, Pub. L. 98–377, title IX, § 904, as added Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 321; amended Pub. L. 102–103, title III, § 303, Aug. 17, 1991, 105 Stat. 500, related to eligibility of telecommunications partnerships for grants.

Section 4084, Pub. L. 98–377, title IX, § 905, as added Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 321; amended Pub. L. 102–103, title III, § 304, Aug. 17, 1991, 105 Stat. 501, related to applications for grants.

Section 4085, Pub. L. 98–377, title IX, § 906, as added Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 323, related to dissemination of courses and materials under star schools program.

Section 4085a, Pub. L. 98–377, title IX, § 907, as added Pub. L. 102–103, title III, § 305(2), Aug. 17, 1991, 105 Stat. 502, related to continuing eligibility for grants.

Section 4085b, Pub. L. 98–377, title IX, § 908, as added Pub. L. 102–103, title III, § 305(2), Aug. 17, 1991, 105 Stat. 503; amended Pub. L. 103–227, title IX, § 961, Mar. 31, 1994, 108 Stat. 263, required independent evaluation of the star schools program.

Section 4085c, Pub. L. 98–377, title IX, § 909, as added Pub. L. 102–103, title III, § 305(2), Aug. 17, 1991, 105 Stat. 504, authorized assistance for acquiring satellite time.

Section 4085d, Pub. L. 98–377, title IX, § 910, as added Pub. L. 102–103, title III, § 305(2), Aug. 17, 1991, 105 Stat. 504, authorized grants for dissemination and technical assistance to State and local educational agencies.

Section 4086, Pub. L. 98–377, title IX, § 911, formerly § 907, as added Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 324; amended Pub. L. 102–73, title VIII, § 802(c), July 25, 1991, 105 Stat. 361; renumbered § 911, Pub. L. 102–103, title III, § 305(1), Aug. 17, 1991, 105 Stat. 502, defined terms used in this subchapter.

For similar provisions, see section 6891 et seq. of this title.

SHORT TITLE

Section 901 of title IX of Pub. L. 98–377, as added by Pub. L. 100–297, title II, § 2302, Apr. 28, 1988, 102 Stat. 320, provided that title IX of Pub. L. 98–377 [enacting this subchapter] could be cited as the ''Star Schools Program Assistance Act'', prior to repeal by Pub. L. 103–382, title III, § 364, Oct. 20, 1994, 108 Stat. 3975.

CHAPTER 53—EMERGENCY IMMIGRANT EDUCATION ASSISTANCE

§§ 4101 to 4108. Repealed. Pub. L. 100–297, title I, § 1003(c), Apr. 28, 1988, 102 Stat. 293

Section 4101, Pub. L. 98–511, title VI, § 602, Oct. 19, 1984, 98 Stat. 2401; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, related to definitions for chapter.

Section 4102, Pub. L. 98–511, title VI, § 603, Oct. 19, 1984, 98 Stat. 2401, related to authorization and allocation of appropriations.

Section 4103, Pub. L. 98–511, title VI, § 604, Oct. 19, 1984, 98 Stat. 2402, related to State administrative costs.

Section 4104, Pub. L. 98–511, title VI, § 605, Oct. 19, 1984, 98 Stat. 2402, related to withholding.

Section 4105, Pub. L. 98–511, title VI, § 606, Oct. 19, 1984, 98 Stat. 2402, related to State entitlements.

Section 4106, Pub. L. 98–511, title VI, § 607, Oct. 19, 1984, 98 Stat. 2403, related to uses of funds.

Section 4107, Pub. L. 98–511, title VI, § 608, Oct. 19, 1984, 98 Stat. 2404, related to applications.

Section 4108, Pub. L. 98–511, title VI, § 609, Oct. 19, 1984, 98 Stat. 2405, related to payments.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SHORT TITLE

Pub. L. 98–511, title VI, § 601, Oct. 19, 1984, 98 Stat. 2401, provided that title VI of Pub. L. 98–511 was to be cited as the ''Emergency Immigrant Education Act of 1984'', prior to repeal by Pub. L. 100–297, title I, § 1003(c), Apr. 28, 1988, 102 Stat. 293.

CHAPTER 54—LEADERSHIP IN EDUCATIONAL ADMINISTRATION

§§ 4201 to 4206. Repealed. Pub. L. 99–498, title V, § 501(b), Oct. 17, 1986, 100 Stat. 1514

Section 4201, Pub. L. 98–558, title IX, § 901, Oct. 30, 1984, 98 Stat. 2902, provided for citation of chapter as ''Leadership on Educational Administration Development Act of 1984'' and contained statement of purpose and declaration of Congressional intent in enacting chapter.

Section 4202, Pub. L. 98–558, title IX, § 902, Oct. 30, 1984, 98 Stat. 2903, authorized appropriations for fiscal years 1985 to 1990 to carry out chapter.

Section 4203, Pub. L. 98–558, title IX, § 903, Oct. 30, 1984, 98 Stat. 2903, provided for establishment of technical assistance centers.

Section 4204, Pub. L. 98–558, title IX, § 904, Oct. 30, 1984, 98 Stat. 2904, set out general criteria for contracts to establish and operate technical assistance centers.

Section 4205, Pub. L. 98–558, title IX, § 905, Oct. 30, 1984, 98 Stat. 2904, authorized Secretary to prescribe regulations to carry out chapter.

Section 4206, Pub. L. 98–558, title IX, § 906, Oct. 30, 1984, 98 Stat. 2904; Pub. L. 99–500, § 101(d) [title I, § 134(a)], Oct. 18, 1986, 100 Stat. 1783–180, 1783–192, and Pub. L. 99–591, § 101(d) [title I, § 134(a)], Oct. 30, 1986, 100 Stat. 3341–180, 3341–192, defined terms used in chapter.

CHAPTER 55—EDUCATION OF THE DEAF

SUBCHAPTER I—GALLAUDET UNIVERSITY; NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

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SUBCHAPTER I—GALLAUDET UNIVERSITY; NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

PART A—GALLAUDET UNIVERSITY

§ 4301. Continuation of Gallaudet College as Gallaudet University

(a) Gallaudet University

The Gallaudet College created by an Act entitled ''An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes'', approved June 18, 1954, is continued as a body corporate under the name of Gallaudet University. On and after August 4, 1986, Gallaudet College shall be known as Gallaudet University and have perpetual succession and shall have the powers and be subject to the limitations contained in this chapter.

(b) Purpose

The purpose of Gallaudet University shall be to provide education and training to individuals who are deaf and otherwise to further the education of individuals who are deaf.

(Pub. L. 99–371, title I, § 101, Aug. 4, 1986, 100 Stat. 781; Pub. L. 102–421, title I, § 151(a)(1), (4), Oct. 16, 1992, 106 Stat. 2163, 2164; Pub. L. 103–73, title II, § 203(a), Aug. 11, 1993, 107 Stat. 732.)

REFERENCES IN TEXT

An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes, referred to in subsec. (a), is act June 18, 1954, ch. 324, 68 Stat. 265, as amended, which was classified generally to subchapter I (§ 691 et seq.) of chapter 20B of this title, and was repealed by Pub. L. 99–371, title IV, § 410(a), Aug. 4, 1986, 100 Stat. 794.

This chapter, referred to in subsec. (a), was in the original ''this Act'', meaning Pub. L. 99–371, Aug. 4, 1986, 100 Stat. 781, known as the Education of the Deaf Act of 1986, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in sections 691 and 691a of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–73 inserted comma after ''Hereafter'' in original, which for purposes of codification had been translated as ''On or after August 4, 1986,'', requiring no change in text.

1992—Subsec. (b). Pub. L. 102–421 substituted ''individuals who are deaf'' for ''deaf individuals'' after ''training to'' and for ''the deaf'' after ''education of''.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 161 of title I of Pub. L. 102–421 provided that: ''The amendments described in this title [enacting sections 4304, 4305, 4357, 4358, and 4359a of this title, amending this section and sections 4303, 4331, 4332, 4351 to 4356,

and 4360 of this title, and repealing sections 4311, 4321, 4322, 4341 to 4344, 4357, and 4358 of this title] are made upon October 1, 1992, and take effect upon such date.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–244, title IX, § 911, Oct. 7, 1998, 112 Stat. 1829, provided that: ''This part [part B (§§ 911–925) of title IX of Pub. L. 105–244, enacting sections 4359b, 4360, and 4360a of this title, amending sections 4304, 4305, 4332, 4351, 4353 to 4355, 4357, 4359, and 4359a of this title, and repealing sections 4358 and 4360 of this title] may be cited as the 'Education of the Deaf Amendments of 1998'.''

SHORT TITLE OF 1993 AMENDMENT

Section 201(a) of title II of Pub. L. 103–73 provided that: ''This title [amending this section and sections 4302 to 4305, 4331, 4332, 4351, 4353 to 4357, 4359, 4359a, and 4360 of this title] may be cited as the 'Education of the Deaf Act Amendments of 1993'.''

SHORT TITLE OF 1992 AMENDMENT

Section 1 of Pub. L. 102–421 provided that: ''This Act [enacting sections 4304, 4305, 4357, 4358, and 4359a of this title, amending this section and sections 1424a, 1431, 1441, 4303, 4331, 4332, 4351 to 4356, and 4360 of this title, repealing sections 4311, 4321, 4322, 4341 to 4344, 4357, and 4358 of this title, and enacting provisions set out as notes under this section and section 1424a of this title] may be cited as the 'Education of the Deaf Act Amendments of 1992'.''

SHORT TITLE

Section 1 of Pub. L. 99–371 provided: ''That this Act [enacting this chapter, repealing sections 681 to 685, 691 to 691g, 693 to 693b, and 695 to 695c of this title, and repealing provisions set out as notes under sections 681 and 693 of this title] may be cited as the 'Education of the Deaf Act of 1986'.''

§ 4302. Property rights

(a) Property rights described

Gallaudet University is vested with all the property and the rights of property, and shall have and be entitled to use all authority, privileges, and possessions and all legal rights which it has, or which it had or exercised under any former name, including the right to sue and be sued and to own, acquire, sell, mortgage, or otherwise dispose of property it may own now or hereafter acquire. Gallaudet University shall also be subject to all liabilities and obligations now outstanding against the corporation under any former name.

(b) Disposal of real property

(1) With the approval of the Secretary, the Board of Trustees of Gallaudet University may convey fee simple title by deed, convey by quitclaim deed, mortgage, or otherwise dispose of any or all real property title to which is vested in Gallaudet University, Gallaudet College, the Columbia Institution for the Deaf, or any predecessor corporation.

(2) The proceeds of any such disposition shall be considered a part of the capital structure of the corporation, and may be used solely for the acquisition of real estate for the use of the corporation, for the construction, equipment, or improvement of buildings for such use, or for investment purposes, but, if invested, only the income from the investment may be used for current expenses of the corporation.

(Pub. L. 99–371, title I, § 102, Aug. 4, 1986, 100 Stat. 781; Pub. L. 103–73, title II, § 203(b), Aug. 11, 1993, 107 Stat. 733.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 691b of this title, prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Subsec. (b)(1). Pub. L. 103–73, § 203(b)(1), substituted ''Secretary'' for ''Secretary of Education''.

Subsec. (b)(2). Pub. L. 103–73, § 203(b)(2), substituted ''but, if invested,'' for ''but if invested''.

REAL PROPERTY PROVISIONS

The following acts contained provisions relating to acquisition, exchange, and adjustment of boundaries of properties of Gallaudet University and its predecessors, Gallaudet College and Columbia Institution for the Deaf:

July 1, 1916, ch. 209, 39 Stat. 310.
Aug. 3, 1939, ch. 414, 53 Stat. 1179.
Sept. 13, 1960, Pub. L. 86–776, §§ 1, 2, 74 Stat. 916, 917.
Nov. 20, 1981, Pub. L. 97–80, title II, § 202(a)(1), 95 Stat. 1082.

§ 4303. Board of Trustees

(a) Composition of Board

(1) Gallaudet University shall be under the direction and control of a Board of Trustees, composed of twenty-one members who shall include—

(A) three public members of whom (i) one shall be a United States Senator appointed by the President of the Senate, and (ii) two shall be Representatives appointed by the Speaker of the House of Representatives; and

(B) eighteen other members, all of whom shall be elected by the Board of Trustees and of whom one shall be elected pursuant to regulations of the Board of Trustees, on nomination by the Gallaudet University Alumni Association, for a term of three years.

(2) The members appointed from the Senate and House of Representatives shall be appointed for a term of two years at the beginning of each Congress, shall be eligible for reappointment, and shall serve until their successors are appointed.

(3) The Board of Trustees shall have the power to fill any vacancy in the membership of the Board except for public members. Nine trustees shall constitute a quorum to transact business. The Board of Trustees, by vote of a majority of its membership, is authorized to remove any member of their body (except the public members) who may refuse or neglect to discharge the duties of a trustee, or whose removal would, in the judgment of said majority, be to the interest and welfare of said corporation.

(b) Powers of Board

The Board of Trustees is authorized to—

(1) make such rules, policies, regulations, and bylaws, not inconsistent with the Constitution and laws of the United States, as may be necessary for the good government of Gallaudet University, for the management of the property and funds of such corporation (including the construction of buildings and other facilities), and for the admission, instruction, care, and discharge of students;

(2) provide for the adoption of a corporate seal and for its use;

(3) fix the date of holding their annual and other meetings;

(4) appoint a president and establish policies, guidelines, and procedures related to the appointments, the salaries, and the dismissals of professors, instructors, and other employees of Gallaudet University, including the adoption of a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or hard of hearing;

(5) elect a chairperson and other officers and prescribe their duties and terms of office, and appoint an executive committee to consist of five members, and vest the committee with such of its powers during periods between meetings of the Board as the Board deems necessary;

(6) establish such schools, departments, and other units as the Board of Trustees deems necessary to carry out the purpose of Gallaudet University;

(7) confer such degrees and marks of honor as are conferred by colleges and universities generally, and issue such diplomas and certificates of graduation as, in its opinion, may be deemed advisable, and consistent with academic standards;

(8) subject to section 4353 of this title, control expenditures of all moneys appropriated by Congress for the benefit of Gallaudet University; and

(9) control the expenditure and investment of any moneys or funds or property which Gallaudet University may have or may receive from sources other than appropriations by Congress.

(Pub. L. 99–371, title I, §103, Aug. 4, 1986, 100 Stat. 782; Pub. L. 102–421, title I, §§101(c), 111, Oct. 16, 1992, 106 Stat. 2152; Pub. L. 103–73, title II, §203(c), Aug. 11, 1993, 107 Stat. 733.)

PRIOR PROVISIONS

Provisions similar to this section were contained in sections 691d and 691e of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1993—Subsec. (a). Pub. L. 103–73, §203(c)(1), in par. (1) substituted ''members who shall include—'' for ''members selected as follows:'' in introductory provisions and inserted comma after ''Association'' in subpar. (B), redesignated second sentence of par. (1) as par. (2), and redesignated former par. (2) as (3).

Subsec. (b). Pub. L. 103–73, §203(c)(2), inserted comma after ''facilities)'' in par. (1), substituted ''or hard of hearing;'' for ''or individuals who are hard of hearing.'' in par. (4), and struck out ''the provisions of'' before ''section 4353'' in par. (8).

1992—Subsec. (a)(1)(B). Pub. L. 102–421, §111(1), struck out '', who on August 4, 1986, shall include those individuals serving as nonpublic members of the Board of Trustees of Gallaudet College immediately prior to August 4, 1986,'' after ''elected by the Board of Trustees''.

Subsec. (b)(1). Pub. L. 102–421, §111(2)(A), inserted ''(including the construction of buildings and other facilities)'' after ''corporation''.

Subsec. (b)(4), (6). Pub. L. 102–421, §111(2)(B), (C), amended pars. (4) and (6) generally. Prior to amendment, pars. (4) and (6) read as follows:

''(4) appoint a president, professors, instructors, and other necessary employees for Gallaudet University, delegate to them such duties as it may deem advisable, fix their compensation, and remove them when, in their judgment, the interest of Gallaudet University shall require it;

''(6) establish such departments and other units, including a department of higher learning for the deaf, a department of elementary education for the instruction of deaf children, a graduate department, and a research department, as the Board deems necessary to carry out the purpose of Gallaudet University;''.

Subsec. (b)(8). Pub. L. 102–421, §101(c), made technical amendment to reference to section 4353 of this title to reflect change in reference to corresponding section of original act.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§ 4304. Elementary and secondary education programs

(a) General authority

(1)(A) The Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 4305 of this title, to maintain and operate exemplary elementary and secondary education programs, projects, and activities for the primary purpose of developing, evaluating, and disseminating innovative curricula, instructional techniques and strategies, and materials that can be used in various educational environments serving individuals who are deaf or hard of hearing throughout the Nation.

(B) The elementary and secondary education programs described in subparagraph (A) shall serve students with a broad spectrum of needs, including students who are lower achieving academically, who come from non-English-speaking homes, who have secondary disabilities, who are members of minority groups, or who are from rural areas.

(C) The elementary and secondary education programs described in subparagraph (A) shall include—

(i) the Kendall Demonstration Elementary School, to provide day facilities for elementary education for students who are deaf from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent, to provide such students with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such students for high school and other secondary study; and

(ii) the Model Secondary School for the Deaf, to provide day and residential facilities for secondary education for students who are deaf from grades nine through twelve, inclusive, to provide such students with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such students for college, other postsecondary opportunities, or the workplace.

(2) The Model Secondary School for the Deaf may provide residential facilities for students enrolled in the school—

(A) who live beyond a reasonable commuting distance from the school; or

(B) for whom such residency is necessary for them to receive a free appropriate public education within the meaning of part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.].

(b) Administrative requirements

(1) The elementary and secondary education programs shall—

(A) provide technical assistance and outreach throughout the Nation to meet the training and information needs of parents of infants, children, and youth who are deaf or hard of hearing; and

(B) provide technical assistance and training to personnel for use in teaching (i) students who are deaf or hard of hearing, in various educational environments, and (ii) students who are deaf or hard of hearing with a broad spectrum of needs as described in subsection (a) of this section.

(2) To the extent possible, the elementary and secondary education programs shall provide the services required under paragraph (1)(B) in an equitable manner, based on the national distribution of students who are deaf or hard of hearing in educational environments as determined by the Secretary for purposes of section 618(a)(1) of the Individuals with Disabilities Education Act [20 U.S.C. 1418(a)(1)]. Such educational environments shall include—

(A) regular classes;

(B) resource rooms;

(C) separate classes;

(D) separate, public or private, nonresidential schools; and

(E) separate, public or private, residential schools and homebound or hospital environments.

(3) If a local educational agency, educational service agency, or State educational agency refers a child to, or places a child in, one of the elementary or secondary education programs to meet its obligation to make available a free appropriate public education under part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.], the agency or unit shall be responsible for ensuring that the special education and related services provided to the child by the education program are in accordance with part B of that Act and that the child is provided the rights and procedural safeguards under section 615 of that Act [20 U.S.C. 1415].

(4) If the parents or guardian places a child in one of the elementary or secondary education programs, the University shall—

(A) notify the appropriate local educational agency, educational service agency, or State educational agency of that child's attendance in the program;

(B) work with local educational agencies, educational service agencies, and State educational agencies, where appropriate, to ensure a smooth transfer of the child to and from that program; and

(C) provide the child a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.] and procedural safeguards in accordance with the following provisions of section 615 of such Act [20 U.S.C. 1415]:

(i) Paragraphs (1), and (3) through (6) of subsection (b).

(ii) Subsections (c) through (g).

(iii) Subsection (h), except for the matter in paragraph (4) pertaining to transmission of findings and decisions to a State advisory panel.

(iv) Paragraphs (1) and (2) of subsection (i).

(v) Subsection (j)—

(I) except that such subsection shall not be applicable to a decision by the University to refuse to admit a child; or

(II) to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days written notice to the child's parents and to the local educational agency in which the child resides, unless the dismissal involves a suspension, expulsion, or other change in placement covered under section 615(k) [20 U.S.C. 1415(k)].

(vi) Subsections (k) through (m).

(Pub. L. 99–371, title I, § 104, as added Pub. L. 102–421, title I, § 112, Oct. 16, 1992, 106 Stat. 2152; amended Pub. L. 103–73, title II, § 203(d), Aug. 11, 1993, 107 Stat. 733; Pub. L. 105–244, title IX, § 912, Oct. 7, 1998, 112 Stat. 1829; Pub. L. 108–446, title III, § 305(d), Dec. 3, 2004, 118 Stat. 2805.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(2)(B) and (b)(3), (4)(C), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§ 1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

AMENDMENTS

2004—Subsec. (b)(2). Pub. L. 108–446, which directed amendment of ''section 104(b)(2) of the Education of the Deaf Act'' by substituting ''618(a)(1)'' for ''618(a)(1)(A)'' in introductory provisions, was executed to this section, which is section 104 of the Education of the Deaf Act of 1986, to reflect the probable intent of Congress.

1998—Subsec. (b)(1). Pub. L. 105–244, § 912(1), inserted ''and'' after semicolon in subpar. (A), substituted a period for ''; and'' at end of subpar. (B), and struck out subpar. (C) which read as follows: ''establish and publish priorities for research, development, and demonstration through a process that allows for public input.''

Subsec. (b)(2). Pub. L. 105–244, § 912(2), in introductory provisions, substituted ''paragraph (1)(B)'' for ''paragraph (1)'' and ''section 618(a)(1)(A)'' for ''section 618(b)''.

Subsec. (b)(3). Pub. L. 105–244, § 912(3), substituted ''educational service agency'' for ''intermediate educational unit''.

Subsec. (b)(4)(A). Pub. L. 105–244, § 912(4)(A), substituted ''educational service agency'' for ''intermediate educational unit''.

Subsec. (b)(4)(B). Pub. L. 105–244, § 912(4)(B), substituted ''educational service agencies'' for ''intermediate educational units''.

Subsec. (b)(4)(C). Pub. L. 105–244, § 912(5), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: ''provide the child a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act and procedural safeguards in accordance with the following provisions of section 615 of such Act:

''(i) Subparagraphs (A), (C), (D), and (E) of paragraph (1) of subsection (b), and paragraph (2) of such subsection.

''(ii) Subsection (d), except the portion of paragraph (4) requiring that findings and decisions be transmitted to a State advisory panel.

''(iii) Paragraphs (1) through (3) of subsection (e). Paragraph (3) of such subsection is not applicable to

a decision by the University to refuse to admit or to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days notice to the child's parents and to the local educational agency in which the child resides.

''(iv) Subsection (f).''

1993—Pub. L. 103–73, §203(d)(1), substituted ''education'' for ''educational'' in section catchline.

Subsec. (a)(1). Pub. L. 103–73, §203(d)(2), in subpar. (A) substituted ''deaf or hard'' for ''deaf and individuals who are hard'', in subpar. (B) inserted ''education'' after ''elementary and secondary'' and substituted ''non-English-speaking'' for ''non-English speaking'', and in subpar. (C), in introductory provisions, inserted ''education'' after ''elementary and secondary'', in cl. (i) substituted ''students'' for ''individuals'' wherever appearing and ''deaf from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent,'' for ''deaf,'', and in cl. (ii) substituted ''students'' for ''individuals'' wherever appearing and ''deaf from grades nine through twelve, inclusive,'' for ''deaf,''.

Subsec. (b)(1). Pub. L. 103–73, §203(d)(3), substituted ''infants, children, and youth'' for ''infants and children'' in subpar. (A) and a period for the semicolon at end of subpar. (C).

Subsec. (b)(4). Pub. L. 103–73, §203(d)(4), substituted ''program'' for ''programs'' in subpar. (A), ''the child to and from that program'' for ''students to and from those programs'' in subpar. (B), and ''a decision'' for ''decisions'' in subpar. (C)(iii).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

§ 4305. Agreement with Gallaudet University

(a) General authority

The Secretary and Gallaudet University shall establish, and periodically update, an agreement governing the operation and national mission activities, including construction and provision of equipment, of the elementary and secondary education programs at the University. The Secretary or the University shall determine the necessity for the periodic update described in the preceding sentence.

(b) Provisions of agreement

The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this chapter and such agreement;

(2) provide that the University will make an annual report, to be part of the report required under section 4354 of this title, to the Secretary on the operations and national mission activities of the elementary and secondary education programs, including such other information as the Secretary may consider necessary;

(3) provide that in the design and construction of any facilities, maximum attention will be given to innovative auditory and visual devices and installations appropriate for the educational functions of such facilities;

(4) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the Kendall Demonstration Elementary School or the Model Secondary School for the Deaf will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40; except that the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40; and

(5) include such other conditions as the Secretary or the University considers necessary to carry out the purposes of this part.

(Pub. L. 99–371, title I, §105, as added Pub. L. 102–421, title I, §113, Oct. 16, 1992, 106 Stat. 2154; amended Pub. L. 103–73, title II, §203(e), Aug. 11, 1993, 107 Stat. 734; Pub. L. 105–244, title IX, §913, Oct. 7, 1998, 112 Stat. 1830.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b)(4), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (b)(4), ''sections 3141–3144, 3146, and 3147 of title 40'' substituted for ''the Act of March 3, 1931 (40 U.S.C. 276a—276a–5) commonly referred to as the Davis-Bacon Act'' and ''section 3145 of title 40'' substituted for ''section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244 substituted ''and periodically update, an'' for ''within 1 year after October 16, 1992, a new'' and ''The Secretary or the University shall determine the necessity for the periodic update described in the preceding sentence.'' for ''The Secretary and the University shall periodically update the agreement as determined to be necessary by the Secretary or the University.''

1993—Subsec. (b)(2). Pub. L. 103–73, §203(e)(1), substituted ''will'' for ''shall''.

Subsec. (b)(4). Pub. L. 103–73, §203(e)(2), substituted ''Elementary School or the Model'' for ''Elementary School and the Model'' and ''except that the Secretary'' for ''and the Secretary''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

§§ 4311, 4321, 4322. Repealed. Pub. L. 102–421, title I, § 101(a)(1), Oct. 16, 1992, 106 Stat. 2151

Section 4311, Pub. L. 99–371, title I, §111, Aug. 4, 1986, 100 Stat. 783; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to authority of Gallaudet

University to maintain and operate the Kendall Demonstration Elementary School.

Section 4321, Pub. L. 99–371, title I, § 121, Aug. 4, 1986, 100 Stat. 783; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142, related to authority of Gallaudet University to maintain and operate a model secondary school for the deaf.

Section 4322, Pub. L. 99–371, title I, § 122, Aug. 4, 1986, 100 Stat. 784, authorized continuation of agreement with Gallaudet University for model secondary school.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

PART B—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

PRIOR PROVISIONS

A prior part B of subchapter I of this chapter, consisted of section 4311 of this title, prior to repeal by Pub. L. 102–421, title I, §§ 101(a)(1), Oct. 16, 1992, 106 Stat. 2151.

§ 4331. Authority

For the purpose of providing a residential facility for postsecondary technical training and education for individuals who are deaf in order to prepare them for successful employment, the institution of higher education with which the Secretary has an agreement under this part is authorized to operate and maintain a National Technical Institute for the Deaf.

(Pub. L. 99–371, title I, § 111, formerly title II, § 201, Aug. 4, 1986, 100 Stat. 784; renumbered title I, § 111, Pub. L. 102–421, title I, § 101(b)(3), (4), Oct. 16, 1992, 106 Stat. 2151; Pub. L. 103–73, title II, § 203(f), Aug. 11, 1993, 107 Stat. 734.)

AMENDMENTS

1993—Pub. L. 103–73 substituted ''part'' for ''subchapter''.

PRIOR PROVISIONS

A prior section 111 of Pub. L. 99–371, title I, Aug. 4, 1986, 100 Stat. 783, as amended, authorized Gallaudet University to operate Kendall Demonstration Elementary School and was classified to section 4311 of this title, prior to repeal by Pub. L. 102–421.

Provisions similar to this section were contained in section 681 of this title prior to repeal by Pub. L. 99–371.

§ 4332. Agreement for National Technical Institute for the Deaf

(a) General authority

(1) The Secretary is authorized to establish or continue an agreement with an institution of higher education for the establishment and operation, including construction and equipment, of a National Technical Institute for the Deaf. The Secretary, in considering proposals from institutions of higher education to enter into an agreement under this part, shall give preference to institutions which are located in metropolitan industrial areas.

(2) The Secretary and the institution of higher education with which the Secretary has an agreement under this section—

(A) shall periodically assess the need for modification of the agreement; and

(B) shall periodically update the agreement as determined necessary by the Secretary or the institution.

(b) Provisions of agreement

The agreement shall—

(1) provide that Federal funds appropriated for the benefit of NTID will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this chapter and the agreement made pursuant thereto;

(2) provide that the Board of Trustees or other governing body of the institution, subject to the approval of the Secretary, will appoint an advisory group to advise the Director of NTID in formulating and carrying out the basic policies governing its establishment and operation, which group shall include individuals who are professionally concerned with education and technical training at the postsecondary school level, persons who are professionally concerned with activities relating to education and training of individuals who are deaf, and members of the public familiar with the need for services provided by NTID;

(3) provide that the Board of Trustees or other governing body of the institution will prepare and submit to the Secretary, not later than June 1 following the fiscal year for which the report is submitted, an annual report containing an accounting of all indirect costs paid to the institution of higher education under the agreement with the Secretary, which accounting the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate, with such comments and recommendations as the Secretary may deem appropriate;

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this part;

(5) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of NTID will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40; except that the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 3145 of title 40; and

(6) establish a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or hard of hearing.

(c) Limitation

If, within twenty years after the completion of any construction (except minor remodeling or alteration) for which such funds have been paid—

(1) the facility ceases to be used for the purposes for which it was constructed or the agreement is terminated, unless the Secretary determines that there is good cause for releasing the institution from its obligation, or

(2) the institution ceases to be the owner of the facility,

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which has the same ratio with respect to the current market value of the facility as the amount of Federal funds expended for construction of such facility bears to the total cost of construction of the facility. The current market value of the facility shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

(Pub. L. 99–371, title I, §112, formerly title II, §202, Aug. 4, 1986, 100 Stat. 785; renumbered title I, §112, and amended Pub. L. 102–421, title I, §§101(b)(3), (4), 121, 151(a)(4), Oct. 16, 1992, 106 Stat. 2151, 2155, 2164; Pub. L. 103–73, title II, §§202, 203(g), Aug. 11, 1993, 107 Stat. 732, 734; Pub. L. 105–244, title IX, §914, Oct. 7, 1998, 112 Stat. 1830.)

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (b)(5), is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (b)(5), ''sections 3141–3144, 3146, and 3147 of title 40'' substituted for ''the Act of March 3, 1931 (40 U.S.C. 276a—276a–5) commonly referred to as the Davis-Bacon Act'' and ''section 3145 of title 40'' substituted for ''section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)'' on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 684 of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105–244 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The Secretary and the institution of higher education with which the Secretary has an agreement under this section shall, within 1 year after October 16, 1992, assess the need for modification of the agreement. The Secretary and the institution of higher education with which the Secretary has an agreement under this section shall also periodically update the agreement as determined to be necessary by the Secretary or the institution.''

1993—Pub. L. 103–73, §203(g)(1), substituted ''National Technical Institute for the Deaf'' for ''Institute'' in section catchline.

Subsec. (a)(1). Pub. L. 103–73, §203(g)(2)(A), substituted ''part'' for ''chapter''.

Subsec. (a)(2). Pub. L. 103–73, §203(g)(2)(B), in first sentence struck out comma after ''The Secretary'' and after ''this section''.

Subsec. (b)(1), (2). Pub. L. 103–73, §202, substituted ''NTID'' for ''the Institute'' wherever appearing.

Subsec. (b)(3). Pub. L. 103–73, §203(g)(3)(A), substituted ''Secretary, not later than June 1 following the fiscal year for which the report is submitted, an annual report containing'' for ''Secretary an annual report, including'', ''which accounting'' for ''which report'', and ''Representatives'' for ''Representatives,''.

Subsec. (b)(4). Pub. L. 103–73, §203(g)(3)(B), struck out ''and'' at end of par. (4).

Subsec. (b)(5). Pub. L. 103–73, §203(g)(3)(C), substituted ''except that the Secretary'' for ''and the Secretary'' and ''; and'' for period at end.

Pub. L. 103–73, §202, substituted ''NTID'' for ''the Institute''.

Subsec. (b)(6). Pub. L. 103–73, §203(g)(3)(D), substituted ''or hard of hearing'' for ''or individuals who are hard of hearing''.

Subsec. (c). Pub. L. 103–73, §203(g)(4), inserted a comma after ''If''.

1992—Subsec. (a). Pub. L. 102–421, §121(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(2). Pub. L. 102–421, §151(a)(4), substituted ''individuals who are deaf'' for ''the deaf''.

Subsec. (b)(3). Pub. L. 102–421, §121(2), substituted ''will prepare and submit to the Secretary an annual report, including an accounting of all indirect costs paid to the institution of higher education under the agreement with the Secretary, which report the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate,'' for ''will make an annual report together with an accounting of all indirect costs paid to the institution of higher education under the agreement to the Secretary, which the Secretary shall transmit to the Congress''.

Subsec. (b)(6). Pub. L. 102–421, §121(3), added par. (6).

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

ESTABLISHMENT OF INSTITUTE

Pursuant to an agreement entered into between the Secretary and the Rochester Institute of Technology on Dec. 20, 1966, the National Technical Institute for the Deaf (N.T.I.D.) was established and located at Rochester, New York.

§§ 4341 to 4344. Repealed. Pub. L. 102–421, title I, §101(a)(2), Oct. 16, 1992, 106 Stat. 2151

Section 4341, Pub. L. 99–371, title III, §301, Aug. 4, 1986, 100 Stat. 786, established Commission on Education of the Deaf.

Section 4342, Pub. L. 99–371, title III, §302, Aug. 4, 1986, 100 Stat. 786; Pub. L. 101–476, title IX, §901(a)(2), Oct. 30, 1990, 104 Stat. 1142, outlined duties of Commission and provided for reports to Congress.

Section 4343, Pub. L. 99–371, title III, §303, Aug. 4, 1986, 100 Stat. 787, related to personnel of Commission, hearings, quorums, consultation with other entities, information and statistics, and agency cooperation.

Section 4344, Pub. L. 99–371, title III, §304, Aug. 4, 1986, 100 Stat. 788, provided for compensation of members of Commission.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

SUBCHAPTER II—GENERAL PROVISIONS

PRIOR PROVISIONS

A prior subchapter II of this chapter, consisting of sections 4331 and 4332 of this title, was redesignated part B of subchapter I of this chapter by Pub. L. 102–421, title I, § 101(b)(3), Oct. 16, 1992, 106 Stat. 2151.

§ 4351. Definitions

As used in this chapter—

(1) The term ''international student'' means an individual who—

(A) is not a citizen or national of, or lawfully admitted for permanent residence in, the United States;

(B) does not provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than temporary purposes with the intention of becoming a citizen of, or lawfully admitted for permanent residence in, the United States; and

(C) is not lawfully admitted for permanent residence in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the Virgin Islands.

(2) The term ''construction'' includes construction and initial equipment of new buildings, and expansion, remodeling, and alteration of existing buildings and equipment therein, including architect's services, but excluding off-site improvements.

(3) The term ''institution of higher education'' means an educational institution in any State which (A) admits as regular students only individuals having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (B) is legally authorized within such State to provide a program of education beyond secondary education; (C) provides an educational program for which it awards a bachelor's degree; (D) includes one or more professional or graduate schools; (E) is a public or nonprofit private institution; and (F) is accredited by a nationally recognized accrediting agency or association. For the purpose of subparagraph (F), the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of training offered.

(4) The term ''Secretary'' means the Secretary of Education.

(5) The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(6) The term ''NTID'' means the National Technical Institute for the Deaf.

(7) The term ''University'' means Gallaudet University.

(Pub. L. 99–371, title II, § 201, formerly title IV, § 401, Aug. 4, 1986, 100 Stat. 789; renumbered title II, § 201, and amended Pub. L. 102–421, title I, §§ 101(b)(5), (6), 131, 151(a)(3), (b), Oct. 16, 1992, 106 Stat. 2151, 2155, 2164; Pub. L. 103–73, title II, § 204(a), Aug. 11, 1993, 107 Stat. 734; Pub. L. 105–244, title IX, § 915, Oct. 7, 1998, 112 Stat. 1830.)

PRIOR PROVISIONS

A prior section 201 of Pub. L. 99–371 was renumbered section 111 and is classified to section 4331 of this title.

Provisions similar to this section were contained in sections 682, 693a, and 695a of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1998—Par. (1)(C). Pub. L. 105–244, § 915(1), struck out ''Palau (but only until the Compact of Free Association with Palau takes effect),'' after ''Guam,''.

Par. (5). Pub. L. 105–244, § 915(2), inserted ''and'' after ''Virgin Islands,'' and struck out '', and Palau (but only until the Compact of Free Association with Palau takes effect)'' after ''Mariana Islands''.

1993—Pub. L. 103–73 substituted ''and'' for ''or'' at end of par. (1)(B), redesignated pars. (4) and (6) to (9) as (3) to (7), respectively, and struck out former pars. (3) and (5) which defined ''elementary school'' and ''secondary school'', respectively.

1992—Par. (1). Pub. L. 102–421, § 131(1), added par. (1) and struck out former par. (1) which read as follows: ''The term 'Board of Trustees' means (unless the context requires otherwise) the Board of Trustees of Gallaudet University established under section 4303 of this title.''

Par. (2). Pub. L. 102–421, § 151(b)(1), substituted ''therein'' for ''thereof''.

Par. (3). Pub. L. 102–421, § 151(a)(3), (b)(2), substituted ''children who are deaf or hard-of-hearing'' for ''deaf children''.

Par. (4). Pub. L. 102–421, § 151(b)(3), substituted a semicolon for last comma in subpars. (A) to (E) of first sentence and ''subparagraph'' for ''clause'' in second sentence.

Pub. L. 102–421, § 131(2), redesignated par. (5) as (4) and struck out former par. (4) which read as follows: ''The term 'Institute' means the National Technical Institute for the Deaf.''

Pars. (5), (6). Pub. L. 102–421, § 131(2)(B), redesignated pars. (6) and (7) as (5) and (6), respectively. Former par. (5) redesignated (4).

Par. (7). Pub. L. 102–421, § 131(2)(B), (3), redesignated par. (8) as (7) and substituted ''the Commonwealth of the Northern Mariana Islands, and Palau (but only until the Compact of Free Association with Palau takes effect).'' for ''the Northern Mariana Islands and the Trust Territory of the Pacific Islands.''. Former par. (7) redesignated (6).

Pars. (8), (9). Pub. L. 102–421, § 131(2)(B), (4), added pars. (8) and (9) and redesignated former par. (8) as (7).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 4352. Gifts

The University and NTID are authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of the University or NTID, or for the use, as appropriate, for any programs, departments, or other units as may be designated in the convey-

ance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

(Pub. L. 99–371, title II, § 202, formerly title IV, § 402, Aug. 4, 1986, 100 Stat. 789; renumbered title II, § 202, and amended Pub. L. 102–421, title I, §§ 101(b)(5), (6), 132, Oct. 16, 1992, 106 Stat. 2151, 2156.)

PRIOR PROVISIONS

A prior section 202 of Pub. L. 99–371 was renumbered section 112 and is classified to section 4332 of this title.

Provisions similar to subsec. (a) of this section were contained in section 691c of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1992—Pub. L. 102–421, § 132, amended section generally. Prior to amendment, section read as follows:

''(a) GALLAUDET UNIVERSITY.—Gallaudet University is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of Gallaudet University, or for the use of any of its departments or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

''(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The National Technical Institute for the Deaf is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of the Institute, or for the use of any of its programs as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§ 4353. Audit

(a) Government Accountability Office authority

All financial transactions and accounts of the corporation or institution of higher education, as the case may be, in connection with the expenditure of any moneys appropriated by any law of the United States—

(1) for the benefit of Gallaudet University or for the construction of facilities for its use; or

(2) for the benefit of the National Technical Institute for the Deaf or for the construction of facilities for its use,

shall be settled and adjusted in the Government Accountability Office.

(b) Independent financial and compliance audit

(1) In general

Gallaudet University shall have an annual independent financial and compliance audit made of the programs and activities of the University, including the national mission and school operations of the elementary and secondary education programs at Gallaudet. The institution of higher education with which the Secretary has an agreement under section 4332 of this title shall have an annual independent financial and compliance audit made of the programs and activities of such institution of higher education, including NTID, and containing specific schedules and analyses for all NTID funds, as determined by the Secretary.

(2) Compliance

As used in paragraph (1), compliance means compliance with sections 4302(b), 4305(b)(4), 4332(b)(5) of this title, and subsection (c) of this section, paragraphs (2) and (3)[1] of section 4357(b) of this title, subsections (b)(2), (b)(3),[1] and (c) through (f), of section 4357 of this title, and subsections (b) and (c) of section 4359a[1] of this title.

(3) Submission of audits

A copy of each audit described in paragraph (1) shall be provided to the Secretary within 15 days of acceptance of the audit by the University or the institution authorized to establish and operate the NTID under section 4332(a) of this title, as the case may be, but not later than January 10 of each year.

(c) Limitations regarding expenditure of funds

(1) In general

No funds appropriated under this chapter for Gallaudet University, including the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf, or for the National Technical Institute for the Deaf may be expended on the following:

(A) Alcoholic beverages.

(B) Goods or services for personal use.

(C) Housing and personal living expenses (but only to the extent such expenses are not required by written employment agreement).

(D) Lobbying, except that nothing in this subparagraph shall be construed to prohibit the University and NTID from educating the Congress, the Secretary, and others regarding programs, projects, and activities conducted at those institutions.

(E) Membership in country clubs and social or dining clubs and organizations.

(2) Policies

(A) Not later than 180 days after October 16, 1992, the University and NTID shall develop policies, to be applied uniformly, for the allowability of expenditures for each institution. These policies should reflect the unique nature of these institutions. The principles established by the Office of Management and Budget for costs of educational institutions may be used as guidance in developing these policies. General principles relating to allowability and reasonableness of all costs associated with the operations of the institutions shall be addressed. These policies shall be submitted to the Secretary for review and comments, and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(B) Policies under subparagraph (A) shall include the following:

(i) Noninstitutional professional activities.

(ii) Fringe benefits.

(iii) Interest on loans.

(iv) Rental cost of buildings and equipment.

(v) Sabbatical leave.

[1] See References in Text note below.

(vi) Severance pay.

(vii) Travel.

(viii) Royalties and other costs for uses of patents.

(C) The Secretary is not authorized to add items to those specified in subparagraph (B).

(Pub. L. 99–371, title II, § 203, formerly title IV, § 403, Aug. 4, 1986, 100 Stat. 790; renumbered title II, § 203, and amended Pub. L. 102–421, title I, §§ 101(b)(5), (6), 133, Oct. 16, 1992, 106 Stat. 2151, 2156; Pub. L. 103–73, title II, §§ 202, 204(b), Aug. 11, 1993, 107 Stat. 732, 734; Pub. L. 105–244, title IX, § 916, Oct. 7, 1998, 112 Stat. 1830; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

Section 4357(b)(3) of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 105–244, title IX, § 919(1)(B), Oct. 7, 1998, 112 Stat. 1831.

Section 4359a of this title, referred to in subsec. (b)(2), was in the original ''section 210'', meaning section 210 of Pub. L. 99–371, and was translated as reading section 209 of Pub. L. 99–371 to reflect the probable intent of Congress, because Pub. L. 105–244, title IX, § 922(b), 923, Oct. 7, 1998, 112 Stat. 1831, renumbered section 210 of Pub. L. 99–371 as section 209, and added a new section 210 which is classified to section 4359b of this title and does not contain a subsec. (c).

PRIOR PROVISIONS

Provisions similar to this section were contained in section 691f of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in heading and text.

1998—Subsec. (b). Pub. L. 105–244 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: ''Gallaudet University shall have an annual independent financial audit made of the programs and activities of the University. The institution of higher education with which the Secretary has an agreement under section 4332 of this title shall have an annual independent financial audit made of the programs and activities of such institution of higher education, including NTID, and containing specific schedules and analyses for all NTID funds, as determined by the Secretary.''

1993—Subsec. (b). Pub. L. 103–73, § 204(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Gallaudet University and the institution of higher education operating the National Technical Institute for the Deaf shall have an annual independent audit made of the programs and activities of the University and of NTID, respectively.''

Pub. L. 103–73, § 202, substituted ''NTID'' for ''the Institute''.

1992—Subsec. (c). Pub. L. 102–421, § 133, added subsec. (c).

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§ 4354. Reports

The Board of Trustees of Gallaudet University and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 4332 of this title shall prepare and submit an annual report to the Secretary, and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, not later than 100 days after the end of each fiscal year, which shall include the following:

(1) The number of students during the preceding academic year who enrolled and whether these were first-time enrollments, who graduated, who found employment, or who left without completing a program of study, reported under each of the programs of the University (elementary, secondary, preparatory, undergraduate, and graduate) and of NTID.

(2) For the preceding academic year, and to the extent possible, the following data on individuals who are deaf and from minority backgrounds and who are students (at all educational levels) or employees:

(A) The number of students enrolled full- and part-time.

(B) The number of these students who completed or graduated from each of the educational programs.

(C) The disposition of these students upon graduation/completion of programs at NTID and at the University and its elementary and secondary schools in comparison to students from non-minority backgrounds.

(D) The number of students needing and receiving support services (such as tutoring and counseling) at all educational levels.

(E) The number of recruitment activities by type and location for all educational levels.

(F) Employment openings/vacancies and grade level/type of job and number of these individuals that applied and that were hired.

(G) Strategies (such as parent groups and training classes in the development of individualized education programs) used by the elementary and secondary programs and the extension centers to reach and actively involve minority parents in the educational programs of their children who are deaf or hard of hearing and the number of parents who have been served as a result of these activities.

(3)(A) A summary of the annual audited financial statements and auditor's report of the University, as required under section 4353 of this title, and (B) a summary of the annual audited financial statements and auditor's report of the institution of higher education

with which the Secretary has an agreement under section 4332 of this title, including specific schedules and analyses for all NTID funds, as required under section 4353 of this title, and such supplementary schedules presenting financial information for NTID for the end of the Federal fiscal year as determined by the Secretary.

(4) For the preceding fiscal year, a statement showing the receipts of the University and NTID and from what Federal sources, and a statement showing the expenditures of each institution by function, activity, and administrative and academic unit.

(5) A statement showing the use of funds (both corpus and income) provided by the Federal Endowment Program under section 4357 of this title.

(6) A statement showing how such Endowment Program funds are invested, what the gains or losses (both realized and unrealized) on such investments were for the most recent fiscal year, and what changes were made in investments during that year.

(7) Such additional information as the Secretary may consider necessary.

(Pub. L. 99–371, title II, §204, formerly title IV, §404, Aug. 4, 1986, 100 Stat. 790; renumbered title II, §204, and amended Pub. L. 102–421, title I, §§101(b)(5), (6), 134, Oct. 16, 1992, 106 Stat. 2151, 2157; Pub. L. 103–73, title II, §204(c), Aug. 11, 1993, 107 Stat. 735; Pub. L. 105–244, title IX, §917, Oct. 7, 1998, 112 Stat. 1831.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 691f of this title prior to repeal by Pub. L. 99–371.

AMENDMENTS

1998—Par. (3). Pub. L. 105–244 substituted ''A summary of the annual'' for ''The annual'' in subpar. (A) and substituted ''a summary of the annual'' for ''the annual'' in subpar. (B).

1993—Par. (1). Pub. L. 103–73, §204(c)(1), substituted ''first-time'' for ''first time''.

Par. (2)(G). Pub. L. 103–73, §204(c)(2), substituted ''individualized education programs'' for ''Individualized Education Programs'' and ''children who are deaf or hard of hearing'' for ''children who are deaf''.

Par. (3). Pub. L. 103–73, §204(c)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: ''The annual audited financial statements of the University and NTID, respectively, together with the auditor's report.''

Par. (6). Pub. L. 103–73, §204(c)(4), substituted ''Program funds are'' for ''Program is''.

1992—Pub. L. 102–421, §134, amended section generally, substituting present provisions for provisions requiring annual reports from Board of Trustees of Gallaudet University and National Technical Institute for the Deaf and providing for an annual monitoring and evaluation report.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§ 4355. Monitoring, evaluation, and reporting

(a) Activities

The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of the University (including the elementary, secondary, preparatory, undergraduate, and graduate programs) and of NTID. The Secretary may also conduct studies related to the provision of preschool, elementary, secondary, and postsecondary education and other related services to individuals who are deaf or hard of hearing. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to section 3109 of title 5.

(b) Report

The Secretary, as part of the annual report required under section 3486 of this title, shall include a description of the monitoring and evaluation activities pursuant to subsection (a) of this section, together with such recommendations, including recommendations for legislation, as the Secretary may consider necessary.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2003 to carry out the monitoring and evaluation activities authorized under this section.

(Pub. L. 99–371, title II, §205, formerly title IV, §405, Aug. 4, 1986, 100 Stat. 790; renumbered title II, §205, and amended Pub. L. 102–421, title I, §§101(b)(5), (6), 135(a), Oct. 16, 1992, 106 Stat. 2151, 2158; Pub. L. 103–73, title II, §204(d), Aug. 11, 1993, 107 Stat. 735; Pub. L. 105–244, title IX, §918, Oct. 7, 1998, 112 Stat. 1831.)

AMENDMENTS

1998—Subsec. (c). Pub. L. 105–244 substituted ''1998 through 2003'' for ''1993, 1994, 1995, 1996, and 1997''.

1993—Subsec. (a). Pub. L. 103–73 substituted ''individuals who are deaf or hard of hearing'' for ''individuals who are deaf'' and struck out ''the provisions of'' after ''pursuant to''.

1992—Pub. L. 102–421, §135(a), amended section generally. Prior to amendment, section read as follows: ''The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of Gallaudet University and of the National Technical Institute for the Deaf. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to the provisions of section 3109 of title 5.''

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

§ 4356. Liaison for educational programs

(a) Designation of liaison

Not later than 30 days after August 4, 1986, the Secretary shall designate an individual in the Office of Special Education and Rehabilitative Services of the Department of Education from among individuals who have experience in the education of individuals who are deaf to serve as liaison between the Department and Gallaudet University, the National Technical Institute for the Deaf, and other postsecondary educational programs for individuals who are deaf under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing.

(b) Duties of liaison

The individual serving as liaison for educational programs for individuals who are deaf or hard of hearing shall:

(1) provide information to institutions regarding the Department's efforts directly affecting the operation of such programs by such institutions;

(2) review research and other activities carried out by the University, NTID, and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing for the purpose of determining overlap and opportunities for coordination among such entities; and

(3) provide such support and assistance as such institutions may request and the Secretary considers appropriate.

(c) Authority of Secretary

Nothing in this section may be construed to affect the authority of the Secretary under this chapter or any other Act with respect to Gallaudet University or the National Technical Institute for the Deaf.

(Pub. L. 99–371, title II, § 206, formerly title IV, § 406, Aug. 4, 1986, 100 Stat. 790; Pub. L. 101–476, title IX, § 901(a)(2), Oct. 30, 1990, 104 Stat. 1142; renumbered title II, § 206, and amended Pub. L. 102–421, title I, §§ 101(b)(5), (6), 136, 151(a)(4), (5), Oct. 16, 1992, 106 Stat. 2151, 2159, 2164; Pub. L. 103–73, title II, § 204(e), Aug. 11, 1993, 107 Stat. 735.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (a), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified generally to chapter 16 (§ 701 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–73, which directed amendment of subsec. (b) by inserting ''or hard of hearing'' after ''individuals who are deaf'', was executed by making the insertion in introductory provisions but not in par. (2) to reflect the probable intent of Congress.

1992—Pub. L. 102–421, § 151(a)(5), struck out ''for the deaf'' after ''educational programs'' in section catchline.

Subsec. (a). Pub. L. 102–421, § 151(a)(4), substituted ''individuals who are deaf'' for ''the deaf'' in two places.

Pub. L. 102–421, § 136(1), substituted '', the Rehabilitation Act of 1973, and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing.'' for ''and the Rehabilitation Act of 1973.''

Subsec. (b). Pub. L. 102–421, § 151(a)(4), substituted ''individuals who are deaf'' for ''the deaf'' in introductory provisions.

Subsec. (b)(1) to (3). Pub. L. 102–421, § 136(2), struck out ''and'' at end of par. (1), added par. (2), and redesignated former par. (2) as (3).

1990—Subsec. (a). Pub. L. 101–476 substituted ''Individuals with Disabilities Education Act'' for ''Education of the Handicapped Act''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–421 effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as a note under section 4301 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–476 effective Oct. 1, 1990, see section 1001 of Pub. L. 101–476, set out as a note under section 1087ee of this title.

§ 4357. Federal endowment programs for Gallaudet University and the National Technical Institute for the Deaf

(a) Establishment of programs

(1) The Secretary and the Board of Trustees of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of the University. The Secretary and the Board of Trustees may enter into such agreements as may be necessary to carry out the purposes of this section with respect to the University.

(2) The Secretary and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 4332 of this title are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of NTID. The Secretary and the Board or other governing body may enter into such agreements as may be necessary to carry out the purposes of this section with respect to NTID.

(b) Federal payments

(1) The Secretary shall, consistent with this section, make payments to the Federal endow-

ment funds established under subsection (a) of this section from amounts appropriated under subsection (h) of this section for the fund involved.

(2) Subject to the availability of appropriations, the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources during the fiscal year in which the appropriations are made available (excluding transfers from other endowment funds of the institution involved).

(c) Investments

(1) Except as provided in subsection (e) of this section, the University and NTID, respectively, shall invest the Federal contribution of its Federal endowment fund corpus and income in instruments and securities offered through one or more cooperative service organizations of operating educational organizations under section 501(f) of title 26, or in low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State in which the institution involved is located.

(2) In managing the investment of its Federal endowment fund, the University or NTID shall exercise the judgment and care, under the prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

(3) Neither the University nor NTID may invest its Federal endowment fund corpus or income in real estate, or in instruments or securities issued by an organization in which an executive officer, a member of the Board of Trustees of the University or of the host institution, or a member of the advisory group established under section 4332 of this title is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws. Neither the University nor NTID may assign, hypothocate,[1] encumber, or create a lien on the Federal endowment fund corpus without specific written authorization of the Secretary.

(d) Withdrawals and expenditures

(1) Except as provided in paragraph (3)(B), neither the University nor NTID may withdraw or expend any of the corpus of its Federal endowment fund.

(2)(A) The University and NTID, respectively, may withdraw or expend the income of its Federal endowment fund only for expenses necessary to the operation of that institution, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

(B) Neither the University nor NTID may withdraw or expend the income of its Federal endowment fund for any commercial purpose.

(C) The University and NTID shall maintain records of the income generated from its respective Federal endowment fund for the prior fiscal year.

(3)(A) Except as provided in subparagraph (B), the University and NTID, respectively, may, on an annual basis, withdraw or expend not more than 50 percent of the income generated from its Federal endowment fund from the current fiscal year.

(B) The Secretary may permit the University or NTID to withdraw or expend a portion of its Federal endowment fund corpus or more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year if the institution involved demonstrates, to the Secretary's satisfaction, that such withdrawal or expenditure is necessary because of—

(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(ii) a life-threatening situation occasioned by natural disaster or arson; or

(iii) another unusual occurrence or exigent circumstance.

(e) Investment and expenditure flexibility

The corpus associated with a Federal payment (and its non-Federal match) made to the Federal endowment fund of the University or NTID shall not be subject to the investment limitations of subsection (c)(1) of this section after 10 fiscal years following the fiscal year in which the funds are matched, and the income generated from such corpus after the tenth fiscal year described in this subsection shall not be subject to such investment limitations or to the withdrawal and expenditure limitations of subsection (d)(3) of this section.

(f) Recovery of payments

After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the University or NTID—

(1) makes a withdrawal or expenditure of the corpus or income of its Federal endowment fund that is not consistent with this section;

(2) fails to comply with the investment standards and limitations under this section; or

(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Federal endowment fund corpus or income.

(g) Definitions

As used in this section:

(1) The term ''corpus'', with respect to a Federal endowment fund under this section, means an amount equal to the Federal payments to such fund, amounts contributed to the fund from non-Federal sources, and appreciation from capital gains and reinvestment of income.

(2) The term ''Federal endowment fund'' means a fund, or a tax-exempt foundation, established and maintained pursuant to this section by the University or NTID, as the case may be, for the purpose of generating income for the support of the institution involved.

(3) The term ''income'', with respect to a Federal endowment fund under this section, means an amount equal to the dividends and interest accruing from investments of the corpus of such fund.

(4) The term ''institution involved'' means the University or NTID, as the case may be.

(h) Authorization of appropriations

(1) In the case of the University, there are authorized to be appropriated for the purposes of

[1] So in original. Probably should be ''hypothecate,''

this section such sums as may be necessary for each of the fiscal years 1998 through 2003.

(2) In the case of NTID, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1998 through 2003.

(3) Amounts appropriated under paragraph (1) or (2) shall remain available until expended.

(i) Effective date

The provisions of this section shall take effect as if included in this chapter as enacted on August 4, 1986.

(Pub. L. 99–371, title II, § 207, as added Pub. L. 102–421, title I, § 137(2), Oct. 16, 1992, 106 Stat. 2159; amended Pub. L. 103–73, title II, § 204(f), Aug. 11, 1993, 107 Stat. 735; Pub. L. 105–244, title IX, § 919, Oct. 7, 1998, 112 Stat. 1831.)

PRIOR PROVISIONS

A prior section 4357, Pub. L. 99–371, title II, § 207, formerly title IV, § 407, Aug. 4, 1986, 100 Stat. 791; renumbered title II, § 207, Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151, provided for Gallaudet University Federal endowment program, prior to repeal effective Oct. 1, 1992, by Pub. L. 102–421, title I, §§ 137(1), 161, Oct. 16, 1992, 106 Stat. 2159, 2164.

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105–244, § 919(1)(A), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Subject to the availability of appropriations and the non-Federal matching requirements of paragraph (3), the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the institution involved).''

Subsec. (b)(3). Pub. L. 105–244, § 919(1)(B), struck out par. (3) which read as follows: ''Effective for fiscal year 1993 and each succeeding fiscal year, for any fiscal year in which the sums contributed to the Federal endowment fund of the institution involved from non-Federal sources exceed $1,000,000, the non-Federal contribution to the Federal endowment fund shall be $2 for each Federal dollar provided in excess of $1,000,000 (excluding transfers from other endowment funds of the institution involved).''

Subsec. (c)(1). Pub. L. 105–244, § 919(2), inserted ''the Federal contribution of'' after ''shall invest''.

Subsec. (d)(2)(C). Pub. L. 105–244, § 919(3)(A), substituted ''The University'' for ''Beginning on October 1, 1992, the University''.

Subsec. (d)(3)(A). Pub. L. 105–244, § 919(3)(B), substituted ''current'' for ''prior''.

Subsec. (h)(1), (2). Pub. L. 105–244, § 919(4), substituted ''1998 through 2003'' for ''1993 through 1997''.

1993—Subsec. (c)(3). Pub. L. 103–73, § 204(f)(1), substituted ''advisory group established under section 4332 of this title'' for ''Advisory Board of NTID''.

Subsec. (e). Pub. L. 103–73, § 204(f)(2), substituted ''such investment limitations or'' for ''such investment limitations and''.

Subsec. (i). Pub. L. 103–73, § 204(f)(3), substituted ''this chapter as enacted on August 4, 1986'' for ''the provisions of the Education of the Deaf Act of 1986''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 4358. Repealed. Pub. L. 105–244, title IX, § 920, Oct. 7, 1998, 112 Stat. 1831

Section, Pub. L. 99–371, title II, § 208, as added Pub. L. 102–421, title I, § 138, Oct. 16, 1992, 106 Stat. 2162, related to scholarship program for deaf education or special education careers.

A prior section 4358, Pub. L. 99–371, title II, § 208, formerly title IV, § 408, Aug. 4, 1986, 100 Stat. 792; renumbered title II, § 208, Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151, provided for a National Technical Institute for the Deaf endowment program, prior to repeal effective Oct. 1, 1992, by Pub. L. 102–421, title I, §§ 137(1), 161, Oct. 16, 1992, 106 Stat. 2159, 2164. See section 4357 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 4359. Oversight and effect of agreements

(a) Oversight activities

Nothing in this chapter shall be construed to diminish the oversight activities of the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives with respect to any agreement entered into between the Secretary of Education and Gallaudet University, and the institution of higher education with which the Secretary has an agreement under part B of subchapter I of this chapter.

(b) Construction of agreements

The agreements described in subsection (a) of this section shall continue in effect, to the extent that such agreements are not inconsistent with this chapter.

(Pub. L. 99–371, title II, § 208, formerly title IV, § 409, Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 209, Pub. L. 102–421, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151; amended Pub. L. 103–73, title II, § 204(g), Aug. 11, 1993, 107 Stat. 735; renumbered § 208 and amended Pub. L. 105–244, title IX, § 921, Oct. 7, 1998, 112 Stat. 1831.)

PRIOR PROVISIONS

A prior section 208 of Pub. L. 99–371 was classified to section 4358 of this title, prior to repeal by Pub. L. 105–244.

Another prior section 208 of Pub. L. 99–371 was classified to section 4358 of this title, prior to repeal by Pub. L. 102–421.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 921(1), substituted ''Committee on Education and the Workforce'' for ''Committee on Education and Labor''.

1993—Subsec. (a). Pub. L. 103–73, § 204(g)(1), substituted ''an agreement under part B of subchapter I of this chapter'' for ''an agreement under title II''.

Subsec. (b). Pub. L. 103–73, § 204(g)(2), struck out ''the provisions of'' after ''inconsistent with''.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 4359a. International students

(a) Enrollment

Effective with new admissions for academic year 1993–1994 and each succeeding academic

year, the University (including preparatory, undergraduate, and graduate students) and NTID shall limit the enrollment of international students to approximately 15 percent of the total postsecondary student population enrolled respectively at the University or NTID, except that in any school year no United States citizen who is qualified to be admitted to the University or NTID and applies for admission to the University or NTID shall be denied admission because of the admission of an international student.

(b) Tuition surcharge

Effective with new admissions, the tuition for postsecondary international students enrolled in the University (including preparatory, undergraduate, and graduate students) or NTID shall include a surcharge of 100 percent for the academic year 1999–2000 and any succeeding academic year.

(c) Reduction of surcharge

Beginning with the academic year 1993–1994, the University or NTID may reduce the surcharge under subsection (b) of this section to 50 percent if—

(1) a student described under subsection (b) of this section is from a developing country;

(2) such student is unable to pay the tuition surcharge under subsection (b) of this section; and

(3) such student has made a good faith effort to secure aid through such student's government or other sources.

(d) "Developing country" defined

For purposes of subsection (c) of this section, the term ''developing country'' means a country that has a 1990 per capita income not in excess of $4,000 in 1990 United States dollars.

(Pub. L. 99–371, title II, § 209, formerly § 210, as added Pub. L. 102–421, title I, § 139, Oct. 16, 1992, 106 Stat. 2163; amended Pub. L. 103–73, title II, § 204(h), Aug. 11, 1993, 107 Stat. 735; renumbered § 209 and amended Pub. L. 105–244, title IX, § 922, Oct. 7, 1998, 112 Stat. 1832.)

PRIOR PROVISIONS

A prior section 209 of Pub. L. 99–371 was renumbered section 208 and is classified to section 4359 of this title.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–244, § 922(a)(1), substituted ''15 percent'' for ''10 percent'' and inserted before period '', except that in any school year no United States citizen who is qualified to be admitted to the University or NTID and applies for admission to the University or NTID shall be denied admission because of the admission of an international student''.

Subsec. (b). Pub. L. 105–244, § 922(a)(2), substituted ''surcharge of 100 percent for the academic year 1999–2000 and any succeeding academic year'' for ''surcharge of 75 percent for the academic year 1993–1994 and 90 percent beginning with the academic year 1994–1995''.

1993—Subsec. (b). Pub. L. 103–73, § 204(h)(1), substituted ''75 percent for the academic year 1993–1994 and 90 percent beginning with the academic year 1994–1995'' for ''75 percent beginning the academic year 1993–1994, and 90 percent beginning the academic year 1994–1995''.

Subsec. (c). Pub. L. 103–73, § 204(h)(2), substituted ''Beginning with the academic year 1993–1994'' for ''Beginning the academic year 1993–1994 and thereafter'' in introductory provisions and redesignated subpars. (A) to (C) as pars. (1) to (3), respectively.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 161 of Pub. L. 102–421, set out as an Effective Date of 1992 Amendment note under section 4301 of this title.

§ 4359b. Research priorities

(a) Research priorities

Gallaudet University and the National Technical Institute for the Deaf shall each establish and disseminate priorities for their national mission with respect to deafness related research, development, and demonstration activities, that reflect public input, through a process that includes consumers, constituent groups, and the heads of other federally funded programs. The priorities for the University shall include activities conducted as part of the University's elementary and secondary education programs under section 4304 of this title.

(b) Research reports

The University and NTID shall each prepare and submit an annual research report, to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, not later than January 10 of each year, that shall include—

(1) a summary of the public input received as part of the establishment and dissemination of priorities required by subsection (a) of this section, and the University's and NTID's response to the input; and

(2) a summary description of the research undertaken by the University and NTID, the start and projected end dates for each research project, the projected cost and source or sources of funding for each project, and any products resulting from research completed in the prior fiscal year.

(Pub. L. 99–371, title II, § 210, as added Pub. L. 105–244, title IX, § 923, Oct. 7, 1998, 112 Stat. 1832.)

PRIOR PROVISIONS

A prior section 210 of Pub. L. 99–371 was renumbered section 209 and is classified to section 4359a of this title.

Another prior section 210 of title II of Pub. L. 99–371, formerly title IV, § 410, Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 210, Pub. L. 102–241, title I, § 101(b)(5), (6), Oct. 16, 1992, 106 Stat. 2151, repealed sections 681 to 685, 691 to 691g, 693 to 693b, and 695 to 695c of this title and provisions set out as notes under sections 681 and 693 of this title, prior to repeal by Pub. L. 102–421, title I, § 139, Oct. 16, 1992, 106 Stat. 2163.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 4360. National study on the education of the deaf

(a) Conduct of study

(1) In general

The Secretary shall conduct a national study on the education of the deaf, to identify education-related barriers to successful postsecondary education experiences and employment for individuals who are deaf, and those education-related factors that contribute to successful postsecondary education experiences and employment for individuals who are deaf.

(2) Definition

In this section the term ''deaf'', when used with respect to an individual, means an individual with a hearing impairment, including an individual who is hard of hearing, an individual deafened later in life, and an individual who is profoundly deaf.

(b) Public input and consultation

(1) In general

In conducting such study, the Secretary shall obtain input from the public. To obtain such input, the Secretary shall—

(A) publish a notice with an opportunity for comment in the Federal Register;

(B) consult with individuals and organizations representing a wide range of perspectives on deafness-related issues, including organizations representing individuals who are deaf, parents of children who are deaf, educators, and researchers; and

(C) take such other action as the Secretary deems appropriate, which may include holding public meetings.

(2) Structured opportunities

The Secretary shall provide structured opportunities to receive and respond to the viewpoints of the individuals and organizations described in paragraph (1)(B).

(c) Report

The Secretary shall report to Congress not later than 18 months after October 7, 1998, regarding the results of the study. The report shall contain—

(1) recommendations, including recommendations for legislation, that the Secretary deems appropriate; and

(2) a detailed summary of the input received under subsection (b) of this section and the ways in which the report addresses such input.

(d) Authorization of appropriations

There are authorized to be appropriated $1,000,000 for each of the fiscal years 1999 and 2000 to carry out the provisions of this section.

(Pub. L. 99–371, title II, § 211, as added Pub. L. 105–244, title IX, § 924, Oct. 7, 1998, 112 Stat. 1832.)

PRIOR PROVISIONS

A prior section 4360, Pub. L. 99–371, title II, § 211, formerly title IV, § 411, Aug. 4, 1986, 100 Stat. 794; renumbered title II, § 211, and amended Pub. L. 102–421, title I, §§ 101(b)(5), (6), 140, 151(a)(4), Oct. 16, 1992, 106 Stat. 2151, 2163, 2164; Pub. L. 103–73, title II, § 204(i), Aug. 11, 1993, 107 Stat. 735, authorized appropriations for this chapter, prior to repeal by Pub. L. 105–244, § 3, title IX, § 923, Oct. 7, 1998, 112 Stat. 1585, 1832, effective Oct. 1, 1998. See section 4360a of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 4360a. Authorization of appropriations

(a) Gallaudet University

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2003 to carry out the provisions of subchapter I of this chapter and this subchapter, relating to—

(1) Gallaudet University;

(2) Kendall Demonstration Elementary School; and

(3) the Model Secondary School for the Deaf.

(b) National Technical Institute for the Deaf

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2003 to carry out the provisions of subchapter I of this chapter and this subchapter relating to the National Technical Institute for the Deaf.

(Pub. L. 99–371, title II, § 212, as added Pub. L. 105–244, title IX, § 925, Oct. 7, 1998, 112 Stat. 1833.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 4360 of this title, prior to repeal by Pub. L. 105–244.

EFFECTIVE DATE

Section effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as an Effective Date of 1998 Amendment note under section 1001 of this title.

§ 4361. Supervision of public business of Gallaudet University

The Secretary of Education is charged with the supervision of public business relating to Gallaudet University.

(R.S. § 441; Mar. 4, 1911, ch. 285, § 1, 36 Stat. 1422; 1940 Reorg. Plan No. IV, § 11, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1234; 1953 Reorg. Plan No. 1, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; June 18, 1954, ch. 324, § 1, 68 Stat. 265; Oct. 17, 1979, Pub. L. 96–88, title III, § 301(a)(2)(M), title V, § 507, 93 Stat. 677, 692; Aug. 4, 1986, Pub. L. 99–371, title I, § 101(a), 100 Stat. 781.)

CODIFICATION

Section was not enacted as part of the Education of the Deaf Act of 1986, which comprises this chapter.

Section was formerly classified to section 691h of this title.

CHANGE OF NAME

Pursuant to section 101(a) of Pub. L. 99–371, which is classified to section 4301(a) of this title, ''Gallaudet University'' was substituted in text for ''Gallaudet College'' which had been substituted in text for ''Columbia Institution for the Deaf'' pursuant to section 1 of act June 18, 1954, which was formerly classified to section 691 of this title. Previously, act Mar. 4, 1911, ch. 285, 36 Stat. 1422, had redesignated the ''Columbia Institution

for the Deaf and Dumb'' as the ''Columbia Institution for the Deaf''.

TRANSFER OF FUNCTIONS

''Secretary of Education'' substituted in text for ''Secretary of Health, Education, and Welfare'' pursuant to sections 301(a)(2)(M) and 507 of Pub. L. 96–88, which are classified to sections 3441(a)(2)(M) and 3507 of this title and which transferred to Secretary of Education functions of Secretary of Health, Education, and Welfare under laws relating to relationship between Gallaudet College [now Gallaudet University] and Department of Health, Education, and Welfare.

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953.

Functions of Department of the Interior relating to administration of Columbia Institution for the Deaf transferred to Federal Security Agency to be administered under direction and supervision of Federal Security Administrator by § 11(d) of 1940 Reorg. Plan No. IV, set out in the Appendix to Title 5.

§ 4362. Purchases through General Services Administration

On and after September 8, 1978, Gallaudet University and the National Technical Institute for the Deaf are authorized to make purchases through the General Services Administration.

(Pub. L. 95–355, title I, § 100, Sept. 8, 1978, 92 Stat. 531; Pub. L. 99–371, title I, § 101(a), Aug. 4, 1986, 100 Stat. 781.)

CODIFICATION

Section is from the Second Supplemental Appropriations Act, 1978, and not enacted as part of the Education of the Deaf Act of 1986, which comprises this chapter, and contained additional provisions relating to purchases by the American Printing House for the Blind and Howard University which are set out as sections 106 and 130 of this title, respectively.

Section, as it relates to Gallaudet University, was formerly classified to section 691i of this title, and as it relates to the National Technical Institute for the Deaf, was formerly classified to section 686 of this title.

CHANGE OF NAME

''Gallaudet University'' substituted in text for ''Gallaudet College'' pursuant to section 101(a) of Pub. L. 99–371, which is classified to section 4301(a) of this title.

§ 4363. Financial and program audit by Secretary

Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

(Pub. L. 102–394, title III, § 301, Oct. 6, 1992, 106 Stat. 1819.)

CODIFICATION

Section is from the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993, and was not enacted as part of the Education of the Deaf Act of 1986 which comprises this chapter, and contained additional provisions relating to the American Printing House for the Blind and Howard University, which are set out as sections 106a and 130a of this title, respectively.

CHAPTER 56—AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT

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§ 4401. Findings

The Congress finds that—

(1) Indian art and culture and Native Hawaiian art and culture have contributed greatly to the artistic and cultural richness of the Nation;

(2) Indian art and culture and Native Hawaiian art and culture occupy a unique position in American history as being our only native art form and cultural heritage;

(3) the enhancement and preservation of this Nation's native art and culture has a fundamental positive influence on the American people;

(4) although the encouragement and support of Indian and Native Hawaiian arts and crafts are primarily a matter for private, local, and Indian and Native Hawaiian initiative, it is also an appropriate matter of concern to the Federal Government;

(5) it is appropriate and necessary for the Federal Government to support research and scholarship in Indian art and culture and Native Hawaiian art and culture and to complement programs for the advancement of such art and culture by tribal, private, and public agencies and organizations;

(6) current Federal initiatives in the area of Indian art and culture and Native Hawaiian art and culture are fragmented and inadequate; and

(7) in order to coordinate the Federal Government's effort to preserve, support, revitalize, and disseminate Indian art and culture and Native Hawaiian art and culture, it is desirable to establish—

(A) a national Institute of American Indian and Alaska Native Culture and Arts Development, and

(B) a program for Native Hawaiian culture and arts development.

(Pub. L. 99–498, title XV, § 1502, Oct. 17, 1986, 100 Stat. 1600.)

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–239, title VII, § 721, May 4, 1994, 108 Stat. 606, provided that: ''This title [probably should be ''subtitle'' meaning subtitle C [§§ 721, 722] of title VII of Pub. L. 103–239, amending section 4441 of this title] may be cited as the 'Alaska Native Culture and Arts Development Act'.''

SHORT TITLE

Section 1501 of title XV of Pub. L. 99–498 provided that: ''This title [enacting this chapter] may be cited as the 'American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act'.''

§ 4402. Definitions

For the purpose of this chapter—

(1) The term ''Indian art and culture'' includes (but is not limited to) the traditional and contemporary expressions of Indian language, history, visual and performing arts, and crafts.

(2) The term ''Native Hawaiian art and culture'' includes the traditional and contemporary expressions of Native Hawaiian language, history, visual and performing arts, and crafts.

(3) The term ''Institute'' means the Institute of American Indian and Alaska Native Culture and Arts Development established by this chapter.

(4) The term ''Indian'' means any person who is a member of an Indian tribe.

(5) The term ''Indian tribe'' means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]), which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(6) The term ''Native Hawaiian'' means any descendent of a person who, prior to 1778, was a native of the Hawaiian Islands.

(7) The term ''Secretary'' means the Secretary of the Interior.

(8) The term ''Board'' means the Board of Trustees of the Institute established under this chapter.

(Pub. L. 99–498, title XV, § 1503, Oct. 17, 1986, 100 Stat. 1600.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (5), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

SUBCHAPTER I—AMERICAN INDIANS AND ALASKA NATIVES

§ 4411. Establishment of Institute

(a) In general

There is hereby established a corporation to be known as the ''Institute of American Indian and Alaska Native Culture and Arts Development'', which shall be under the direction and

control of a Board of Trustees established under section 4412 of this title.

(b) Succession and amendment of charter

The corporation established under subsection (a) of this section shall have succession until dissolved by Act of Congress. Only the Congress shall have the authority to revise or amend the charter of such corporation.

(Pub. L. 99–498, title XV, § 1504, Oct. 17, 1986, 100 Stat. 1601.)

AVAILABILITY OF FISCAL YEAR 1988 APPROPRIATIONS

Pub. L. 100–202, § 101(g) [title I, § 100], Dec. 22, 1987, 101 Stat. 1329–213, 1329–228, provided: ''That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act [this chapter], the amounts appropriated for fiscal year 1988 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available to operate the Institute until the Board of Regents and President of the Institute have been named and had an opportunity to organize, and for use under part A of that Act [this subchapter].''

AVAILABILITY OF APPROPRIATIONS; IMPLEMENTATION OF CHAPTER; INTERIM AUTHORITY OF SECRETARY

Pub. L. 99–500, § 101(h) [title I, § 100], Oct. 18, 1986, 100 Stat. 1783–242, 1783–255, and Pub. L. 99–591, § 101(h) [title I, § 100], Oct. 30, 1986, 100 Stat. 3341–242, 3341–255, provided: ''That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act [this chapter], the amounts appropriated for fiscal year 1987 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available for use under part A of that Act [this subchapter] and—

''(1) that Act shall be implemented in a reasonable period of time and shall be fully implemented by no later than October 1, 1987,

''(2) until the earlier of—

''(A) October 1, 1987, or

''(B) the appointment and confirmation of a majority of the members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development under section 1505(a)(1)(A) of that Act [20 U.S.C. 4412(a)(1)(A)],

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

''(3) until the earlier of—

''(A) October 1, 1987, or

''(B) the appointment of a President of such Institute under section 1508 of that Act [20 U.S.C. 4415],

the Secretary of the Interior shall have the authority conferred upon such members under that Act, and

''(3) [(4)] until the earlier of—

''(A) October 1, 1987, or

''(B) the appointment of a President of such Institute under section 1508 of that Act,

the Secretary of the Interior shall have the authority conferred upon the President of such Institute under this [that] Act''.

§ 4412. Board of Trustees

(a) Composition

(1) The Board of Trustees of the Institute shall be composed of 13 voting members and 6 nonvoting members as follows:

(A) Subject to the provisions of subsection (i) of this section, the voting members shall be appointed by the President of the United States by and with the advice and consent of the Senate, not later than 180 days after October 17, 1986, from among individuals from private life who are Indians, or other individuals, widely recognized in the field of Indian art and culture and who represent diverse political views, and diverse fields of expertise, including finance, law, fine arts, and higher education administration.

(B) The nonvoting members shall consist of—

(i) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives;

(ii) 2 Members of the Senate appointed by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader of the Senate;

(iii) the President of the Institute, ex officio; and

(iv) the president of the student body of the Institute, ex officio.

(2) In making appointments pursuant to paragraph (1)(A), the President of the United States shall—

(A) consult with the Indian tribes and the various organizations of Indians;

(B) publish in the Federal Register an announcement of the expiration of terms no less than 4 months before such expiration;

(C) solicit nominations from Indian tribes and various Indian organizations to fill the vacancies;

(D) give due consideration to the appointment of individuals who will provide appropriate regional and tribal representation on the Board; and

(E) ensure that a majority of the Board appointed under paragraph (1)(A) are Indians.

(3) The President shall carry out the activities described in subparagraphs (B) and (C) of paragraph (2) through the Board. The Board may make recommendations based upon the nominations received, may make recommendations of its own, and may review and make comments to the President or the President's appointed staff on individuals being considered by the President for whom no nominations have been received.

(4) Members of Congress appointed under this section, or their designees, shall be entitled to attend all meetings of the Board and to provide advice to the Board on any matter relating to the Institute.

(b) Terms of office

(1) Except as otherwise provided in this section, members shall be appointed for terms of office of 6 years.

(2) The terms of office on the Board for the Members of the House of Representatives and of the Senate shall expire at the end of the congressional term of office during which such Member or Senator was appointed to the Board.

(3) Of the members of the Board first appointed under subsection (a)(1)(A) of this section—

(A) 4 shall be appointed for terms of office of 2 years;

(B) 4 shall be appointed for terms of office of 4 years; and

(C) 5 shall be appointed for terms of office of 6 years,

as determined by the drawing of lots during the first meeting of the Board.

(4) No member of the Board appointed under subsection (a)(1)(A) of this section shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(c) Vacancies

Any member of the Board appointed under subsection (a) of this section to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the Board appointed under subsection (a)(1)(B) of this section, a replacement shall be appointed in the same manner in which the original appointment was made.

(d) Removal

No member of the Board may be removed during the term of office of such member except for just and sufficient cause.

(e) Chairman and Vice Chairman

The President of the United States shall designate the initial Chairman and Vice Chairman of the Board from among the members of the Board appointed pursuant to subsection (a)(1)(A) of this section. Such Chairman and Vice Chairman so designated shall serve for 12 calendar months. Thereafter, the Chairman and Vice Chairman shall be elected from among the members of the Board appointed pursuant to subsection (a)(1)(A) of this section and shall serve for terms of 2 years. In the case of a vacancy in the office of Chairman or Vice Chairman, such vacancy shall be filled by the members of the Board appointed pursuant to subsection (a)(1)(A) of this section, and the member filling such vacancy shall serve for the remainder of the unexpired term.

(f) Quorum

Unless otherwise provided by the bylaws of the Institute, a majority of the members appointed under subsection (a)(1)(A) of this section shall constitute a quorum.

(g) Powers

The Board is authorized—

(1) to formulate the policy of the Institute;

(2) to direct the management of the Institute; and

(3) to make such bylaws and rules as it deems necessary for the administration of its functions under this chapter, including the organization and procedures of the Board.

(h) Compensation

Members of the Board appointed pursuant to subsection (a)(1)(A) of this section shall, for each day they are engaged in the performance of the duties under this chapter, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular places of business, shall be allowed travel expenses (including per diem in lieu of subsistence), as authorized by section 5703 of title 5 for persons in Government service employed intermittently.

(i) Appointment exception for continuity

(1) In order to maintain the stability and continuity of the Board, the Board shall have the power to recommend the continuation of members on the Board pursuant to the provisions of this subsection. When the Board makes such a recommendation, the Chairman of the Board shall transmit the recommendation to the President no later than 75 days prior to the expiration of the term of the member.

(2) If the President has not transmitted to the Senate a nomination to fill the position of a member covered by such a recommendation within 60 days from the date that the member's term expires, the member shall be deemed to have been reappointed for another full term to the Board, with all the appropriate rights and responsibilities.

(3) This subsection shall not be construed to permit less than 7 members of the Board to be Indians. If an extension of a term under paragraph (2) would result in less than 7 members being Indians, the term of the member covered by paragraph (2) shall be deemed to expire 60 days after the date upon which it would have been deemed to expire without the operation of this subsection, except that the provisions of subsection (b)(4) of this section, relating to continuation of service pending replacement, shall continue to apply.

(Pub. L. 99–498, title XV, § 1505, Oct. 17, 1986, 100 Stat. 1601; Pub. L. 102–325, title XIII, § 1331(a), July 23, 1992, 106 Stat. 805.)

AMENDMENTS

1992—Subsec. (a)(1)(A). Pub. L. 102–325, § 1331(a)(1), substituted ''Subject to the provisions of subsection (i) of this section, the voting'' for ''The voting'' and inserted before period at end '', and diverse fields of expertise, including finance, law, fine arts, and higher education administration''.

Subsec. (a)(3), (4). Pub. L. 102–325, § 1331(a)(2), (3), added par. (3) and redesignated former par. (3) as (4).

Subsec. (i). Pub. L. 102–325, § 1331(a)(4), added subsec. (i) and struck out former subsec. (i) which read as follows: ''(i) REVIEW BY SECRETARY OF THE INTERIOR.—For so long as any employee of the Institute is covered under title 5, the Board (acting by majority vote) shall submit final decisions relating to personnel to the Secretary of the Interior. Each such decision shall become final 30 days after the date of its receipt by the Secretary unless the Secretary disapproves of such decision. The Secretary may only disapprove a decision of the Board for just cause.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

DELEGATION OF AUTHORITY

Memorandum of President of the United States, Feb. 22, 1991, 56 F.R. 8099, provided:

Memorandum for the Chairman of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development

By the authority vested in me as President of the United States by section 301 of Title 3 of the United States Code, I hereby delegate to the Chairman of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development the responsibility under section 1505(a)(2)(B) of P.L. 99–498 (20 U.S.C. 4412(a)(2)(B)) to publish in the Federal Register an announcement of the expiration of the terms of

the presidentially appointed members of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development no less than 4 months prior to their expiration. The authority delegated by this memorandum may be further redelegated within the Institute.

The delegation of authority to the Secretary of the Interior by memorandum of June 22, 1988, is hereby rescinded.

This memorandum shall be published in the Federal Register.

GEORGE BUSH.

§ 4413. Executive Board

(a) Composition

The Board shall have an Executive Board composed of—

(1) the chairman of the Board;

(2) the vice chairman of the Board;

(3) the secretary of the Board;

(4) the treasurer of the Board; and

(5) an at-large member of the Board elected by the Board at its initial meeting.

(b) Vacancies

In the case of any vacancy which occurs in the position of at-large member before the expiration of such member's term, the Board shall elect a replacement to complete that term.

(c) Meetings

The Executive Board shall hold not more than 4 regular meetings per calendar year. Special meetings may be held upon the call of the chairman or 3 members of the Executive Board.

(d) Quorum

A majority of the Executive Board shall constitute a quorum.

(e) Powers

The Executive Board may hold and use all the powers of the Board, subject to the approval of the Board.

(Pub. L. 99–498, title XV, § 1506, Oct. 17, 1986, 100 Stat. 1603.)

§ 4414. General powers of Board

(a) In general

In carrying out the provisions of this chapter, the Board shall have the power, consistent with the provisions of this chapter—

(1) to adopt, use, and alter a corporate seal;

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contract[1] without regard to section 3324 of title 31;

(3) any other provision of law to the contrary notwithstanding, to enter into joint development ventures with public or private commercial or noncommercial entities for development of facilities to meet the plan required under section 4426 of this title, if the ventures are related to and further the mission of the Institute;

(4) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(6) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this chapter and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense);

(7) to use the United States mails on the same terms and conditions as the executive departments of the United States Government;

(8) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5 and to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(9) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(10) to receive grants from, and enter into contracts and other arrangements with, Federal, State, or local governments, public and private agencies, organizations, institutions, and individuals;

(11) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Board to carry out the purpose of this chapter;

(12) to the extent not already provided by law, to obtain insurance to cover all activities of the Institute, including coverage relating to property and liability, or make other provisions against losses;

(13) to use any funds or property received by the Institute to carry out the purpose of this chapter, including the authority to designate on an annual basis a portion, not to exceed 10 percent, of the funds appropriated pursuant to section 4451 of this title for investment, without regard to any other provision of law regarding investment or disposition of federally appropriated funds, on a short-term basis for the purpose of maximizing yield and liquidity of such funds; and

(14) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this chapter and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

(b) Accounting for non-Federal funds

Any funds received by, or under the control of, the Institute that are not Federal funds shall be accounted for separately from Federal funds.

(c) Interest and investments

Interest and earnings on amounts received by the Institute pursuant to section 4451 of this title invested under subsection (a)(12)[2] of this

[1] So in original. Probably should be ''contracts''.

[2] See References in Text note below.

section shall be the property of the Institute and shall be expended to carry out this chapter. The Board shall be held to a reasonable and prudent standard of care, given such information and circumstances as existed when the decision is made, in decisions involving investment of funds under subsection (a)(12)[2] of this section.

(Pub. L. 99–498, title XV, § 1507, Oct. 17, 1986, 100 Stat. 1603; Pub. L. 100–297, title V, § 5406(e), Apr. 28, 1988, 102 Stat. 418; Pub. L. 101–644, title V, § 501, Nov. 29, 1990, 104 Stat. 4668; Pub. L. 102–325, title XIII, § 1331(b), July 23, 1992, 106 Stat. 806; Pub. L. 103–208, § 2(*l*), Dec. 20, 1993, 107 Stat. 2486.)

REFERENCES IN TEXT

Subsection (a)(12) of this section, referred to in subsec. (c), was redesignated subsec. (a)(13) of this section, repealed, and a new subsec. (a)(13) added by Pub. L. 102–325, title XIII, § 1331(b)(1)(A), (C), July 23, 1992, 106 Stat. 806, and former subsec. (a)(11) of this section was redesignated subsec. (a)(12).

AMENDMENTS

1993—Subsec. (a)(12). Pub. L. 103–208 substituted semicolon for period at end.

1992—Subsec. (a)(2). Pub. L. 102–325, § 1331(b)(1)(B), added par. (2) and struck out former par. (2) which read as follows: ''to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31;''.

Subsec. (a)(3) to (12). Pub. L. 102–325, § 1331(b)(1)(A), (B), added par. (3) and redesignated former pars. (3) to (11) as (4) to (12), respectively. Former par. (12) redesignated (13).

Subsec. (a)(13). Pub. L. 102–325, § 1331(b)(1)(C), added par. (13) and struck out former par. (13) which read as follows: ''to use any funds or property received by the Institute to carry out the purpose of this chapter; and''.

Pub. L. 102–325, § 1331(b)(1)(A), redesignated par. (12) as (13). Former par. (13) redesignated (14).

Subsec. (14). Pub. L. 102–325, § 1331(b)(1)(A), redesignated par. (13) as (14).

Subsec. (c). Pub. L. 102–325, § 1331(b)(2), substituted ''shall be expended'' for ''may be expended''.

1990—Subsec. (a)(11). Pub. L. 101–644, § 501(b), amended par. (11) generally. Prior to amendment, par. (11) read as follows: ''to obtain insurance or make other provisions against losses;''.

Subsec. (c). Pub. L. 101–644, § 501(a), added subsec. (c).

1988—Pub. L. 100–297 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–208 effective as if included in the Higher Education Amendments of 1992, Pub. L. 102–325, except as otherwise provided, see section 5(a) of Pub. L. 103–208, set out as a note under section 1051 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.

§ 4415. President of Institute

(a) Appointment

The Institute shall have a President who shall be appointed by the Board. The President of the Institute shall serve as the chief executive officer of the Institute. Subject to the direction of the Board and the general supervision of the Chairman of the Board, the President of the Institute shall have the responsibility for carrying out the policies and functions of the Institute and shall have authority over all personnel and activities of the Institute.

(b) Compensation

The President of the Institute shall be paid at a rate not to exceed the maximum rate of basic pay payable for grade GS–18 of the General Schedule.

(Pub. L. 99–498, title XV, § 1508, Oct. 17, 1986, 100 Stat. 1604.)

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 4416. Staff of Institute

(a) Exemption from civil service

Except as otherwise provided in this section, title 5 shall not apply to the Institute.

(b) Appointment and compensation

(1) The President of the Institute, with the approval of the Board, shall have the authority to appoint, fix the compensation of (including health and retirement benefits), and prescribe the duties of, such officers and employees as the President of the Institute deems necessary for the efficient administration of the Institute.

(2) The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications and positions, to whom chapter 51 of title 5 applies. If the Board determines that such action is necessary for purposes of recruitment or retention of officers or employees necessary to the functions of the Institute, the Board is authorized, by formal action, to establish a rate of, or a range for, basic compensation that is comparable to the rate of compensation paid to officers or employees having similar duties and responsibilities in other institutions of higher education.

(3)(A) Not later than 180 days after the President of the Institute is appointed, the President of the Institute shall make policies and procedures governing—

(i) the establishment of positions at the Institute,

(ii) basic compensation for such positions (including health and retirement benefits),

(iii) entitlement to compensation,

(iv) conditions of employment,

(v) discharge from employment,

(vi) the leave system, and

(vii) such other matters as may be appropriate.

(B) Rules and regulations promulgated with respect to discharge and conditions of employment shall require—

(i) that procedures be established for the rapid and equitable resolution of grievances of such individuals; and

(ii) that no individual may be discharged without notice of the reasons therefor and an opportunity for a hearing under procedures that comport with the requirements of due process.

(c) Appeal to Board

Any officer or employee of the Institute may appeal to the Board any determination by the President of the Institute to not re-employ or to discharge such officer or employee. Upon appeal, the Board may, in writing, overturn the determination of the President of the Institute with respect to the employment of such officer or employee.

(d) No reduction in classification or compensation

Individuals who elect to remain civil service employees shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions and personnel, except that any such transfer shall not result in a reduction in classification or compensation with respect to any such individual for at least one year after the date on which such transfer occurs.

(e) Leave

(1) Any individual who—

(A) elects under subsection (g) of this section to be covered under the provisions of this section, or

(B) is an employee of the Federal Government and is transferred or reappointed, without a break in service, from a position under a different leave system to the Institute,

shall be credited for purposes of the leave system provided under rules and regulations promulgated pursuant to subsection (b) of this section, with the annual and sick leave to the credit of such individual immediately before the effective date of such election, transfer, or reappointment.

(2) Upon termination of employment with the Institute, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, except that leave earned or accrued under rules and regulations promulgated pursuant to subsection (b) of this section shall not be so liquidated.

(3) In the case of any individual who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the rules and regulations promulgated pursuant to subsection (b) of this section shall be transferred to the credit of such individual in the employing agency on an adjusted basis in accordance with the rules and regulations which shall be promulgated by the Office of Personnel Management.

(f) Applicability

(1) This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsections (d) and (g) of this section, the enactment of this chapter shall not affect—

(A) the continued employment of any individual employed before October 17, 1986; or

(B) such individual's right to receive the compensation attached to such position.

(2) This section shall not apply to an individual whose services are procured by the Institute pursuant to a written procurement contract.

(3) This section shall not apply to employees of an entity performing services pursuant to a written contract with the Institute.

(g) Termination of civil service positions

(1) On June 30, 1989, any position at the Institute which is occupied by an individual in the civil service shall terminate. During such period, such individual may make an irrevocable election to be covered under the provisions of this section, except that any such individual who is subject to subchapter III of chapter 83 of title 5 may elect to continue to be subject to such subchapter, and any such individual who is subject to chapter 84 of such title may elect to continue to be subject to such chapter.

(2) Any individual who makes an election under paragraph (1) to continue to be subject to subchapter III of chapter 83 of title 5 or chapter 84 of such title shall, so long as continually employed by the Institute without a break in service subject to such subchapter or such chapter 84, as the case may be, continue to be treated as an employee subject to such subchapter or such chapter 84, as the case may be. Employment by the Institute without a break of continuity in service shall be considered to be employment by the United States Government for the purpose of such subchapter or such chapter 84, as the case may be. The Institute shall be responsible for making the contributions required to be made by an employing agency under such subchapter or such chapter 84, as the case may be.

(h) Collective bargaining

The Institute shall be considered an agency for the purpose of chapter 71 of title 5.

(i) Workmen's compensation

Employees of the Institute shall receive compensation for work injuries and illnesses in accordance with chapter 81 of title 5.

(Pub. L. 99–498, title XV, § 1509, Oct. 17, 1986, 100 Stat. 1604; Pub. L. 100–297, title V, § 5406(a), Apr. 28, 1988, 102 Stat. 417; Pub. L. 102–325, title XIII, § 1331(c), July 23, 1992, 106 Stat. 806; Pub. L. 103–382, title III, § 386(a), Oct. 20, 1994, 108 Stat. 4020.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (b)(2), is set out under section 5332 of Title 5, Government Organization and Employees.

AMENDMENTS

1994—Subsec. (f). Pub. L. 103–382 amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: ''This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsections (d) and (g) of this section, the enactment of this chapter shall not affect—

''(1) the continued employment of any individual employed immediately before October 17, 1986, or

''(2) such individual's right to receive the compensation attached to such position.''

1992—Subsec. (b)(2). Pub. L. 102–325 amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5 applies.''

1988—Subsec. (g)(1). Pub. L. 100–297 substituted ''On June 30, 1989'' for ''At the end of the 2-year period beginning on the date referred to in section 4421(f) of this title''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.

§ 4417. Functions of Institute

(a) Primary functions

The primary functions of the Institute shall be—

(1) to provide scholarly study of, and instruction in, Indian art and culture, and

(2) to establish programs which culminate in the awarding of degrees in the various fields of Indian art and culture.

(b) Administrative entities

(1) The Board shall be responsible for establishing the policies and internal organization that relate to the control and monitoring of all subdivisions, administrative entities, and departments of the Institute.

(2) The specific responsibilities of each subdivision, entity, and department of the Institute are solely within the discretion of the Board, or its designee.

(3) The Board shall establish, within the Institute, departments for the study of culture and arts and for research and exchange, and a museum. The Board shall establish the areas of competency for the departments created under this paragraph, which may include (but are not limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature and Museology and a learning resources center, programs of institutional support and development, research programs, fellowship programs, seminars, publications, scholar-in-residence programs and inter-institutional programs of cooperation at national and international levels.

(c) Other programs

In addition to the centers and programs described in subsection (b) of this section, the Institute shall develop such programs and centers as the Board determines are necessary to—

(1) foster research and scholarship in Indian art and culture through—

(A) resident programs;

(B) cooperative programs; and

(C) grant programs;

(2) complement existing tribal programs for the advancement of Indian art and culture; and

(3) coordinate efforts to preserve, support, revitalize, and develop evolving forms of Indian art and culture.

(Pub. L. 99–498, title XV, § 1510, Oct. 17, 1986, 100 Stat. 1606; Pub. L. 101–644, title V, § 502, Nov. 29, 1990, 104 Stat. 4668; Pub. L. 102–325, title XIII, § 1331(d), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–325 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''There shall be established within the Institute—

''(1) a Center for Culture and Art Studies to be administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include (but not be limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature, and Museology;

''(2) a Center for Research and Cultural Exchange, administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include—

''(A) a learning resources center;

''(B) programs of institutional support and development;

''(C) research programs;

''(D) fellowship programs;

''(E) seminars;

''(F) publications;

''(G) scholar-in-residence and artist-in-residence programs; and

''(H) inter-institutional programs of cooperation at national and international levels; and

''(3) a Museum of American Indian and Alaska Native Arts, which shall be under the direction of the President of the Institute.''

1990—Subsec. (b)(2). Pub. L. 101–644, § 502(1), redesignated subpars. (B) to (I) as (A) to (H), respectively, and struck out former subpar. (A) which related to a museum of Indian arts.

Subsec. (b)(3). Pub. L. 101–644, § 502(2)–(4), added par. (3).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 4418. Indian preference

(a) In general

Notwithstanding any other provision of Federal or State law, the Institute is authorized to develop a policy or policies for the Institute to extend preference to Indians in—

(1) admissions to, and enrollment in, programs conducted by the Institute,

(2) employment by the Institute, and

(3) contracts, fellowships, and grants awarded by the Institute.

(b) Hiring preference

In carrying out section 4416(b)(1) of this title, the President of the Institute shall, to the maximum extent practicable, give preference in hiring to Indians.

(Pub. L. 99–498, title XV, § 1511, Oct. 17, 1986, 100 Stat. 1607; Pub. L. 102–325, title XIII, § 1331(e), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–325 inserted ''develop a policy or policies for the Institute to'' after ''is authorized to''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 4419. Nonprofit and nonpolitical nature of Institute

(a) Stock

The Institute shall have no power to issue any shares of stock or to declare or pay any dividends.

(b) Nonprofit nature

No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) Nonpolitical nature

The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(Pub. L. 99–498, title XV, § 1512, Oct. 17, 1986, 100 Stat. 1607.)

§ 4420. Tax status; tort liability

(a) Tax status

The Institute and the franchise, capital, reserves, income, and property of the Institute shall be exempt from all taxation now or hereafter imposed by the United States, by any Indian tribe, or by any State or political subdivision thereof.

(b) Tort liability

(1) The Institute shall be subject to liability relating to tort claims only to the extent a Federal agency is subject to such liability under chapter 171 of title 28.

(2) For purposes of chapter 171 of title 28, the Institute shall be treated as a Federal agency (within the meaning of section 2671 of such title).

(3) For purposes of chapter 171 of title 28, the President of the Institute shall be deemed the head of the Agency.

(Pub. L. 99–498, title XV, § 1513, Oct. 17, 1986, 100 Stat. 1608; Pub. L. 100–446, title II, Sept. 27, 1988, 102 Stat. 1818.)

AMENDMENTS

1988—Pub. L. 100–446 inserted ''; tort liability'' in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsec. (b).

§ 4421. Transfer of functions

(a) Institute of American Indian Arts

There are hereby transferred to the Institute of American Indian and Alaska Native Culture and Art Development, and such Institute shall perform, the functions of the Institute of American Indian Arts established by the Secretary in 1962.

(b) Certain matters relating to transferred functions

(1) Subject to subsection (d) of this section, all personnel, liabilities, contracts, real property (including the collections of the museum located on the site known as the ''Santa Fe Indian School'' but not the museum building), personal property, assets, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of this chapter (regardless of the administrative entity providing the services on the date before the transfer) shall be transferred to the Institute.

(2) Personnel engaged in functions transferred by this chapter shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that such transfer shall be without reduction in classification or compensation for one year after such transfer.

(c) References in other laws

All laws and regulations relating to the Institute of American Indian Arts established by the Secretary in 1962 shall, insofar as such laws and regulations are appropriate, and not inconsistent with the provisions of this chapter, remain in full force and effect and apply with respect to the Institute. All references in any other Federal law to the Institute of American Indian Arts, or any officer transferred to the Institute of American Indian and Alaska Native Culture and Arts Development under subsection (b) of this section, shall be deemed to refer to the Institute of American Indian and Alaska Native Culture and Arts Development or an officer of the Institute of American Indian and Alaska Native Culture and Arts Development.

(d) Forgiveness of amounts owed; hold harmless

(1) Subject to paragraph (2)—

(A) the Institute shall be responsible for all obligations of the Institute incurred after June 2, 1988, and

(B) the Secretary shall be responsible for all obligations of the Institute incurred on or before June 2, 1988, including those which accrued by reason of any statutory, contractual, or other reason prior to June 2, 1988, which became payable within two years of June 2, 1988.

(2) With respect to all programs of the Federal Government, in whatever form or from whatever source derived, the Institute shall only be held responsible for actions and requirements, either administrative, regulatory, or statutory in nature, for events which occurred after July 1, 1988, including the submission of reports, audits, and other required information. The United States may not seek any monetary damages or repayment for the commission of events, or omission to comply with either administrative or regulatory requirements, for any action which occurred prior to June 2, 1988.

(Pub. L. 99–498, title XV, § 1514, Oct. 17, 1986, 100 Stat. 1608; Pub. L. 100–153, § 8, Nov. 5, 1987, 101 Stat. 887; Pub. L. 100–297, title V, § 5406(d), Apr. 28, 1988, 102 Stat. 418; Pub. L. 101–644, title V, § 503, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102–325, title XIII, § 1331(f), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (b)(1). Pub. L. 102–325, § 1331(f)(1), substituted ''Subject to subsection (d) of this section, all personnel'' for ''All personnel''.

Subsec. (d)(2). Pub. L. 102–325, § 1331(f)(2), substituted ''monetary damages'' for ''monetary damage''.

1990—Subsec. (d). Pub. L. 101–644, § 503, added subsec. (d) and struck out former subsec. (d) which read as follows: ''Unless the Board provides otherwise, the Secretary of the Interior shall, until October 1, 1989, provide such technical and support assistance to the Institute as the Secretary determines reasonable or necessary to assist the Institute. Such assistance shall include audit, accounting, computer services, and building and maintenance services.''

Subsecs. (e), (f). Pub. L. 101–644, § 503(1), struck out subsec. (e) which related to completion of transfers, final date of control of Institute by Secretary, payment of unexpended or unobligated funds, and responsibility for subsequently incurred obligations, and subsec. (f) which related to contract with University of New Mexico, terms of contract, and composition of advisory council.

1988—Subsec. (e)(3), (4). Pub. L. 100–297 added pars. (3) and (4).

1987—Subsec. (d). Pub. L. 100–153, § 8(1), (2), substituted ''Unless the Board provides otherwise'' for ''During the 2-year period beginning on the date referred to in subsection (f) of this section'' and inserted '', until October 1, 1989,'' after ''Secretary of the Interior shall''.

Subsec. (e). Pub. L. 100–153, § 8(3), added subsec. (e) and struck out former subsec. (e) which read as follows: ''During the period beginning on October 17, 1986, and ending on the date referred to in subsection (f) of this section, the Advisory Board for Institute of American Indian Arts shall continue to act in an advisory role for the Board and the Institute of American Indian and Alaska Native Culture and Arts Development.''

Subsec. (f). Pub. L. 100–153, § 8(3), added subsec. (f) and struck out former subsec. (f) which read as follows: ''The provisions of this section (other than subsection (e) of this section) shall take effect on October 1, 1986.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.

§ 4422. Reports

(a) Annual report

The President of the Institute shall submit an annual report to the Congress and to the Board concerning the status of the Institute during the 12 calendar months preceding the date of the report. Such report shall include, among other matters, a detailed statement of all private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period and the disposition thereof as well as any recommendations for improving the Institute.

(b) Budget proposal

(1) After September 30, 1988 and for each fiscal year thereafter, the Board shall submit a budget proposal to the Congress.

(2) A budget proposal under this subsection shall be submitted not later than April 1 of each calendar year and shall propose a budget for the Institute for the 2 fiscal years succeeding the fiscal year during which such proposal is submitted.

(3) In determining the amount of funds to be appropriated to the Institute on the basis of such proposals, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

(Pub. L. 99–498, title XV, § 1515, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 100–297, title V, § 5406(f), Apr. 28, 1988, 102 Stat. 418; Pub. L. 102–325, title XIII, § 1331(g), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–325 redesignated pars. (2) to (4) as (1) to (3), respectively, and struck out former par. (1) which read as follows: ''Prior to October 1, 1988, the Board shall submit a budget proposal to the Secretary of the Interior. The Secretary shall submit that proposal to the Congress.''

1988—Subsec. (b)(1). Pub. L. 100–297, § 5406(f)(1), substituted ''Prior to October 1, 1988'' for ''During the 2-year period beginning on the date referred to in section 4421(f) of this title''.

Subsec. (b)(2). Pub. L. 100–297, § 5406(f)(2), substituted ''September 30, 1988'' for ''the period described in paragraph (1)''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a) of this section relating to submitting an annual report to Congress, and provisions in subsec. (b) of this section relating to submitting annual budget proposal to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 201 of House Document No. 103–7.

§ 4423. Headquarters

Santa Fe, New Mexico, shall be maintained as the location for the Institute of Indian and Alaska Native Culture and Arts Development. To facilitate this action and the continuity of programs being provided at the Institute of American Indian Arts, the Board may enter into negotiations with State and local governments for such exchanges or transfers of lands and such other assistance as may be required.

(Pub. L. 99–498, title XV, § 1516, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 102–325, title XIII, § 1331(h), July 23, 1992, 106 Stat. 807.)

AMENDMENTS

1992—Pub. L. 102–325 struck out ''The site of the Institute of American Indian Arts, at'' before ''Santa Fe, New Mexico'' and substituted ''the Board may enter'' for ''the Secretary may enter''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

§ 4424. Compliance with other Acts

(a) In general

The Institute shall comply with the provisions of—

(1) Public Law 95–341 (42 U.S.C. 1996 [, 1996a]), popularly known as the American Indian Religious Freedom Act,

(2) the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and

(3) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(b) Criminal laws

All Federal criminal laws relating to larceny, embezzlement, or conversion of the funds or the property of the United States shall apply to the funds and property of the Institute.

(c) Other Federal assistance

(1) Funds received by the institute[1] pursuant to this chapter[2] shall not be regarded as Federal money for purposes of meeting any matching requirements for any Federal grant, contract or cooperative agreement.

(2) The Institute shall not be subject to any provision of law requiring that non-Federal funds or other moneys be used in part to fund any grant, contract, cooperative agreement, or project as a condition to the application for, or receipt of, Federal assistance. This subsection shall not be construed to effect[3] in a negative fashion the review, prioritization, or acceptance of any application or proposal for such a program, solicited or unsolicited.

(Pub. L. 99–498, title XV, §1517, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 101–644, title V, §504, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102–325, title XIII, §1331(i), July 23, 1992, 106 Stat. 808.)

REFERENCES IN TEXT

Public Law 95–341, popularly known as the American Indian Religious Freedom Act, referred to in subsec. (a)(1), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, as amended, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

The Archaeological Resources Protection Act of 1979, referred to in subsec. (a)(2), is Pub. L. 96–95, Oct. 31, 1979, 93 Stat. 721, which is classified generally to chapter 1B (§470aa et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 470aa of Title 16 and Tables.

The National Historic Preservation Act, referred to in subsec. (a)(3), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§470 et seq.) of chapter 1A of Title 16. For complete classification of this Act to the Code, see section 470(a) of Title 16 and Tables.

This chapter, referred to in subsec. (c)(1), was in the original ''this Act'' and was translated as reading ''this title'', meaning title XV of Pub. L. 99–498 to reflect the probable intent of Congress.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–325 designated existing provisions as par. (1) and added par. (2).

1990—Subsec. (c). Pub. L. 101–644 added subsec. (c).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

[1] So in original. Probably should be capitalized.

[2] See References in Text note below.

[3] So in original. Probably should be ''affect''.

§ 4425. Endowment programs

(a) Program enhancement endowment

(1)(A) From the total amount appropriated for this subsection pursuant to section 4451(a) of this title, funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

(B) The President of the Institute shall provide—

(i) for the deposit into the trust fund referred to in subparagraph (A)—

(I) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

(II) any earnings on the funds deposited under this paragraph; or

(ii) for the reservation for the sole use of the Institute of any noncash, in-kind contributions of real or personal property, which property may at any time be converted to cash, which shall be deposited as a capital contribution into the trust fund referred to in subparagraph (A).

(C) If at any time the Institute withdraws any capital contribution (as described in subparagraph (B)(i)) made by the Institute to the trust fund referred to in subparagraph (A) or puts any property (as described in subparagraph (B)(ii)) to a use which is not for the sole benefit of the Institute, an amount equal to the value of the Federal contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

(2) Interest deposited into the trust fund pursuant to paragraph (1)(B)(ii) may be periodically withdrawn and used, at the direction of the Board or its designee, to defray any expense associated with the operation of the Institute, including the expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(3) For the purpose of complying with the contribution requirement of paragraph (1)(B), the Institute may use funds or in-kind contributions of real or personal property fairly valued which are made available from any private or tribal source, including interest earned by the funds invested under this subsection. In-kind contributions shall be other than fully depreciable property or property which is designated for addition to the permanent collection of the Museum and shall be valued according to the procedures established for such purpose by the Secretary of the Treasury. For purposes of this paragraph, all contributions, including in-kind and real estate, which are on-hand as of November 29, 1990 and which have been received after June 2, 1988, but which have not been included in computations under this provision shall be eligible for matching with Federal funds appropriated in any fiscal year. All funds transferred to the Institute by the Secretary of the Treasury after June 2, 1988, shall be deemed to have been properly transferred as of July 23, 1992.

(4) Amounts appropriated under section 4451(a) of this title for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal

to the amount of funds or the value of the in-kind contributions which the Institute demonstrates have been placed within the control of, or irrevocably committed to the use of, the Institute as a capital contribution of the Institute in accordance with this subsection.

(b) Capital improvement endowment

(1) In addition to the trust fund established under subsection (a) of this section, funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution from the amount reserved for this subsection pursuant to section 4451(a) of this title for the purpose of establishing a separate special endowment for capital improvement (hereafter in this subsection referred to as the ''capital endowment fund'') to pay expenses associated with site selection and preparation, site planning and architectural design and planning, new construction, materials and equipment procurement, renovation, alteration, repair, and other building and expansion costs of the Institute.

(2) The President of the Institute shall provide for the deposit into the capital endowment fund of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution and any earnings on amounts in the capital endowment fund.

(3) Funds deposited by the Institute as a match for Federal contributions under paragraph (5) shall remain in the capital endowment fund for a period of not less than two years. If at any time the Institute withdraws any capital contribution to the capital endowment fund before the funds have been deposited for this two-year period, an equal amount of the Federal contribution shall be withdrawn from the capital endowment fund and returned to the Treasury as miscellaneous receipts. At the end of the two-year period, the entire principal and interest of the funds deposited for this period, including the Federal matching portion, shall accrue, without reservation, to the Institute and may be withdrawn, in whole or in part, to defray expenses associated with capital acquisition and improvement of the Institute referred to in paragraph (1).

(4) For the purpose of complying with the contribution requirement of paragraph (2), the Institute may use funds which are available from any private, non-Federal governmental, or tribal source.

(5) Subject to paragraph (3), amounts appropriated under section 4451(a) of this title for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of the Institute in accordance with this subsection.

(6) For the purpose of complying with the contribution requirement in this subsection, the Institute may use funds or in-kind contributions of real or personal property. For the purposes of this paragraph, all contributions, in-kind and real estate, which are held by the Institute beginning on November 29, 1990, and which were received after June 2, 1988, but which have not been included in their entirety in computations under this section shall be eligible for matching Federal funds appropriated in any year.

(c) General administrative provisions

(1) Funds in the trust funds described in subsections (a) and (b) of this section shall be invested under the same conditions and limitations as funds are invested under section 1065(c)(2) of this title and the regulations implementing such section (as such regulations were in effect at the time the funds are invested).

(2) No part of the net earnings of the trust funds established under this section shall inure to the benefit of any private person.

(3) Any amounts deposited in a trust fund authorized under subsection (a) of this section may be used to secure loans procured for the purposes of constructing or improving Institute facilities.

(4) The President of the Institute shall provide for such other provisions governing the trust funds established under this section as may be necessary to protect the financial interest of the United States and to promote the purpose of this chapter as agreed to by the Secretary of the Treasury and the Board or its designee, including recordkeeping procedures for the investment of funds received under the trust fund established under subsection (b) of this section and such other recordkeeping procedures for the expenditure of accumulated interest for the trust fund under subsection (a) of this section as will allow the Secretary of the Treasury to audit and monitor activities under this section.

(Pub. L. 99–498, title XV, § 1518, Oct. 17, 1986, 100 Stat. 1609; Pub. L. 100–297, title V, § 5406(b), Apr. 28, 1988, 102 Stat. 417; Pub. L. 101–644, title V, § 505, Nov. 29, 1990, 104 Stat. 4669; Pub. L. 102–325, title XIII, § 1331(j), July 23, 1992, 106 Stat. 808; Pub. L. 103–382, title III, § 386(b), Oct. 20, 1994, 108 Stat. 4020.)

AMENDMENTS

1994—Subsec. (b)(6). Pub. L. 103–382, § 386(b)(1), added par. (6).

Subsec. (c)(1). Pub. L. 103–382, § 386(b)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Funds in the trust funds described in subsections (a) and (b) of this section shall be invested at a rate not less than that generally available for similar funds deposited at the same banking institution for the same period or periods of time.''

1992—Subsec. (a)(3). Pub. L. 102–325, § 1331(j)(1)(A), substituted ''November 29, 1990'' for ''the date of enactment of this Act''.

Pub. L. 102–325, § 1331(j)(1)(B), inserted at end ''All funds transferred to the Institute by the Secretary of the Treasury after June 2, 1988, shall be deemed to have been properly transferred as of July 23, 1992.''

Subsec. (b)(4). Pub. L. 102–325, § 1331(j)(2), inserted '', non-Federal governmental,'' after ''any private''.

Subsec. (c)(3), (4). Pub. L. 102–325, § 1331(j)(3), added par. (3) and redesignated former par. (3) as (4).

1990—Pub. L. 101–644 amended section generally, substituting present provisions consisting of subsecs. (a) to (c) for former text which provided: in subsec. (a), establishment of program; in subsec. (b), use of funds; in subsec. (c), compliance with matching requirement; and in subsec. (d), payment of Federal contribution.

1988—Subsec. (a)(1). Pub. L. 100–297, § 5406(b)(1), substituted ''From amounts appropriated under section 4451(a) of this title, not more than $500,000'' for ''From

the amount appropriated pursuant to section 4441(a) of this title, the Secretary shall make available to the Institute not more than $500,000 which''.

Subsec. (d). Pub. L. 100–297, § 5406(b)(2), in subsec. heading substituted ''Payment of Federal contribution'' for ''Allocation of funds'', and in text substituted ''Amounts appropriated under section 4451(a) of this title for use under this section shall be paid by the Secretary of the Treasury to the Institute as'' for ''From the amount appropriated pursuant to section 4441(a) of this title, the Secretary shall allocate to the Institute an amount for''.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–325 effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as a note under section 1001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.

§ 4426. Provision of facilities

(a) Plan

The Board shall prepare a master plan on the short- and long-term facilities needs of the Institute. The master plan shall include evaluation of all facets of existing Institute programs, including support activities and programs and facilities. The master plan shall include impact projections for the Institute's move to a new campus site. This master plan shall evaluate development and construction requirements (based on a growth plan approved by the Board), including (but not limited to) items such as infrastructure and site analysis, development of a phased plan with architectural and engineering studies, cost projections, landscaping, and related studies which cover all facets of the Institute's programs and planned functions.

(b) Deadline for transmittal

The plan required by this subsection shall be transmitted to Congress no later than 18 months after July 23, 1992. Such plan shall include a prioritization of needs, as determined by the Board.

(Pub. L. 99–498, title XV, § 1519, as added Pub. L. 102–325, title XIII, § 1331(k), July 23, 1992, 106 Stat. 808.)

EFFECTIVE DATE

Section effective Oct. 1, 1992, see section 2 of Pub. L. 102–325, set out as an Effective Date of 1992 Amendment note under section 1001 of this title.

SUBCHAPTER II—NATIVE HAWAIIANS AND ALASKA NATIVES

§ 4441. Program for Native Hawaiian and Alaska Native culture and arts development

(a) In general

The Secretary of the Interior is authorized to make grants for the purpose of supporting programs for Native Hawaiian or Alaska Native culture and arts development to any private, nonprofit organization or institution which—

(1) primarily serves and represents Native Hawaiians or Alaska Natives, and

(2) has been recognized by the Governor of the State of Hawaii or the Governor of the State of Alaska, as appropriate, for the purpose of making such organization or institution eligible to receive such grants.

(b) Purpose of grants

Grants made under subsection (a) of this section shall, to the extent deemed possible by the Secretary and the recipient of the grant, be used—

(1) to provide scholarly study of, and instruction in, Native Hawaiian or Alaska Native art and culture,

(2) to establish programs which culminate in the awarding of degrees in the various fields of Native Hawaiian or Alaska Native art and culture, or

(3) to establish centers and programs with respect to Native Hawaiian or Alaska Native art and culture that are similar in purpose to the centers and programs described in subsections (b) and (c) of section 4417 of this title.

(c) Management of grants

(1) Any organization or institution which is the recipient of a grant made under subsection (a) of this section shall establish a governing board to manage and control the program with respect to which such grant is made.

(2) For any grants made with respect to Native Hawaiian art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

(A) be Native Hawaiians or individuals widely recognized in the field of Native Hawaiian art and culture,

(B) include a representative of the Office of Hawaiian Affairs of the State of Hawaii,

(C) include the president of the University of Hawaii,

(D) include the president of the Bishop Museum, and

(E) serve for a fixed term of office.

(3) For any grants made with respect to Alaska Native art and culture, the members of the governing board which is required to be established under paragraph (1) shall—

(A) include Alaska Natives and individuals widely recognized in the field of Alaska Native art and culture,

(B) represent the Eskimo, Indian and Aleut cultures of Alaska, and

(C) serve for a fixed term.

(Pub. L. 99–498, title XV, § 1521, Oct. 17, 1986, 100 Stat. 1610; Pub. L. 103–239, title VII, § 722(2), May 4, 1994, 108 Stat. 606.)

AMENDMENTS

1994—Pub. L. 103–239 amended section generally, substituting provisions relating to development program for Native Hawaiian and Alaska Native culture and arts for provisions relating to development program for Native Hawaiian culture and arts.

§ 4442. Administrative provisions

(a) Payments

The Secretary may award grants under this subchapter in installments, in advance, or by way of reimbursement and may make necessary adjustments in payments of grants on account of overpayments or underpayments.

(b) Recovery of overpayments

(1) If the Secretary or a court of competent jurisdiction finds that—

(A) any person—

(i) has—

(I) made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or

(II) knowingly failed, or caused another to fail, to disclose a material fact; and

(ii) as a result of such action, has received any funds under this subchapter which such person would not have otherwise received, or

(B) any person misappropriates any funds paid by the Secretary under this subchapter,

such person shall be liable to repay the amount of such funds to the United States. Any such finding by the Secretary may be made only after an opportunity for a fair hearing.

(2) Any amount repaid under this subsection shall be returned to the general fund of the Treasury of the United States.

(c) Penalties

Whoever—

(1) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for such person or for any other person any payment of funds provided under this subchapter, or

(2) misappropriates any funds provided under this subchapter,

shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(Pub. L. 99–498, title XV, § 1522, Oct. 17, 1986, 100 Stat. 1611.)

SUBCHAPTER III—AUTHORIZATION OF APPROPRIATIONS

§ 4451. Authorization of appropriations

(a) Subchapter I

(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of subchapter I of this chapter.

(2) Funds appropriated under the authority of paragraph (1) shall remain available without fiscal year limitation.

(3) Except as provided for amounts subject to section 4425(d)[1] of this title, amounts appropriated under the authority of this subsection for fiscal year 1989, and for each succeeding fiscal year, shall be paid to the Institute at the later of—

(A) the beginning of the fiscal year, or

(B) upon enactment of such appropriation.

(4) Funds appropriated under this subsection for the fiscal year 1992 and for each succeeding fiscal year shall be transferred by the Secretary of the Treasury through the most expeditious method available with the Institute being designated as its own certifying agency.

(5) Funds are authorized to be appropriated for programs for more than one fiscal year. For the purpose of affording adequate notice of funding available under this chapter,[1] amounts appropriated in an appropriations Act for any fiscal year to carry out this chapter[1] may, subject to the appropriation, become available for obligations on July 1 of that fiscal year.

(b) Subchapter II

There are authorized to be appropriated for the purpose of carrying out the provisions of subchapter II of this chapter—

(1) for fiscal year 1987, $1,000,000, and

(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.

(Pub. L. 99–498, title XV, § 1531, Oct. 17, 1986, 100 Stat. 1612; Pub. L. 100–297, title V, § 5406(c), Apr. 28, 1988, 102 Stat. 418; Pub. L. 101–644, title V, § 506, Nov. 29, 1990, 104 Stat. 4672.)

REFERENCES IN TEXT

Section 4425 of this title, referred to in subsec. (a)(3), was amended generally by Pub. L. 101–644, title V, § 505, Nov. 29, 1990, 104 Stat. 4669, and, as so amended, provisions similar to subsec. (d) are contained in subsec. (a)(4).

This chapter, referred to in subsec. (a)(5), was in the original ''this Act'' and was translated as reading ''this title'', meaning title XV of Pub. L. 99–498 to reflect the probable intent of Congress.

AMENDMENTS

1990—Subsec. (a)(4), (5). Pub. L. 101–644 added pars. (4) and (5).

1988—Subsec. (a). Pub. L. 100–297 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''There are authorized to be appropriated for the purpose of carrying out the provisions of subchapter I of this chapter—

''(1) for fiscal year 1987, $4,000,000, and

''(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.''

EFFECTIVE DATE OF 1988 AMENDMENT

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.

CHAPTER 57—JAMES MADISON MEMORIAL FELLOWSHIP PROGRAM

Sec.

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§ 4501. Purpose

It is the purpose of this chapter to establish the James Madison Fellowship Program which is designed to encourage graduate study of the American Constitution, its roots, its formation, its principles, and its development.

(Pub. L. 99–500, § 101(b) [title VIII, § 802], Oct. 18, 1986, 100 Stat. 1783–39, 1783–76, and Pub. L. 99–591, § 101(b) [title VIII, § 802], Oct. 30, 1986, 100 Stat. 3341–39, 3341–76.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

SHORT TITLE

Section 101(b) [title VIII, § 801] of Pub. L. 99–500 and Pub. L. 99–591 provided that: ''This title [enacting this chapter] may be cited as the 'James Madison Memorial Fellowship Act'.''

§ 4502. Foundation

(a) Establishment

In order to commemorate the bicentennial of the Constitution, there is established, as an independent establishment of the executive branch, the James Madison Memorial Fellowship Foundation.

(b) Board of Trustees; membership; term of office

(1) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) Two Members of the Senate, of different political parties, shall be appointed by the President upon the recommendation of the President pro tempore of the Senate, in consultation with the Majority Leader and Minority Leader of the Senate.

(B) Two Members of the House of Representatives, of different political parties, shall be appointed by the President upon the recommendation of the Speaker of the House, in consultation with the Minority Leader of the House of Representatives.

(C) Two members of the Federal judiciary shall be appointed by the President upon the recommendation of the Chief Justice of the United States.

(D) Six members, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, two shall be members of the general public, and three shall be members of the academic community, appointed upon the recommendation of the Librarian of Congress.

(E) The Secretary of Education or his designate shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(2) The term of office of each member of the Board shall be six years; except that (A) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (B) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made. This provision shall not apply to members ex officio.

(3) A member of the Board whose term has expired may continue to serve until the earlier of—

(A) the date on which a successor has taken office; or

(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.

(c) Officers

Members of the Board shall elect from the members of the Board a Chairman and such other officers as may be necessary to carry out the duties of the Foundation.

(d) Reimbursement for expenses

(1) Subject to paragraph (2), members of the Board shall serve without pay.

(2) Members of the Board and the President, Executive Secretary, and other personnel of the Foundation shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties at rates applicable to judges of the United States under section 456(a) of title 28.

(Pub. L. 99–500, § 101(b) [title VIII, § 803], Oct. 18, 1986, 100 Stat. 1783–39, 1783–76, and Pub. L. 99–591, § 101(b) [title VIII, § 803], Oct. 30, 1986, 100 Stat. 3341–39, 3341–76; Pub. L. 101–208, § 1, Dec. 7, 1989, 103 Stat. 1836; Pub. L. 102–221, § 1(1), Dec. 11, 1991, 105 Stat. 1676.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1991—Subsec. (b)(3). Pub. L. 102–221 added par. (3).

1989—Subsec. (d). Pub. L. 101–208 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.''

§ 4503. Fellowship recipients

(a) The Foundation is authorized to award fellowships to outstanding students and teachers who will pursue graduate study leading to the degree of Master of Arts in teaching or other appropriate masters degree for teachers, with a

major in social studies or American history. Each recipient must take at least twelve semester hours, or its equivalent in topics directly related to the Constitution of the United States, as determined by the Board.

(b)(1) James Madison fellowships shall be awarded to individuals who are, or who desire to become, social studies and American history teachers in accordance with paragraphs (2) and (3).

(2) Junior fellowships shall be awarded to graduate students who are about to complete or have recently completed their undergraduate course of study, and plan to begin graduate work on a relatively full-time basis.

(3) Senior fellowships shall be awarded to experienced teachers who wish to undertake work for a graduate degree on a part-time basis during summers or in evening programs.

(Pub. L. 99–500, § 101(b) [title VIII, § 804], Oct. 18, 1986, 100 Stat. 1783–39, 1783–77, and Pub. L. 99–591, § 101(b) [title VIII, § 804], Oct. 30, 1986, 100 Stat. 3341–39, 3341–77.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4504. Period for award

Junior fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed two academic years. Senior fellowship shall be granted for such periods as the Foundation may prescribe, but not to exceed five calendar years.

(Pub. L. 99–500, § 101(b) [title VIII, § 805], Oct. 18, 1986, 100 Stat. 1783–39, 1783–77, and Pub. L. 99–591, § 101(b) [title VIII, § 805], Oct. 30, 1986, 100 Stat. 3341–39, 3341–77.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4505. Recipient's choice of institution

Fellowship recipients may attend any institution of higher education in the United States with an accredited graduate program which offers courses of study or training which emphasize the origins of the Constitution of the United States, its principles, its development, and its comparison with other forms of government, as determined according to criteria established by the Foundation.

(Pub. L. 99–500, § 101(b) [title VIII, § 806], Oct. 18, 1986, 100 Stat. 1783–39, 1783–77, and Pub. L. 99–591, § 101(b) [title VIII, § 806], Oct. 30, 1986, 100 Stat. 3341–39, 3341–77.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4506. Recipient's eligibility

Each student awarded a fellowship under this chapter shall demonstrate the potential, and a serious intention, to follow a career of educating students in secondary schools. Each institution of higher education at which such a student is in attendance shall make reasonable efforts to encourage such a student to meet the objectives of this section.

Each student receiving a Fellowship under this chapter[1] shall enter into an agreement under which the recipient shall:

(a) within a 5-year period after completing the education for which the fellowship was awarded, teach on a full-time basis students in secondary school for a period of not less than one year for each year for which asistance[2] was received;

(b) repay all of the Fellowship assistance received plus interest at the rate of 6% per annum and, if applicable, reasonable collection fees for each school year for which assistance was received for which such recipient failed to teach as provided in paragraph (a); and

(c) not be considered to be in violation of the agreement entered into during any period during which the recipient:

(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months; or

(6) is seeking and unable to find full-time employment as a teacher.

(Pub. L. 99–500, § 101(b) [title VIII, § 807], Oct. 18, 1986, 100 Stat. 1783–39, 1783–77, and Pub. L. 99–591, § 101(b) [title VIII, § 807], Oct. 30, 1986, 100 Stat. 3341–39, 3341–77.)

REFERENCES IN TEXT

This chapter, referred to in provisions preceding par. (a), was in the original ''this Act'' and was translated as reading ''this title'' meaning title VIII of section 101(b) of Pub. L. 99–500 and Pub. L. 99–591 which enacted this chapter, to reflect the probable intent of Congress.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4507. Selection of fellowship recipients

(a) Criteria for selection

Madison Fellows shall be selected for their academic achievements and their potential to become secondary school teachers of social studies and American history.

(b) Competition for selection; application

(1) The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the selection of fellowship recipients. Each applicant must have a demonstrated interest in pursuing a course of study which emphasizes the Constitution, its principles, and its history, and have a dem-

[1] See References in Text note below.

[2] So in original. Probably should be ''assistance''.

onstrated record of willingness to devote themselves to civil responsibility.

(2) Each application shall be accompanied by an essay explaining the importance of the study of the Constitution both to the applicant's career aspirations and contributions to public service, and to citizenship generally in a constitutional regime.

(3)(A) Each application shall include a description of a program of study for the graduate program, designating the courses to be taken, and the proposed Master's thesis, where appropriate.

(B) For the purpose of this paragraph, the Board of Trustees of the Foundation shall establish general criteria for programs in constitutional studies.

(c) Regional selection of recipients

The Foundation shall adopt selection procedures which shall assure that at least one Madison Fellow shall be selected each year from each State, the District of Columbia, and the Commonwealth of Puerto Rico, and considered as a single entity, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas in which there are at least two resident applicants who meet the minimum criteria established by the Foundation; and, if sufficient funding is available, to invite applications from scholars overseas for study in the United States.

(Pub. L. 99–500, §101(b) [title VIII, §808], Oct. 18, 1986, 100 Stat. 1783–39, 1783–78, and Pub. L. 99–591, §101(b) [title VIII, §808], Oct. 30, 1986, 100 Stat. 3341–39, 3341–78.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 4508. Amount of fellowships

Each student awarded a fellowship shall receive a stipend which shall not exceed the cost to the student for tuition, fees, books, room and board, or $12,000, whichever is less, for each academic year of study.

(Pub. L. 99–500, §101(b) [title VIII, §809], Oct. 18, 1986, 100 Stat. 1783–39, 1783–78, and Pub. L. 99–591, §101(b) [title VIII, §809], Oct. 30, 1986, 100 Stat. 3341–39, 3341–78.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4509. Fellowship conditions

(a) A student awarded a Madison Fellowship shall continue to receive payments only during such periods as the Foundation finds that the student is maintaining satisfactory progress in an approved program of study or research. Recipients of junior fellowships shall devote essentially full time to their program of study.

(b) The Foundation is authorized to require reports from any fellowship recipient containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in a program of study or research, with such exceptions as the Foundation may establish.

(Pub. L. 99–500, §101(b) [title VIII, §810], Oct. 18, 1986, 100 Stat. 1783–39, 1783–79, and Pub. L. 99–591, §101(b) [title VIII, §810], Oct. 30, 1986, 100 Stat. 3341–39, 3341–79.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4510. James Madison Memorial Fellowship Trust Fund

(a) Establishment

There shall be established in the Treasury of the United States a trust fund consisting of appropriations and amounts contributed by the Foundation for the Commemoration of the Constitution and other private sources to be available, in accordance with the provisions of this chapter, to carry out the provisions of this chapter.

(b) Investment of amounts appropriated

(1) At the request of the Trust Fund, it shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated and contributed to the fund. Such investments may be made only in interest-bearing obligations of the United States issued directly to the fund.

(2) The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations directly to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. All requests of the Trust Fund to the Secretary of the Treasury provided for in this section shall be binding upon the Secretary.

(c) Sale of obligations acquired by fund

At the request of the Trust Fund, the Secretary of the Treasury shall redeem any obligation issued directly to the fund. Obligations issued to the fund under subsection (b)(2) of this section shall be redeemed at par plus accrued interest. Any other obligations issued directly to the fund shall be redeemed at the market price.

(d) Interest and proceeds from sale or redemption of obligations credited to fund

The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

(Pub. L. 99–500, §101(b) [title VIII, §811], Oct. 18, 1986, 100 Stat. 1783–39, 1783–79, and Pub. L. 99–591,

§ 101(b) [title VIII, § 811], Oct. 30, 1986, 100 Stat. 3341–39, 3341–79; Pub. L. 102–221, § 1(2), Dec. 11, 1991, 105 Stat. 1676; Pub. L. 108–7, div. J, title I, § 126, Feb. 20, 2003, 117 Stat. 440.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–7, § 126(1), added heading and text of subsec. (b) and struck out former subsec. (b) which read as follows: ''It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated and contributed to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.''

Subsec. (c). Pub. L. 108–7, § 126(2), added heading and text of subsec. (c) and struck out former subsec. (c) which read as follows: ''Any obligations acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.''

1991—Subsec. (a). Pub. L. 102–221 struck out ''(1)'' before ''There shall be'', substituted ''and other'' for ''an other'' after ''Constitution'', and struck out par. (2) which read as follows: ''No funds in the Trust Fund may be available for fellowships until the contributions from private sources are equal to $10,000,000.''

§ 4511. Expenditures and audit

(a) The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this chapter.

(b) The activities of the Foundation under this chapter may be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 99–500, § 101(b) [title VIII, § 812], Oct. 18, 1986, 100 Stat. 1783–39, 1783–80, and Pub. L. 99–591, § 101(b) [title VIII, § 812], Oct. 30, 1986, 100 Stat. 3341–39, 3341–80; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in two places.

§ 4512. President and Executive Secretary of Foundation

(a)(1) The Board may appoint a President of the Foundation to serve full-time or part-time and for such a term as the Board shall determine.

(2) The President shall carry out such of the functions and duties of the Foundation as the Board may determine, subject to the supervision and direction of the Board.

(3) The President shall be compensated at a rate to be determined by the Board without regard to subchapter III of chapter 53 of title 5, not to exceed the rate for level III of the Executive Schedule under section 5314 of that title.

(4) Sections 5532,[1] 8344, and 8468 of title 5 shall not apply to a person while such person is serving as President of the Foundation.

(b)(1) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board.

(2) The Executive Secretary shall be the chief operating officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board or the President, as determined by the Board.

(3) The Executive Secretary shall be compensated at the rate specified for employees placed in grade GS–18 of the General Schedule set forth in section 5332 of title 5.

(Pub. L. 99–500, § 101(b) [title VIII, § 813], Oct. 18, 1986, 100 Stat. 1783–39, 1783–80, and Pub. L. 99–591, § 101(b) [title VIII, § 813], Oct. 30, 1986, 100 Stat. 3341–39, 3341–80; Pub. L. 101–208, § 2, Dec. 7, 1989, 103 Stat. 1836; Pub. L. 101–557, title V, § 501, Nov. 15, 1990, 104 Stat. 2771; Pub. L. 101–589, title II, § 253, Nov. 16, 1990, 104 Stat. 2895.)

REFERENCES IN TEXT

Section 5532 of title 5, referred to in subsec. (a)(4), was repealed by Pub. L. 106–65, div. A, title VI, § 651(a)(1), Oct. 5, 1999, 113 Stat. 664.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1990—Subsec. (a)(4). Pub. L. 101–557 and Pub. L. 101–589 amended par. (4) identically, striking out at end ''The first sentence of this paragraph shall not, in the case of any individual, apply longer than December 31, 1990.''

1989—Pub. L. 101–208 amended section generally. Prior to amendment, section read as follows:

''(a) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

''(b) The Executive Secretary of the Foundation shall be compensated at the rate specified for employees

[1] See References in Text note below.

placed in grade GS–18 of the General Schedule set forth in section 5332 of title 5.''

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 4513. Administrative provisions

(a) General powers

The Foundation is authorized—

(1) to appoint and fix the compensation of such personnel as may be necessary to carry out this chapter,[1] without regard to the provisions of title 5 governing appointments in the competitive service, but at General Schedule pay rates not in excess of the maximum rate for grade GS–15 of the General Schedule under section 5332 of that title;

(2) to procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 in section 5332 of such title;

(3) to prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) to receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) to enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 5 of title 41;

(7) to make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 3324(a) and (b) of title 31;

(8) to rent office space in the District of Columbia or its environs;

(9) to conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging research and study of constitutionalism in America;

(10) to expend not more than 5 percent of its annual operating budget to pay the costs of fundraising activities, including public and private gatherings; and

(11) to make other necessary expenditures.

(b) Annual report

The foundation[2] shall submit to the President and to the Congress an annual report of its operations under this chapter.

(c) Detailing of agency personnel to Foundation

On request of the Chairman of the Foundation, the head of a Federal agency may detail personnel of the agency to the Foundation to assist the Foundation in carrying out this chapter.[1] Details under this subsection shall be without reimbursement by the Foundation to the agency from which personnel are detailed.

(Pub. L. 99–500, § 101(b) [title VIII, § 814], Oct. 18, 1986, 100 Stat. 1783–39, 1783–80, and Pub. L. 99–591, § 101(b) [title VIII, § 814], Oct. 30, 1986, 100 Stat. 3341–39, 3341–80; Pub. L. 101–208, § 3, Dec. 7, 1989, 103 Stat. 1837.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (c), was in the original ''this Act'' and was translated as reading ''this title'' meaning title VIII of section 101(b) of Pub. L. 99–500 and Pub. L. 99–591 which enacted this chapter, to reflect the probable intent of Congress.

Provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

CODIFICATION

In subsec. (a)(7), ''section 3324(a) and (b) of title 31'' substituted for ''section 529 of title 31'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

1989—Subsec. (a)(1). Pub. L. 101–208, § 3(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''to appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade GS–15 of the General Schedule set forth in section 5332 of title 5;''.

Subsec. (a)(8). Pub. L. 101–208, § 3(1)(B), amended par. (8) generally. Prior to amendment, par. (8) read as follows: ''to rent office space;''.

Subsec. (a)(10), (11). Pub. L. 101–208, § 3(1)(C)–(E), added par. (10) and redesignated former par. (10) as (11).

Subsec. (c). Pub. L. 101–208, § 3(2), added subsec. (c).

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to submitting an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 176 of House Document No. 103–7.

§ 4514. Definitions

As used in this chapter—

(1) the term ''Board'' means the Board of Trustees of the James Madison Memorial Fellowship Foundation;

(2) the term ''Foundation'' means the James Madison Memorial Fellowship Foundation;

(3) the term ''institution of higher education'' has the same meaning given that term by section 1001 of this title; and

[1] See References in Text note below.

[2] So in original. Probably should be capitalized.

(4) the term ''secondary school'' has the same meaning given that term by section 7801 of this title.

(Pub. L. 99–500, § 101(b) [title VIII, § 815], Oct. 18, 1986, 100 Stat. 1783–39, 1783–81, and Pub. L. 99–591, § 101(b) [title VIII, § 815], Oct. 30, 1986, 100 Stat. 3341–39, 3341–81; Pub. L. 105–244, title I, § 102(a)(6)(G), Oct. 7, 1998, 112 Stat. 1618; Pub. L. 107–110, title X, § 1076(m), Jan. 8, 2002, 115 Stat. 2092.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2002—Par. (4). Pub. L. 107–110 substituted ''7801'' for ''8801''.

1998—Par. (3). Pub. L. 105–244, § 102(a)(6)(G)(i), substituted ''section 1001'' for ''section 1141(a)''.

Par. (4). Pub. L. 105–244, § 102(a)(6)(G)(ii), substituted ''section 8801'' for ''section 1141(d)''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 4515. Appropriations

There are appropriated to the James Madison Memorial Trust Fund $20,000,000 to carry out the provisions of this chapter, $10,000,000 of which shall be available on November 1, 1987, and to remain available until expended; and $10,000,000 of which shall be available on November 1, 1988, and to remain available until expended.

(Pub. L. 99–500, § 101(b) [title VIII, § 816], Oct. 18, 1986, 100 Stat. 1783–39, 1783–81, and Pub. L. 99–591, § 101(b) [title VIII, § 816], Oct. 30, 1986, 100 Stat. 3341–39, 3341–81.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

§ 4516. Constitutional Law Resource Centers

(a) Establishment

It is the purpose of this section to establish four centers where nationally recognized distinguished experts in Constitutional law will produce, on a periodic basis, articles of current interest relating to the Constitution of the United States which are suitable for use by James Madison scholars, educational institutions, law school reviews, bar associations, and the news media.

(b) Endowments

In order to encourage recipient universities to provide such a continuing service, four endowments shall be established with funds from appropriations provided herein and such other amounts as may be contributed from other sources.

(c) Chair for Professor of Constitutional Law

The income from each endowment shall be used to help support a chair for a Professor of Constitutional law.[1] Each endowment shall be held in trust with the income from the portion provided herein used exclusively to contribute toward the salary and related costs of the professor filling the chair and for services directly related to the support of such professor such as secretarial and research services. The recipient university shall from sources other than that portion of the endowment funded herein furnish the office, classroom and related services suitable to such a member of the faculty.

The professor holding each chair shall file a copy of such articles with the Library of Congress, which shall make them available to libraries in the usual manner and the recipient of the endowment shall also make a copy available upon request by accredited educational institutions, bar associations, and general news media without royalty or charge other than the costs associated with printing or reprinting, handling and distribution.

(d) Investment of endowment

That portion of each endowment provided by this chapter[2] and any accumulations attributable to such grant shall be invested by the recipient university in interest bearing obligations of the United States or in obligations guaranteed both as to principal and interest by the United States and shall be subject to audit by the Government Accountability Office for the sole purpose of determining that such funds are accounted for or have been used as provided herein. If a grantee university elects to discontinue such chair and support services, the corpus of the endowment attributable to the Federal grant shall revert to the Treasury of the United States.

(e) Application for grant of endowment

The application for the grant for an endowment shall require only such information and supporting material as is reasonably necessary to assure that the funds will be used for the purposes described herein. Acceptance of the grant by each university shall constitute an agreement and obligation of that university to fulfill the obligations set forth in this section.

(f) Amount of grant of endowment; recipients of offer

The grants for each endowment shall be for $800,000 and shall be offered to Howard University School of Law in Washington, D.C., Drake University School of Law in Des Moines, Iowa, the University of Akron School of Law in Akron, Ohio, and the University of South Carolina School of Law at Columbia, South Carolina.

(Pub. L. 99–500, § 101(b) [title VIII, § 817], Oct. 18, 1986, 100 Stat. 1783–39, 1783–81, and Pub. L. 99–591, § 101(b) [title VIII, § 817], Oct. 30, 1986, 100 Stat. 3341–39, 3341–81; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original ''this Act'' and was translated as reading ''this title'' meaning title VIII of section 101(b) of Pub. L. 99–500 and Pub. L. 99–591 which enacted this chapter, to reflect the probable intent of Congress.

[1] So in original. Probably should be capitalized.

[2] See References in Text note below.

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

AMENDMENTS

2004—Subsec. (d). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

TEMPORARY AUTHORITY TO RECEIVE, REVIEW, AND CERTIFY FOR PAYMENT GRANT APPLICATIONS

Pub. L. 100–202, § 101(a) [title V, § 501], Dec. 22, 1987, 101 Stat. 1329, 1329–29, provided in part: ''That until the Board of Trustees of the James Madison Memorial Fellowship Foundation is appointed, the Commission on the Bicentennial of the United States Constitution is authorized to receive, review and certify for payment the applications for grants of endowment funds for the establishment of Constitutional Law Resource Centers as provided and appropriated under the James Madison Memorial Fellowship Act, title VIII, sections 817 and 818, Public Law 99–500 and Public Law 99–591 [20 U.S.C. 4516, 4517]''.

§ 4517. Appropriations for universities

There is hereby appropriated to each recipient University named above or to the trustee of the fund designated by the President of the University the sum of $800,000 to carry out the provisions of section 4516 of this title, to be available on November 1, 1987, and to remain available until expended.

(Pub. L. 99–500, § 101(b) [title VIII, § 818], Oct. 18, 1986, 100 Stat. 1783–39, 1783–82, and Pub. L. 99–591, § 101(b) [title VIII, § 818], Oct. 30, 1986, 100 Stat. 3341–39, 3341–82.)

CODIFICATION

Pub. L. 99–591 is a corrected version of Pub. L. 99–500.

CHAPTER 58—DRUG-FREE SCHOOLS AND COMMUNITIES

§§ 4601, 4602. Repealed. Pub. L. 100–297, title I, § 1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4601, Pub. L. 99–570, title IV, § 4102, Oct. 27, 1986, 100 Stat. 3207–125, related to Congressional findings.

Section 4602, Pub. L. 99–570, title IV, § 4103, Oct. 27, 1986, 100 Stat. 3207–125, related to purpose of chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SHORT TITLE

Pub. L. 99–570, title IV, § 4101, Oct. 27, 1986, 100 Stat. 3207–125, which provided that subtitle B [§§ 4101 to 4144] of title IV of Pub. L. 99–570 was to be cited as the ''Drug-Free Schools and Communities Act of 1986'', was repealed by Pub. L. 100–297, title I, § 1003(e), Apr. 28, 1988, 102 Stat. 293.

WHITE HOUSE CONFERENCE FOR A DRUG FREE AMERICA

Pub. L. 99–570, title I, subtitle S (§ 1931 et seq.), Oct. 27, 1986, 100 Stat. 3207–56, as amended by Pub. L. 100–138, Oct. 23, 1987, 101 Stat. 820, established the White House Conference for a Drug Free America, provided for its purpose, responsibilities, participants, authorization of appropriations, and required a final report to be submitted not later than July 31, 1988, with the President to report annually to Congress for three years thereafter on the status and implementation of the findings and recommendations of the Conference.

EXECUTIVE ORDER NO. 12595

Ex. Ord. No. 12595, May 5, 1987, 52 F.R. 17383, established and set forth the functions of the White House Conference for a Drug Free America.

SUBCHAPTER I—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

§§ 4611, 4612. Repealed. Pub. L. 100–297, title I, § 1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4611, Pub. L. 99–570, title IV, § 4111, Oct. 27, 1986, 100 Stat. 3207–126, related to authorization of appropriations.

Section 4612, Pub. L. 99–570, title IV, § 4112, Oct. 27, 1986, 100 Stat. 3207–126, related to reservations and State allotments.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER II—STATE AND LOCAL PROGRAMS

§§ 4621 to 4626. Repealed. Pub. L. 100–297, title I, § 1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4621, Pub. L. 99–570, title IV, § 4121, Oct. 27, 1986, 100 Stat. 3207–127, related to use of allotments by States.

Section 4622, Pub. L. 99–570, title IV, § 4122, Oct. 27, 1986, 100 Stat. 3207–127, related to State programs.

Section 4623, Pub. L. 99–570, title IV, § 4123, Oct. 27, 1986, 100 Stat. 3207–128, related to State applications.

Section 4624, Pub. L. 99–570, title IV, § 4124, Oct. 27, 1986, 100 Stat. 3207–128; Pub. L. 100–418, title VI, § 6091(a), Aug. 23, 1988, 102 Stat. 1499, related to responsibilities of State educational agencies.

Section 4625, Pub. L. 99–570, title IV, § 4125, Oct. 27, 1986, 100 Stat. 3207–129, related to local drug abuse education and prevention programs.

Section 4626, Pub. L. 99–570, title IV, § 4126, Oct. 27, 1986, 100 Stat. 3207–130, related to local applications.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER III—NATIONAL PROGRAMS

§§ 4641 to 4645. Repealed. Pub. L. 100–297, title I, § 1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4641, Pub. L. 99–570, title IV, § 4131, Oct. 27, 1986, 100 Stat. 3207–131, related to grants to institutions of higher education.

Section 4642, Pub. L. 99–570, title IV, § 4132, Oct. 27, 1986, 100 Stat. 3207–132, related to Federal activities.

Section 4643, Pub. L. 99–570, title IV, § 4133(a), Oct. 27, 1986, 100 Stat. 3207–133, related to programs for Indian youth.

Section 4644, Pub. L. 99–570, title IV, § 4134, Oct. 27, 1986, 100 Stat. 3207–134, related to programs for Hawaiian natives.

Section 4645, Pub. L. 99–570, title IV, § 4135, Oct. 27, 1986, 100 Stat. 3207–135, related to regional centers.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

SUBCHAPTER IV—GENERAL PROVISIONS

§§ 4661 to 4664. Repealed. Pub. L. 100–297, title I, § 1003(e), Apr. 28, 1988, 102 Stat. 293

Section 4661, Pub. L. 99–570, title IV, § 4141, Oct. 27, 1986, 100 Stat. 3207–135, related to definitions for chapter.

Section 4662, Pub. L. 99–570, title IV, § 4142, Oct. 27, 1986, 100 Stat. 3207–136, related to functions of Secretary of Education.

Section 4663, Pub. L. 99–570, title IV, § 4143, Oct. 27, 1986, 100 Stat. 3207–136, related to participation of children and teachers from private nonprofit schools.

Section 4664, Pub. L. 99–570, title IV, § 4144, Oct. 27, 1986, 100 Stat. 3207–136, related to materials distributed or produced under chapter.

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1988, see section 6303 of Pub. L. 100–297, set out as an Effective Date of 1988 Amendment note under section 1071 of this title.

§ 4665. Transferred

CODIFICATION

Section, Pub. L. 99–570, title IV, § 4302, Oct. 27, 1986, 100 Stat. 3207–153, which established National Trust for Drug-Free Youth, was transferred to section 3225 of this title, then to section 7105 of this title, and subsequently omitted from the Code.

CHAPTER 59—BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION PROGRAM

Sec.
4701. Findings.
4702. Definitions.
4703. Establishment of Barry Goldwater Scholarship and Excellence in Education Foundation.
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4704. Barry Goldwater scholarship and excellence in education awards.
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(a) Establishment of fund.
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4710. Administrative provisions.
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(b) Annual report.
4711. Authorization of appropriations.

§ 4701. Findings

The Congress makes the following findings:

(1) Senator Barry Goldwater of the State of Arizona has served his country for 56 years as a soldier and statesman, including service in the United States Senate for a period of 30 years.

(2) Senator Goldwater has a distinguished record as a Senator, including service as Chairman of the Select Committee on Intelligence of the Senate and as Chairman of the Committee on Armed Services of the Senate.

(3) Senator Goldwater has long maintained a special interest in the education of America's youth, particularly in the fields of science and mathematics.

(4) It would, therefore, be a fitting tribute to the leadership, courage, and vision of Senator Goldwater to establish in his name a scholarship program to foster and encourage excellence in science and mathematics.

(Pub. L. 99–661, div. A, title XIV, § 1402, Nov. 14, 1986, 100 Stat. 4008.)

SHORT TITLE

Section 1401 of title XIV of div. A of Pub. L. 99–661 provided that: ''This title [enacting this chapter] may be cited as the 'Barry Goldwater Scholarship and Excellence in Education Act'.''

§ 4702. Definitions

In this chapter:

(1) The term ''Foundation'' means the Barry Goldwater Scholarship and Excellence in Education Foundation established under section 4703(a) of this title.

(2) The term ''Board'' means the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation established under section 4703(b) of this title.

(3) The term ''fund'' means the Barry Goldwater Scholarship and Excellence in Education Fund provided for under section 4707 of this title.

(4) The term ''institution of higher education'' means any such institution as defined in section 1001 of this title.

(5) The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, considered as a single entity, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Marianas.

(6) The term ''eligible person'' means a citizen or national of the United States or a permanent resident alien of the United States.

(Pub. L. 99–661, div. A, title XIV, § 1403, Nov. 14, 1986, 100 Stat. 4008; Pub. L. 105–244, title I, § 102(a)(6)(H), Oct. 7, 1998, 112 Stat. 1618.)

AMENDMENTS

1998—Par. (4). Pub. L. 105–244 substituted ''section 1001'' for ''section 1141(a)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 4703. Establishment of Barry Goldwater Scholarship and Excellence in Education Foundation

(a) Establishment

There is established, as an independent establishment of the executive branch of the United States Government, the Barry Goldwater Scholarship and Excellence in Education Foundation.

(b) Board of Trustees

The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members, as follows:

(1) Two members from the Senate, one appointed by the majority leader and one appointed by the minority leader of the Senate.

(2) Two members from the House of Representatives, one appointed by the majority leader and one appointed by the minority leader of the House of Representatives.

(3) Eight members, not more than four of whom shall be of the same political party, to be appointed by the President, by and with the advice and consent of the Senate.

(4) The Secretary of Education, or his designee, who shall serve ex officio as a member of the Board but shall not be eligible to serve as Chairman.

(c) Term of office

(1) The term of office of each member of the Board shall be six years, except that—

(A) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years;

(B) a member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made; and

(C) notwithstanding the term limitation provided for under this paragraph, a member appointed under subsection (b) of this section may continue to serve under such appointment until the successor to the member is appointed.

(2) A Member of Congress appointed to the Board under clause (1) or (2) of subsection (b) of this section may not serve as a member of the Board for more than a total of six years.

(d) Travel and subsistence pay

Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(Pub. L. 99–661, div. A, title XIV, §1404, Nov. 14, 1986, 100 Stat. 4008; Pub. L. 100–26, §3(10), Apr. 21, 1987, 101 Stat. 274; Pub. L. 102–190, div. A, title X, §1089(1), Dec. 5, 1991, 105 Stat. 1485; Pub. L. 103–160, div. A, title XI, §1179(a), Nov. 30, 1993, 107 Stat. 1770.)

AMENDMENTS

1993—Subsec. (c)(1)(C). Pub. L. 103–160 added subpar. (C).

1991—Subsec. (b)(3). Pub. L. 102–190 struck out before period at end ‘‘, at least one of whom shall be a representative of the aerospace industry and at least one of whom shall be a representative of a private foundation concerned with aerospace education’’.

1987—Subsec. (c)(2). Pub. L. 100–26 substituted ‘‘clause (1) or (2)’’ for ‘‘clause (2) or (3)’’.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–26 applicable as if included in Pub. L. 99–661 when enacted on Nov. 14, 1986, see section 12(a) of Pub. L. 100–26, set out as a note under section 776 of Title 10, Armed Forces.

§ 4704. Barry Goldwater scholarship and excellence in education awards

(a) Award of scholarships and fellowships

(1) The Foundation may award scholarships and fellowships to eligible persons for study in the fields of science and mathematics. Such scholarships and fellowships shall be awarded to persons as provided in this chapter who meet the minimum criteria established by the Foundation.

(2) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers in mathematics and the natural sciences.

(3) Fellowships shall be awarded to outstanding graduate students who intend to pursue advanced degrees in mathematics and the natural sciences.

(4) The Foundation may provide, directly or by contract, for the conduct of nationwide competition for the purpose of selecting recipients of scholarships and fellowships awarded under this chapter.

(b) Barry Goldwater Scholars

Recipients of scholarships and fellowships under this chapter shall be known as ‘‘Barry Goldwater Scholars’’.

(c) Award of honoraria to volunteers

(1) The Foundation may award honoraria to outstanding educators, teachers, and persons who have volunteered to assist in secondary schools who have made significant contributions to improve the quality of instruction in mathematics and sciences in the secondary school. To the extent the Board determines such action practicable, honoraria awarded under this subsection shall be awarded annually to persons described in the preceding sentence as follows:

(A) To two persons selected at large from each State.

(B) To one person selected from each county in each State.

(C) To persons affiliated with secondary schools on military reservations.

(D) To persons affiliated with the dependent overseas school system.

(2) The Board shall establish a schedule of honoraria to be awarded under paragraph (1).

(Pub. L. 99–661, div. A, title XIV, §1405, Nov. 14, 1986, 100 Stat. 4009.)

§ 4705. Stipends

Each person awarded a scholarship or fellowship under this chapter shall receive a stipend which shall not exceed the cost to such person for tuition, fees, books, room and board, or such lesser amount as may be prescribed by the Board.

(Pub. L. 99–661, div. A, title XIV, § 1406, Nov. 14, 1986, 100 Stat. 4010.)

§ 4706. Scholarship conditions

(a) In general

A person awarded a scholarship under this chapter may receive payments authorized under this chapter only during such periods as the Foundation finds that the person is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(b) Reports

The Foundation may require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any person awarded a scholarship under this chapter. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such person is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in subsection (a) of this section.

(Pub. L. 99–661, div. A, title XIV, § 1407, Nov. 14, 1986, 100 Stat. 4010.)

§ 4707. Barry Goldwater Scholarship and Excellence in Education Fund

(a) Establishment of fund

There is established in the Treasury of the United States a trust fund to be known as the Barry Goldwater Scholarship and Excellence in Education Fund. The fund shall consist of amounts appropriated to it pursuant to section 4711 of this title and amounts credited to it under subsection (d) of this section.

(b) Investment of fund assets

It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the fund. Such investments may be made only in public debt securities of the United States with maturities suitable to the fund. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchases of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Authority to sell obligations

Any obligation acquired by the fund may be sold by the Secretary at the market price.

(d) Proceeds from certain transactions credited to fund

The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(Pub. L. 99–661, div. A, title XIV, § 1408, Nov. 14, 1986, 100 Stat. 4010; Pub. L. 102–190, div. A, title X, § 1089(2), Dec. 5, 1991, 105 Stat. 1485; Pub. L. 102–484, div. A, title X, § 1054(h), Oct. 23, 1992, 106 Stat. 2503.)

CODIFICATION

In subsec. (b), ''chapter 31 of title 31'' substituted for ''the Second Liberty Bond Act'' on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–484 struck out ''(except special obligations issued exclusively to the fund)'' after ''by the fund''.

1991—Subsec. (b). Pub. L. 102–190, § 1089(2)(A), substituted ''public debt securities of the United States with maturities suitable to the fund.'' for ''interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.''

Subsec. (c). Pub. L. 102–190, § 1089(2)(B)(ii), struck out '', and such special obligations may be redeemed at par plus accrued interest'' after ''market price''.

Pub. L. 102–190, § 1089(2)(B)(i), which directed striking out of ''(exceptional special obligations issued exclusively to the fund)'', could not be executed because those words did not appear. See 1992 Amendment note above.

§ 4708. Expenditures from fund

(a) In general

The Secretary of the Treasury may pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of this chapter.

(b) Audits by GAO

The activities of the Foundation under this chapter may be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 99–661, div. A, title XIV, § 1409, Nov. 14, 1986, 100 Stat. 4011; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in two places.

§ 4709. Executive Secretary

(a) Appointment by Board

There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this chapter as the Board shall prescribe.

(b) Compensation

The Executive Secretary of the Foundation shall serve as a noncareer appointee of the Senior Executive Service and shall be compensated at a rate determined by the Board in accordance with section 5383 of title 5.

(Pub. L. 99–661, div. A, title XIV, § 1410, Nov. 14, 1986, 100 Stat. 4011; Pub. L. 102–190, div. A, title X, § 1089(3), Dec. 5, 1991, 105 Stat. 1485.)

AMENDMENTS

1991—Subsec. (b). Pub. L. 102–190 substituted ''serve as a noncareer appointee of the Senior Executive Service and shall be compensated at a rate determined by the Board in accordance with section 5383'' for ''be compensated at the rate specified for employees in grade GS–18 of the General Schedule under section 5332''.

§ 4710. Administrative provisions

(a) In general

In order to carry out this chapter, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case may an employee other than the Executive Secretary be compensated at a rate to exceed the maximum rate provided for employees in grade GS–15 of the General Schedule under section 5332 of title 5;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for grade GS–18 under section 5332 of such title;

(3) prescribe such regulations as it considers necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and use the services of voluntary and noncompensated personnel and for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts or other arrangements, or make grants, to carry out the provisions of this chapter, and enter into such contracts or other arrangements, or make such grants, with the concurrence of two-thirds of the members of the Board, without performance or other bonds and without regard to section 5 of title 41;

(7) rent office space in the Washington, District of Columbia, metropolitan area; and

(8) make other necessary expenditures.

(b) Annual report

The Foundation shall submit to the President and to Congress an annual report of its operations under this chapter.

(Pub. L. 99–661, div. A, title XIV, § 1411, Nov. 14, 1986, 100 Stat. 4011; Pub. L. 103–160, div. A, title XI, § 1179(b), Nov. 30, 1993, 107 Stat. 1770.)

AMENDMENTS

1993—Subsec. (a)(7). Pub. L. 103–160 substituted ''the Washington, District of Columbia, metropolitan area'' for ''the District of Columbia''.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 4711. Authorization of appropriations

There is hereby authorized to be appropriated to the fund $40,000,000 to carry out this chapter.

(Pub. L. 99–661, div. A, title XIV, § 1412, Nov. 14, 1986, 100 Stat. 4012.)

CHAPTER 60—FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING

§ 4801. Repealed. Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975

Section, Pub. L. 100–297, title III, § 3202, Apr. 28, 1988, 102 Stat. 338, established Fund for the Improvement and Reform of Schools and Teaching.

SHORT TITLE

Section 3201 of part B (§§ 3201–3243) of title III of Pub. L. 100–297 provided that part B of title III of Pub. L. 100–297 (enacting this chapter) could be cited as the ''Fund for the Improvement and Reform of Schools and Teaching Act'', prior to repeal by Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975.

SUBCHAPTER I—GRANTS FOR SCHOOLS AND TEACHERS

§§ 4811, 4812. Repealed. Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975

Section 4811, Pub. L. 100–297, title III, § 3211, Apr. 28, 1988, 102 Stat. 338, authorized grants and contracts to improve educational opportunities for, and the performance of, elementary and secondary school students and teachers.

Section 4812, Pub. L. 100–297, title III, § 3212, Apr. 28, 1988, 102 Stat. 339, related to applications for grants.

SUBCHAPTER II—FAMILY-SCHOOL PARTNERSHIP

§§ 4821 to 4823. Repealed. Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975

Section 4821, Pub. L. 100–297, title III, § 3221, Apr. 28, 1988, 102 Stat. 339, stated findings of Congress and purposes of this subchapter.

Section 4822, Pub. L. 100–297, title III, § 3222, Apr. 28, 1988, 102 Stat. 340, related to local educational agencies eligible for grants.

Section 4823, Pub. L. 100–297, title III, § 3223, Apr. 28, 1988, 102 Stat. 340, authorized demonstration grants for development of innovative and promising family-school educational partnership activities.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

§§ 4831 to 4833. Repealed. Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975

Section 4831, Pub. L. 100–297, title III, § 3231, Apr. 28, 1988, 102 Stat. 341, established Fund for the Improvement and Reform of Schools and Teaching Board.

Section 4832, Pub. L. 100–297, title III, § 3232, Apr. 28, 1988, 102 Stat. 343, related to dissemination and reporting of exemplary projects and required reports.

Section 4833, Pub. L. 100–297, title III, § 3233, Apr. 28, 1988, 102 Stat. 343, related to coordination with Fund for the Improvement of Postsecondary Education.

SUBCHAPTER IV—GENERAL PROVISIONS

§§ 4841 to 4843. Repealed. Pub. L. 103–382, title III, § 365, Oct. 20, 1994, 108 Stat. 3975

Section 4841, Pub. L. 100–297, title III, § 3241, Apr. 28, 1988, 102 Stat. 343, related to special grant rules.

Section 4842, Pub. L. 100–297, title III, § 3242, Apr. 28, 1988, 102 Stat. 343, authorized appropriations.

Section 4843, Pub. L. 100–297, title III, § 3243, Apr. 28, 1988, 102 Stat. 344, defined terms used in this chapter.

CHAPTER 61—EDUCATION FOR NATIVE HAWAIIANS

§§ 4901 to 4909. Repealed. Pub. L. 103–382, title III, § 363, Oct. 20, 1994, 108 Stat. 3975

Section 4901, Pub. L. 100–297, title IV, § 4001, Apr. 28, 1988, 102 Stat. 358, stated findings of Congress relating to education of Native Hawaiians.

Section 4902, Pub. L. 100–297, title IV, § 4002, Apr. 28, 1988, 102 Stat. 358, stated purpose of this chapter.

Section 4903, Pub. L. 100–297, title IV, § 4003, Apr. 28, 1988, 102 Stat. 359, authorized grants to implement Kemehameha Elementary Education Program model curriculum.

Section 4904, Pub. L. 100–297, title IV, § 4004, Apr. 28, 1988, 102 Stat. 359, authorized grants to develop and operate Family-Based Education Centers in Hawaiian Islands.

Section 4905, Pub. L. 100–297, title IV, § 4005, Apr. 28, 1988, 102 Stat. 360, related to Native Hawaiian higher education demonstration program.

Section 4906, Pub. L. 100–297, title IV, § 4006, Apr. 28, 1988, 102 Stat. 361, related to Native Hawaiian gifted and talented demonstration program.

Section 4907, Pub. L. 100–297, title IV, § 4007, Apr. 28, 1988, 102 Stat. 362; Pub. L. 101–476, title IX, § 901(a)(3), Oct. 30, 1990, 104 Stat. 1142, related to Native Hawaiian special education program.

Section 4908, Pub. L. 100–297, title IV, § 4008, Apr. 28, 1988, 102 Stat. 362, contained administrative provisions.

Section 4909, Pub. L. 100–297, title IV, § 4009, Apr. 28, 1988, 102 Stat. 362, defined terms used in this chapter.

For similar provisions, see section 7901 et seq. of this title.

CHAPTER 62—EDUCATION AND TRAINING FOR AMERICAN COMPETITIVENESS

§§ 5001 to 5004. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5001, Pub. L. 100–418, title VI, § 6001, Aug. 23, 1988, 102 Stat. 1469, provided that this chapter could be cited as the ''Education and Training for a Competitive America Act of 1988''.

Section 5002, Pub. L. 100–418, title VI, § 6002, Aug. 23, 1988, 102 Stat. 1469, stated findings of Congress and purpose.

Section 5003, Pub. L. 100–418, title VI, § 6003, Aug. 23, 1988, 102 Stat. 1470, defined terms used in this chapter.

Section 5004, Pub. L. 100–418, title VI, § 6004, Aug. 23, 1988, 102 Stat. 1470, contained general restrictions relating to grants and contracts under this chapter.

SUBCHAPTER I—ELEMENTARY AND SECONDARY EDUCATION

PART A—FOREIGN LANGUAGES

SUBPART 1—FOREIGN LANGUAGE ASSISTANCE

§§ 5011 to 5016. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5011, Pub. L. 100–418, title VI, § 6021, Aug. 23, 1988, 102 Stat. 1476, provided that this subpart could be cited as the ''Foreign Language Assistance Act of 1988''.

Section 5012, Pub. L. 100–418, title VI, § 6022, Aug. 23, 1988, 102 Stat. 1476, stated findings of Congress.

Section 5013, Pub. L. 100–418, title VI, § 6023, Aug. 23, 1988, 102 Stat. 1477, authorized grants for model programs for commencement, improvement, and expansion of foreign language study.

Section 5014, Pub. L. 100–418, title VI, § 6024, Aug. 23, 1988, 102 Stat. 1478, related to allotment of funds.

Section 5015, Pub. L. 100–418, title VI, § 6025, Aug. 23, 1988, 102 Stat. 1478, defined terms used in this subpart.

Section 5016, Pub. L. 100–418, title VI, § 6026, Aug. 23, 1988, 102 Stat. 1478, authorized appropriations.

For similar provisions, see section 7511 et seq. of this title.

SUBPART 2—PRESIDENTIAL AWARD FOR LANGUAGES

§§ 5021 to 5023. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5021, Pub. L. 100–418, title VI, § 6027, Aug. 23, 1988, 102 Stat. 1478, authorized Presidential Awards for Teaching Excellence in Foreign Languages.

Section 5022, Pub. L. 100–418, title VI, § 6028, Aug. 23, 1988, 102 Stat. 1479, contained administrative provisions.

Section 5023, Pub. L. 100–418, title VI, § 6029, Aug. 23, 1988, 102 Stat. 1479, authorized appropriations.

PART B—EDUCATIONAL PARTNERSHIPS

§§ 5031 to 5039. Repealed. Pub. L. 103–382, title III, § 391(i), (j), Oct. 20, 1994, 108 Stat. 4023

Section 5031, Pub. L. 100–418, title VI, § 6041, Aug. 23, 1988, 102 Stat. 1483, provided that this part could be cited as the ''Educational Partnerships Act of 1988''.

Section 5032, Pub. L. 100–418, title VI, § 6042, Aug. 23, 1988, 102 Stat. 1483, stated purpose of this part.

Section 5033, Pub. L. 100–418, title VI, § 6043, Aug. 23, 1988, 102 Stat. 1483, authorized grants to eligible partnerships to use public and private resources for various educational purposes.

Section 5034, Pub. L. 100–418, title VI, § 6044, Aug. 23, 1988, 102 Stat. 1483, related to authorized activities by eligible partnerships receiving payments.

Section 5035, Pub. L. 100–418, title VI, § 6045, Aug. 23, 1988, 102 Stat. 1484, related to applications for grants.

Section 5036, Pub. L. 100–418, title VI, § 6046, Aug. 23, 1988, 102 Stat. 1485, related to approval of applications.

Section 5037, Pub. L. 100–418, title VI, § 6047, Aug. 23, 1988, 102 Stat. 1485, related to computation of grant amounts.

Section 5038, Pub. L. 100–418, title VI, § 6048, Aug. 23, 1988, 102 Stat. 1485, related to evaluation by Secretary of grants and dissemination of information relating to assisted activities.

Section 5039, Pub. L. 100–418, title VI, § 6049, Aug. 23, 1988, 102 Stat. 1486, defined terms used in this part.

PART C—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

SUBPART 1—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

§§ 5051 to 5057. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5051, Pub. L. 100–418, title VI, § 6061, Aug. 23, 1988, 102 Stat. 1491, provided that this subpart could be cited as the ''School Dropout Demonstration Assistance Act of 1988''.

Section 5052, Pub. L. 100–418, title VI, § 6062, Aug. 23, 1988, 102 Stat. 1491, stated purpose of this subpart.

Section 5053, Pub. L. 100–418, title VI, § 6063, Aug. 23, 1988, 102 Stat. 1491, authorized appropriations.

Section 5054, Pub. L. 100–418, title VI, § 6064, Aug. 23, 1988, 102 Stat. 1491, related to allotment of grants to local educational agencies.

Section 5055, Pub. L. 100–418, title VI, § 6065, Aug. 23, 1988, 102 Stat. 1493, related to applications for grants.

Section 5056, Pub. L. 100–418, title VI, § 6066, Aug. 23, 1988, 102 Stat. 1494, related to activities for which grants could be used.

Section 5057, Pub. L. 100–418, title VI, § 6067, Aug. 23, 1988, 102 Stat. 1495, related to distribution of assistance and limitation on costs.

For similar provisions, see section 7261 et seq. of this title.

SUBPART 2—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT

§§ 5061 to 5066. Repealed. Pub. L. 103–382, title III, § 391(i), (k), Oct. 20, 1994, 108 Stat. 4023

Section 5061, Pub. L. 100–418, title VI, § 6071, Aug. 23, 1988, 102 Stat. 1496, provided that this subpart could be cited as the ''Secondary Schools Basic Skills Demonstration Assistance Act of 1988''.

Section 5062, Pub. L. 100–418, title VI, § 6072, Aug. 23, 1988, 102 Stat. 1496, stated purpose of this subpart.

Section 5063, Pub. L. 100–418, title VI, § 6073, Aug. 23, 1988, 102 Stat. 1496, authorized appropriations.

Section 5064, Pub. L. 100–418, title VI, § 6074, Aug. 23, 1988, 102 Stat. 1496, authorized grants to local educational agencies.

Section 5065, Pub. L. 100–418, title VI, § 6075, Aug. 23, 1988, 102 Stat. 1496, related to activities for which grants could be used.

Section 5066, Pub. L. 100–418, title VI, § 6076, Aug. 23, 1988, 102 Stat. 1497, related to applications for grants.

SUBPART 3—GENERAL PROVISIONS

§§ 5071, 5072. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5071, Pub. L. 100–418, title VI, § 6081, Aug. 23, 1988, 102 Stat. 1498, contained general administrative provisions.

Section 5072, Pub. L. 100–418, title VI, § 6082, Aug. 23, 1988, 102 Stat. 1499, defined terms used in this chapter.

SUBCHAPTER II—TECHNOLOGY AND TRAINING

PART A—TRANSFER OF EDUCATION AND TRAINING SOFTWARE

§§ 5091 to 5097. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5091, Pub. L. 100–418, title VI, § 6101, Aug. 23, 1988, 102 Stat. 1500, provided that this part could be cited as the ''Training Technology Transfer Act of 1988''.

Section 5092, Pub. L. 100–418, title VI, § 6102, Aug. 23, 1988, 102 Stat. 1500; Pub. L. 101–600, § 6, Nov. 16, 1990, 104 Stat. 3046, stated findings of Congress and purposes of this part.

Section 5093, Pub. L. 100–418, title VI, § 6103, Aug. 23, 1988, 102 Stat. 1500; Pub. L. 103–227, title II, § 236(a)(2), Mar. 31, 1994, 108 Stat. 156, established an Office of Training Technology Transfer.

Section 5094, Pub. L. 100–418, title VI, § 6104, Aug. 23, 1988, 102 Stat. 1500, related to functions of Office of Training Technology Transfer.

Section 5095, Pub. L. 100–418, title VI, § 6105, Aug. 23, 1988, 102 Stat. 1503, contained administrative provisions.

Section 5096, Pub. L. 100–418, title VI, § 6106, Aug. 23, 1988, 102 Stat. 1503, related to coordination with Federal agencies.

Section 5097, Pub. L. 100–418, title VI, § 6107, Aug. 23, 1988, 102 Stat. 1504, defined terms used in this part.

PART B—INSTRUCTIONAL PROGRAMS IN TECHNOLOGY EDUCATION

§§ 5101 to 5106. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5101, Pub. L. 100–418, title VI, § 6111, Aug. 23, 1988, 102 Stat. 1505, stated purpose of part to assist educational agencies and institutions in developing technologically literate population through instructional programs in technology education.

Section 5102, Pub. L. 100–418, title VI, § 6112, Aug. 23, 1988, 102 Stat. 1505, related to technology education demonstration program.

Section 5103, Pub. L. 100–418, title VI, § 6113, Aug. 23, 1988, 102 Stat. 1507, related to applications for grants.

Section 5104, Pub. L. 100–418, title VI, § 6114, Aug. 23, 1988, 102 Stat. 1507, related to national dissemination of information.

Section 5105, Pub. L. 100–418, title VI, § 6115, Aug. 23, 1988, 102 Stat. 1507, authorized appropriations.

Section 5106, Pub. L. 100–418, title VI, § 6116, Aug. 23, 1988, 102 Stat. 1507, defined ''technology education''.

PART C—REPLICATION OF TECHNICAL EDUCATION PROGRAMS

§ 5111. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 100–418, title VI, § 6121, Aug. 23, 1988, 102 Stat. 1508, related to replication models for technical education programs designed to improve the quality of education for America's technically trained workforce.

PART D—ACCESS DEMONSTRATION PROGRAMS

§§ 5121 to 5124. Repealed. Pub. L. 103–382, title III, § 391(i), Oct. 20, 1994, 108 Stat. 4023

Section 5121, Pub. L. 100–418, title VI, § 6141, Aug. 23, 1988, 102 Stat. 1513, stated purpose of this part.

Section 5122, Pub. L. 100–418, title VI, § 6142, Aug. 23, 1988, 102 Stat. 1513; Pub. L. 101–26, § 1, May 11, 1989, 103 Stat. 54, authorized grants for development of training programs for secondary school personnel.

Section 5123, Pub. L. 100–418, title VI, § 6143, Aug. 23, 1988, 102 Stat. 1513, related to applications for grants.

Section 5124, Pub. L. 100–418, title VI, § 6144, Aug. 23, 1988, 102 Stat. 1514; Pub. L. 103–382, title II, § 261(i)(3), title III, § 391(z), Oct. 20, 1994, 108 Stat. 3929, 4026, defined terms used in this part.

CHAPTER 63—EISENHOWER EXCHANGE FELLOWSHIP PROGRAM

Sec.
5201. Purposes.
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§ 5201. Purposes

The purposes of this chapter are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower's leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America's need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower's name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower's crusade to liberate the people's of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

(Pub. L. 101–454, § 2, Oct. 24, 1990, 104 Stat. 1063.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 101–454, Oct. 24, 1990, 104 Stat. 1063, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

SHORT TITLE

Section 1 of Pub. L. 101–454 provided that: ''This Act [enacting this chapter, amending sections 4901, 4902, and 4904 of Title 22, Foreign Relations and Intercourse, and enacting provisions set out as notes under sections 4901 and 4902 of Title 22] may be cited as the 'Eisenhower Exchange Fellowship Act of 1990'.''

§ 5202. Eisenhower Exchange Fellowship Program Trust Fund

(a) Establishment

There is established in the Treasury of the United States a trust fund to be known as the Eisenhower Exchange Fellowship Program Trust Fund (hereinafter in this chapter referred to as the ''fund''). The fund shall consist of amounts authorized to be appropriated under section 5204 of this title.

(b) Investment in interest-bearing obligations

It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interests[1] by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Sale and redemption of obligations

Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Credit to fund of interest and proceeds of sale or redemption

The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(Pub. L. 101–454, § 3, Oct. 24, 1990, 104 Stat. 1063.)

§ 5203. Expenditure and audit of trust fund

(a) Authorization of funding

For each fiscal year, there is authorized to be appropriated from the fund to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

[1] So in original. Probably should be ''interest''.

(b) Access to books, records, etc., by Government Accountability Office

The activities of Eisenhower Exchange Fellowships, Incorporated, may be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the Government Accountability Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by Eisenhower Exchange Fellowships, Incorporated, pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 101–454, § 4, Oct. 24, 1990, 104 Stat. 1064; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in heading and in two places in text.

USE OF EARNED UNUSED TRUST INCOME FOR FELLOWSHIP PURPOSES

Pub. L. 104–134, title I, § 101[(a)] [title IV, § 407], Apr. 26, 1996, 110 Stat. 1321, 1321–45; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, provided in part that: ''notwithstanding any other provision of law, Eisenhower Exchange Fellowships, Incorporated, may use one-third of any earned but unused trust income from the period 1992 through 1995 for Fellowship purposes in each of fiscal years 1996 through 1998.''

§ 5204. Authorization of appropriations

To provide a permanent endowment for the Eisenhower Exchange Fellowship Program, there are authorized to be appropriated to the Eisenhower Exchange Fellowships Program Trust Fund—

(1) $5,000,000; and

(2) the lesser of—

(A) $2,500,000, or

(B) an amount equal to contributions to Eisenhower Exchange Fellowships, Incorporated, from private sector sources during the 4-year period beginning on October 24, 1990.

(Pub. L. 101–454, § 5, Oct. 24, 1990, 104 Stat. 1064.)

§ 5205. Use of income on endowment

(a), (b) Repealed. Pub. L. 104–134, title I, § 101[(a)] [title IV, § 407], Apr. 26, 1996, 110 Stat. 1321, 1321–45; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327

(c) Agricultural exchange program

For any fiscal year, as may be determined by Eisenhower Exchange Fellowships, Incorporated, a portion of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 5203(a) of this title shall be used to provide fellowships for agricultural exchange programs for farmers from the United States and foreign countries.

(d) Participation by United States minority populations

In order to ensure that the United States fellows participating in programs of the Eisenhower Exchange Fellowships, Incorporated, are representative of the cultural, ethnic, and racial diversity of the American people, of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 5203(a) of this title which are obligated and expended for United States fellowship programs, not less than 10 percent shall be available only for participation by individuals who are representative of United States minority populations.

(Pub. L. 101–454, § 6, Oct. 24, 1990, 104 Stat. 1065; Pub. L. 104–134, title I, § 101[(a)] [title IV, § 407], Apr. 26, 1996, 110 Stat. 1321, 1321–45; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–134 struck out heading and text of subsec. (a). Text read as follows: ''For any fiscal year, not less than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 5203(a) of this title shall be available only to assist United States fellows in traveling to and studying in emerging European democracies.''

Subsec. (b). Pub. L. 104–134 struck out heading and text of subsec. (b). Text read as follows: ''For any fiscal year, not more than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 5203(a) of this title shall be available to assist foreign fellows in traveling to and studying in the United States.''

§ 5206. Report to Congress

For any fiscal year for which Eisenhower Exchange Fellowships, Incorporated, receive funds pursuant to section 5203(a) of this title, Eisenhower Exchange Fellowships, Incorporated, shall prepare and transmit to the President and the Congress a report of its activities for such fiscal year.

(Pub. L. 101–454, § 7, Oct. 24, 1990, 104 Stat. 1065.)

§ 5207. Status as executive agency

Notwithstanding any other provision of law, on and after August 2, 2002, for purposes of section 501 of title 40 (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), the Eisenhower Exchange Fellowship Program shall be deemed an executive agency for the purposes of carrying out the provisions of section 5201 of this title, and the employees of and participants in the Eisenhower Exchange Fellowship Program shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

(Pub. L. 107–206, title I, § 1203, Aug. 2, 2002, 116 Stat. 888.)

CODIFICATION

''Section 501 of title 40'' substituted for ''section 201(a) of the Federal Property and Administrative Services Act of 1949'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was enacted as part of the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States, and not as part of the Eisenhower Exchange Fellowship Act of 1990 which comprises this chapter.

CHAPTER 64—EXCELLENCE IN MATHEMATICS, SCIENCE, AND ENGINEERING EDUCATION

SUBCHAPTER I—FINDINGS AND OBJECTIVES

§ 5301. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title I, § 101, Nov. 16, 1990, 104 Stat. 2882, stated findings of Congress and national objectives relating to mathematics, science, and engineering education.

SHORT TITLE

Section 1 of Pub. L. 101–589 provided that Pub. L. 101–589 (enacting this chapter and sections 2994 to 2994g of this title, redesignating section 2993 of this title as section 2996 of this title, amending sections 237, 240, 1201a, 1221e–1, 2983 to 2992, and 4512 of this title and sections 1869 and 1873 of Title 42, the Public Health and Welfare, and enacting provisions set out as notes under this section and sections 240 and 2982 of this title) could be cited as the ''Excellence in Mathematics, Science and Engineering Education Act of 1990'', prior to repeal by Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023.

SUBCHAPTER II—MATHEMATICS, SCIENCE AND TECHNOLOGY IMPROVEMENTS

PART A—INNOVATIVE TECHNOLOGIES

§ 5311. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title II, § 221, Nov. 16, 1990, 104 Stat. 2891, related to expanding uses of innovative technologies for mathematics and science instruction.

PART B—SCIENCE-TECHNOLOGY CENTERS

§ 5321. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title II, § 231, Nov. 16, 1990, 104 Stat. 2892, related to awards to science-technology centers.

PART C—GRANTS TO EDUCATIONAL AGENCIES FOR SYSTEMIC REFORM OF MATHEMATICS AND SCIENCE EDUCATION

§ 5331. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title II, § 241, Nov. 16, 1990, 104 Stat. 2894, related to systemic reform of mathematics and science education.

SUBCHAPTER III—HIGHER EDUCATION

PART A—GRADUATE FELLOWSHIPS AND TRAINEESHIPS

§§ 5341 to 5343. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section 5341, Pub. L. 101–589, title III, § 301, Nov. 16, 1990, 104 Stat. 2895, stated purpose of this part to avert shortage of American scientists and engineers.

Section 5342, Pub. L. 101–589, title III, § 302, Nov. 16, 1990, 104 Stat. 2895, related to graduate fellowships.

Section 5343, Pub. L. 101–589, title III, § 303, Nov. 16, 1990, 104 Stat. 2896, related to graduate traineeships.

PART B—CENTERS OF EXCELLENCE

§ 5351. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title III, § 311, Nov. 16, 1990, 104 Stat. 2896, related to Centers of Excellence for Undergraduate Teaching.

SUBCHAPTER IV—WOMEN AND MINORITIES IN MATHEMATICS, SCIENCE AND ENGINEERING

§§ 5361 to 5364. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section 5361, Pub. L. 101–589, title IV, § 401, Nov. 16, 1990, 104 Stat. 2897, stated purpose of this subchapter to increase participation of women and minorities in mathematics, science, and engineering.

Section 5362, Pub. L. 101–589, title IV, § 402, Nov. 16, 1990, 104 Stat. 2897, related to Distinguished Visiting Professors.

Section 5363, Pub. L. 101–589, title IV, § 403, Nov. 16, 1990, 104 Stat. 2897, related to faculty awards for women and minorities.

Section 5364, Pub. L. 101–589, title IV, § 404, Nov. 16, 1990, 104 Stat. 2897, related to alliances for minority participation.

SUBCHAPTER V—EDUCATION COORDINATION AND DEPARTMENT OF ENERGY PROGRAMS

§§ 5371 to 5373. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section 5371, Pub. L. 101–589, title V, § 501, Nov. 16, 1990, 104 Stat. 2898, required science education report.

Section 5372, Pub. L. 101–589, title V, § 502, Nov. 16, 1990, 104 Stat. 2898, required general education reports.

Section 5373, Pub. L. 101–589, title V, § 503, Nov. 16, 1990, 104 Stat. 2899, related to Department of Energy programs.

SUBCHAPTER VI—SCIENCE SCHOLARSHIPS

PART A—NATIONAL SCIENCE SCHOLARS PROGRAM

§§ 5381 to 5386. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section 5381, Pub. L. 101–589, title VI, § 601, Nov. 16, 1990, 104 Stat. 2900; Pub. L. 102–103, title III, § 314(a), Aug. 17, 1991, 105 Stat. 508; Pub. L. 102–325, title XV, § 1556(a), July 23, 1992, 106 Stat. 840, stated purpose of this part to establish a National Science Scholars Program and support science, mathematics, and engineering in the United States, and authorized appropriations for awards.

Section 5382, Pub. L. 101–589, title VI, § 602, Nov. 16, 1990, 104 Stat. 2900, authorized awarding of scholarships for study of science, mathematics, and engineering.

Section 5383, Pub. L. 101–589, title VI, § 603, Nov. 16, 1990, 104 Stat. 2901, related to selection of scholars.

Section 5384, Pub. L. 101–589, title VI, § 604, Nov. 16, 1990, 104 Stat. 2902, related to eligibility of scholars for awards.

Section 5385, Pub. L. 101–589, title VI, § 605, Nov. 16, 1990, 104 Stat. 2903, related to scholarship amounts.

Section 5386, Pub. L. 101–589, title VI, § 606, Nov. 16, 1990, 104 Stat. 2903, related to summer employment opportunities for scholars.

PART B—ROBERT NOYCE SCHOLARSHIPS

§ 5401. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title VI, § 611, Nov. 16, 1990, 104 Stat. 2904, established scholarship program for stu-

dents in science, mathematics, and engineering programs.

PART C—NATIONAL ACADEMY OF SCIENCE, SPACE, AND TECHNOLOGY

§ 5411. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title VI, § 621, Nov. 16, 1990, 104 Stat. 2907; Pub. L. 102–103, title III, § 314(b), Aug. 17, 1991, 105 Stat. 508; Pub. L. 102–325, title XV, § 1556(b), July 23, 1992, 106 Stat. 840, established National Academy of Science, Space, and Technology.

PART D—ADDITIONAL PROVISIONS

§§ 5421, 5422. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section 5421, Pub. L. 101–589, title VI, § 631, Nov. 16, 1990, 104 Stat. 2910, related to effect of certain controlled substance and felony convictions on eligibility.

Section 5422, Pub. L. 101–589, title VI, § 632, Nov. 16, 1990, 104 Stat. 2910, required report by National Science Foundation.

SUBCHAPTER VII—GENERAL PROVISIONS AND AUTHORIZATION OF APPROPRIATIONS

PART A—AUTHORIZATION OF APPROPRIATIONS

§ 5431. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title VII, § 701, Nov. 16, 1990, 104 Stat. 2910, authorized appropriations to National Science Foundation.

PART B—DEFINITIONS

§ 5441. Repealed. Pub. L. 103–382, title III, § 391(*l*), Oct. 20, 1994, 108 Stat. 4023

Section, Pub. L. 101–589, title VII, § 711, Nov. 16, 1990, 104 Stat. 2911, defined terms used in this chapter.

CHAPTER 65—NATIONAL ENVIRONMENTAL EDUCATION

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§ 5501. Findings and policy

(a) Findings

The Congress finds that—

(1) Threats to human health and environmental quality are increasingly complex, involving a wide range of conventional and toxic contaminants in the air and water and on the land.

(2) There is growing evidence of international environmental problems, such as global warming, ocean pollution, and declines in species diversity, and that these problems pose serious threats to human health and the environment on a global scale.

(3) Environmental problems represent as significant a threat to the quality of life and the economic vitality of urban areas as they do the natural balance of rural areas.

(4) Effective response to complex environmental problems requires understanding of the natural and built environment, awareness of environmental problems and their origins (including those in urban areas), and the skills to solve these problems.

(5) Development of effective solutions to environmental problems and effective implemen-

tation of environmental programs requires a well educated and trained, professional work force.

(6) Current Federal efforts to inform and educate the public concerning the natural and built environment and environmental problems are not adequate.

(7) Existing Federal support for development and training of professionals in environmental fields is not sufficient.

(8) The Federal Government, acting through the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational and environmental organizations, noncommercial educational broadcasting entities, and private sector interests to support development of curricula, special projects, and other activities, to increase understanding of the natural and built environment and to improve awareness of environmental problems.

(9) The Federal Government, acting through the coordinated efforts of its agencies and with the leadership of the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational and environmental organizations, noncommercial educational broadcasting entities, and private sector interests to develop programs to provide increased emphasis and financial resources for the purpose of attracting students into environmental engineering and assisting them in pursuing the programs to complete the advanced technical education required to provide effective problem solving capabilities for complex environmental issues.

(10) Federal natural resource agencies such as the United States Forest Service have a wide range of environmental expertise and a long history of cooperation with educational institutions and technology transfer that can assist in furthering the purposes of the[1] chapter.

(b) Policy

It is the policy of the United States to establish and support a program of education on the environment, for students and personnel working with students, through activities in schools, institutions of higher education, and related educational activities, and to encourage postsecondary students to pursue careers related to the environment.

(Pub. L. 101–619, § 2, Nov. 16, 1990, 104 Stat. 3325.)

SHORT TITLE

Section 1(a) of Pub. L. 101–619 provided that: ''This Act [enacting this chapter] may be cited as the 'National Environmental Education Act'.''

§ 5502. Definitions

For the purposes of this chapter, the term—

(1) ''Administrator'' means the Administrator of the Environmental Protection Agency;

(2) ''Agency'' means the United States Environmental Protection Agency;

(3) ''Federal agency'' or ''agency of the United States'' means any department, agency or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation;

(4) ''Secretary'' means the Secretary of the Department of Education;

(5) ''local educational agency'' means any education agency as defined in section 7801 of this title and shall include any tribal education agency;

(6) ''not-for-profit'' organization[1] means an organization, association, or institution described in section 501(c)(3) of title 26, which is exempt from taxation pursuant to the provisions of section 501(a) of title 26;

(7) ''noncommercial education broadcasting entities'' means any noncommercial educational broadcasting station (and/or its legal nonprofit affiliates) as defined and licensed by the Federal Communications Commission;

(8) ''tribal education agency'' means a school or community college which is controlled by an Indian tribe, band, or nation, including any Alaska Native village, which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians and which is not administered by the Bureau of Indian Affairs;

(9) ''Federal natural resource management agencies'' means the United States Forest Service, the Bureau of Land Management, the National Park Service, and the Fish and Wildlife Service;

(10) ''environmental engineering'' means the discipline within engineering and science concerned with the development and application of scientific and technical solutions to protecting the aquatic and atmospheric environment, including, but not limited to, all phases of water resources planning, water supply, water treatment, air pollution characterization and control, remediation of hazardous substances, environmental transport of contaminants in surface and ground water and atmosphere, and methods for assessment and control of pollution;

(11) ''environmental education'' and ''environmental education and training'' mean educational activities and training activities involving elementary, secondary, and postsecondary students, as such terms are defined in the State in which they reside, and environmental education personnel, but does not include technical training activities directed toward environmental management professionals or activities primarily directed toward the support of noneducational research and development;

(12) ''Foundation'' means the National Environmental Education and Training Foundation established pursuant to section 5509 of this title; and

(13) ''Board of Directors'' means the Board of Directors of the National Environmental Education and Training Foundation.

(Pub. L. 101–619, § 3, Nov. 16, 1990, 104 Stat. 3326; Pub. L. 103–382, title III, § 391(m), Oct. 20, 1994, 108 Stat. 4023; Pub. L. 107–110, title X, § 1076(n), Jan. 8, 2002, 115 Stat. 2092.)

[1] So in original. Probably should be ''this''.

[1] So in original. Probably should be '' 'not-for-profit organization' ''.

AMENDMENTS

2002—Par. (5). Pub. L. 107–110 substituted ''7801'' for ''8801''.

1994—Par. (5). Pub. L. 103–382 substituted ''local educational agency'' for ''local education agency'' and reference to section 8801 of this title for reference to section 198 of the Elementary and Secondary Education Act of 1965.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 5503. Office of Environmental Education

(a) Establishment

The Administrator shall establish an Office of Environmental Education within the Environmental Protection Agency.

(b) Duties and functions

The Office of Environmental Education shall—

(1) develop and support programs and related efforts, in consultation and coordination with other Federal agencies, to improve understanding of the natural and built environment, and the relationships between humans and their environment, including the global aspects of environmental problems;

(2) support development and the widest possible dissemination of model curricula, educational materials, and training programs for elementary and secondary students and other interested groups, including senior Americans;

(3) develop and disseminate, in cooperation with other Federal agencies, not-for-profit educational and environmental organizations, State agencies, and noncommercial educational broadcasting entities, environmental education publications and audio/visual and other media materials;

(4) develop and support environmental education seminars, training programs, teleconferences, and workshops for environmental education professionals, as provided for in section 5504 of this title;

(5) manage Federal grant assistance provided to local education agencies, institutions of higher education, other not-for-profit organizations, and noncommercial education broadcasting entities, under section 5505 of this title;

(6) administer the environmental internship and fellowship programs provided for in section 5506 of this title;

(7) administer the environmental awards program provided for in section 5507 of this title;

(8) provide staff support to the Advisory Council and Task Force provided for in section 5508 of this title;

(9) assess, in coordination with other Federal agencies, the demand for professional skills and training needed to respond to current and anticipated environmental problems and cooperate with appropriate institutions, organizations, and agencies to develop training programs, curricula, and continuing education programs for teachers, school administrators, and related professionals;

(10) assure the coordination of Federal statutes and programs administered by the Agency relating to environmental education, consistent with the provisions and purposes of those programs, and work to reduce duplication or inconsistencies within these programs;

(11) work with the Department of Education, the Federal Interagency Committee on Education, and with other Federal agencies, including Federal natural resource management agencies, to assure the effective coordination of programs related to environmental education, including environmental education programs relating to national parks, national forests, and wildlife refuges;

(12) provide information on environmental education and training programs to local education agencies, State education and natural resource agencies, and others; and

(13) otherwise provide for the implementation of this chapter.

(c) Director and staff

The Office of Environmental Education shall—

(1) be directed by a Director who shall be a member of the Senior Executive Service;

(2) include a headquarters staff of not less than six and not more than ten full-time equivalent employees; and

(3) be supported by one full-time equivalent employee in each Agency regional office.

(Pub. L. 101–619, § 4, Nov. 16, 1990, 104 Stat. 3327.)

§ 5504. Environmental Education and Training Program

(a) Establishment

There is hereby established an Environmental Education and Training Program. The purpose of the program shall be to train educational professionals in the development and delivery of environmental education and training programs and studies.

(b) Functions and activities

The functions and activities of the program shall include, at a minimum—

(1) classroom training in environmental education and studies including environmental sciences and theory, educational methods and practices, environmental career or occupational education, and topical environmental issues and problems;

(2) demonstration of the design and conduct of environmental field studies and assessments;

(3) development of environmental education programs and curriculum, including programs and curriculum to meet the needs of diverse ethnic and cultural groups;

(4) sponsorship and management of international exchanges of teachers and other educational professionals between the United States, Canada, and Mexico involved in environmental programs and issues;

(5) maintenance or support of a library of environmental education materials, information, literature, and technologies, with electronic as well as hard copy accessibility;

(6) evaluation and dissemination of environmental education materials, training methods, and related programs;

(7) sponsorship of conferences, seminars, and related forums for the advancement and development of environmental education and training curricula and materials, including international conferences, seminars, and forums;

(8) supporting effective partnerships and networks and the use of distant learning technologies; and

(9) such other activities as the Administrator determines to be consistent with the policies of this chapter.

Special emphasis should be placed on developing environmental education programs, workshops, and training tools that are portable and can be broadly disseminated.

(c) Grants

(1) The Administrator shall make a grant on an annual basis to an institution of higher education or other institution which is a not-for-profit institution (or consortia of such institutions) to operate the environmental education and training program required by this section.

(2) Any institution of higher education or other institution (or consortia of such institutions) which is a not-for-profit organization and is interested in receiving a grant under this section may submit to the Administrator an application in such form and containing such information as the Administrator may require.

(3) The Administrator shall award grants under this section on the basis of—

(A) the capability to develop environmental education and training programs;

(B) the capability to deliver training to a range of participants and in a range of settings;

(C) the expertise of the staff in a range of appropriate disciplines;

(D) the relative economic effectiveness of the program in terms of the ratio of overhead costs to direct services;

(E) the capability to make effective use of existing national environmental education resources and programs;

(F) the results of any evaluation under paragraph (5) of this subsection; and

(G) such other factors as the Administrator deems appropriate.

(4) No funds made available to carry out this section shall be used for the acquisition of real property (including buildings) or the construction or substantial modification of any building.

(5) The Administrator shall establish procedures for a careful and detailed review and evaluation of the environmental education and training program to determine whether the quality of the program being operated by the grantee warrants continued support under this section.

(d) Eligibility

(1) Individuals eligible for participation in the program are teachers, faculty, administrators and related support staff associated with local education agencies, colleges, and universities, employees of State education, environmental protection, and natural resource departments, and employees of not-for-profit organizations involved in environmental education activities and issues.

(2) Individuals shall be selected for participation in the program based on applications which shall be in such form as the Administrator determines to be appropriate.

(3) In selecting individuals to participate in the program, the Administrator shall provide for a wide geographic representation and a mix of individuals, including minorities, working at primary, secondary, postsecondary levels, and with appropriate other agencies and departments.

(4) Individuals selected for participation in the program may be provided with a stipend to cover travel and accommodations from grant funds awarded pursuant to this section in such amounts as the Administrator determines to be appropriate.

(Pub. L. 101–619, § 5, Nov. 16, 1990, 104 Stat. 3328.)

§ 5505. Environmental education grants

(a) Cooperative agreements and grants

The Administrator may enter into a cooperative agreement or contract, or provide financial assistance in the form of a grant, to support projects to design, demonstrate, or disseminate practices, methods, or techniques related to environmental education and training.

(b) Eligible activities

Activities eligible for grant support pursuant to this section shall include, but not be limited to, environmental education and training programs for—

(1) design, demonstration, or dissemination of environmental curricula, including development of educational tools and materials;

(2) design and demonstration of field methods, practices, and techniques, including assessment of environmental and ecological conditions and analysis of environmental pollution problems;

(3) projects to understand and assess a specific environmental issue or a specific environmental problem;

(4) provision of training or related education for teachers, faculty, or related personnel in a specific geographic area or region; and

(5) design and demonstration of projects to foster international cooperation in addressing environmental issues and problems involving the United States and Canada or Mexico.

(c) Priority projects

In making grants pursuant to this section, the Administrator shall give priority to those proposed projects which will develop—

(1) a new or significantly improved environmental education practice, method, or technique;

(2) an environmental education practice, method, or technique which may have wide application;

(3) an environmental education practice, method, or technique which addresses a skill or scientific field identified as a priority in the report developed pursuant to section 5508(d) of this title; and

(4) an environmental education practice, method, or technique which addresses an environmental issue which, in the judgment of the Administrator, is of a high priority.

(d) Scope of program and implementing regulations

The program established by this section shall include solicitations for projects, selection of suitable projects from among those proposed, supervision of such projects, evaluation of the results of projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, techniques and processes. Within one year of November 16, 1990, the Administrator shall publish regulations to assure satisfactory implementation of each element of the program authorized by this section.

(e) Solicitation notices

Within 90 days after the date on which amounts are first appropriated for carrying out this chapter, and each year thereafter, the Administrator shall publish a solicitation for environmental education grants. The solicitation notice shall prescribe the information to be included in the proposal and other information sufficient to permit the Administrator to assess the project.

(f) Applications

Any local education agency, college or university, State education agency or environmental agency, not-for-profit organization, or noncommercial educational broadcasting entity may submit an application to the Administrator in response to the solicitations required by subsection (e) of this section.

(g) Performance of projects

Each project under this section shall be performed by the applicant, or by a person satisfactory to the applicant and the Administrator.

(h) Matching requirements

Federal funds for any demonstration project under this section shall not exceed 75 percent of the total cost of such project. For the purposes of this section, the non-Federal share of project costs may be provided by inkind contributions and other noncash support. In cases where the Administrator determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, the Administrator may approve grants under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(i) Limitations on grants

Grants under this section shall not exceed $250,000. In addition, 25 percent of all funds obligated under this section in a fiscal year shall be for grants of not more than $5,000.

(Pub. L. 101–619, § 6, Nov. 16, 1990, 104 Stat. 3330.)

§ 5506. Environmental internships and fellowships

(a) Postsecondary students and in-service teachers

The Administrator shall, in consultation with the Office of Personnel Management and other appropriate Federal agencies, provide for internships by postsecondary level students and fellowships for in-service teachers with agencies of the Federal Government.

(b) Purpose

The purpose of internships and fellowships pursuant to this section shall be to provide college level students and in-service teachers with an opportunity to work with professional staff of Federal agencies involved in environmental issues and thereby gain an understanding and appreciation of such issues and the skills and abilities appropriate to such professions.

(c) Minimum number of internships and fellowships

The Administrator shall, to the extent practicable, support not less than 250 internships each year and not less than 50 fellowships each year.

(d) Management of programs; eligible agencies

The internship and fellowship programs shall be managed by the Office of Environmental Education. Interns and fellows may serve in appropriate agencies of the Federal Government including, but not limited to, the Environmental Protection Agency, the Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the Council on Environmental Quality, Federal natural resource management agencies, the Department of Agriculture, and the National Science Foundation.

(e) Length of internships and fellowships; funding

Interns shall be hired on a temporary, full-time basis for not to exceed 6 months and shall be compensated appropriately. Fellows shall be hired on a temporary full-time basis for not to exceed 12 months and shall be compensated appropriately. Federal agencies hiring interns shall provide the funds necessary to support salaries and related costs.

(f) Eligible individuals

(1) Individuals eligible for participation in the internship program are students enrolled at accredited colleges or universities who have successfully completed not less than four courses or the equivalent in environmental sciences or studies, as determined by the Administrator.

(2) Individuals eligible for participation in the fellowship program are in-service teachers who are currently employed by a local education agency and have not less than 2 years experience in teaching environmental education, environmental sciences, or related courses.

(g) Applications

Individuals shall be selected for internships and fellowships based on applications which shall be in such form as the Administrator considers appropriate.

(h) Geographic, cultural, and minority representation

In selecting individuals for internships and fellowships, the Administrator shall provide for wide geographic, cultural, and minority representation.

(Pub. L. 101–619, § 7, Nov. 16, 1990, 104 Stat. 3331.)

§ 5507. Environmental education awards

(a) National awards

The Administrator shall provide for a series of national awards recognizing outstanding contributions to environmental education.

(b) Required awards

In addition to such other awards as the Administrator may provide for, national environmental awards shall include—

(1) The ''Theodore Roosevelt Award'' to be given in recognition of an outstanding career in environmental education, teaching, or administration;

(2) The ''Henry David Thoreau Award'' to be given in recognition of an outstanding contribution to literature on the natural environment and environmental pollution problems;

(3) The ''Rachael Carson Award'' to be given in recognition of an outstanding contribution in print, film, or broadcast media to public education and information on environmental issues or problems; and

(4) The ''Gifford Pinchot Award'' to be given in recognition of an outstanding contribution to education and training concerning forestry and natural resource management, including multiple use and sustained yield land management.

(c) Nomination by Environmental Education Advisory Council

Recipients of education awards provided for in subsection (b) of this section shall be nominated by the Environmental Education Advisory Council provided for in section 5508 of this title.

(d) President's Environmental Youth Awards

The Administrator may provide for the ''President's Environmental Youth Awards'' to be given to young people in grades kindergarten through twelfth for an outstanding project to promote local environmental awareness.

(e) Cash awards for elementary and secondary education teachers and local educational agencies

(1) The Chairman of the Council on Environmental Quality, on behalf of the President, is authorized to develop and administer an awards program to recognize elementary and secondary education teachers and their local educational agencies who demonstrate excellence in advancing environmental education through innovative approaches. One teacher, and the local education agency employing such teacher, from each State, including the District of Columbia and the Commonwealth of Puerto Rico, are eligible to be selected for an award pursuant to this subsection.

(2) The Chairman is authorized to provide a cash award of up to $2,500 to each teacher selected to receive an award pursuant to this section, which shall be used to further the recipient's professional development in environmental education.

(3) The Chairman is also authorized to provide a cash award of up to $2,500 to the local education agency employing any teacher selected to receive an award pursuant to this section, which shall be used to fund environmental educational activities and programs. Such awards may not be used for construction costs, general expenses, salaries, bonuses, or other administrative expenses.

(Pub. L. 101–619, § 8, Nov. 16, 1990, 104 Stat. 3332.)

§ 5508. Environmental Education Advisory Council and Task Force

(a) Establishment

There is hereby established a National Environmental Education Advisory Council and a Federal Task Force on Environmental Education.

(b) Advisory Council; duties; members; terms of office; compensation; termination

(1) The Advisory Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this chapter. With respect to such matters, the Council shall be the exclusive advisory entity for the Administrator. The Council may exchange information with other Advisory Councils established by the Administrator. The Office of Environmental Education shall provide staff support to the Council.

(2) The Advisory Council shall consist of 11 members appointed by the Administrator after consultation with the Secretary. Two members shall be appointed to represent primary and secondary education (one of whom shall be a classroom teacher); two members shall be appointed to represent colleges and universities; two members shall be appointed to represent not-for-profit organizations involved in environmental education; two members shall be appointed to represent State departments of education and natural resources; two representatives shall be appointed to represent business and industry; and one representative shall be appointed to represent senior Americans. A representative of the Secretary shall serve as an ex officio member of the Advisory Council. The conflict of interest provision at section 208(a) of title 18 shall not apply to members' participation in particular matters which affect the financial interests of employers which they represent pursuant to this subsection.

(3) The Administrator shall provide that members of the Council represent the various geographic regions of the country, has minority representation, and that the professional backgrounds of the members include scientific, policy, and other appropriate disciplines.

(4) Each member of the Advisory Council shall hold office for a term of 3 years, except that—

(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(B) the terms of the members first taking office shall expire as follows: four shall expire 3 years after November 16, 1990, four shall expire 2 years after November 16, 1990, and three shall expire 1 year after November 16, 1990, as designated by the Administrator at the time of appointment.

(5) Members of the Advisory Council appointed under this section shall, while attending meetings of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade

GS–18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b)[1] of title 5.

(6) Section 14(a) of the Federal Advisory Committee Act relating to termination, shall not apply to the Advisory Council.

(c) Federal Task Force on Environmental Education; duties; members

(1) The Federal Task Force on Environmental Education shall advise, consult with and make recommendations to the Administrator on matters relating to implementation of this chapter and assure the coordination of such implementation activities with related activities of other Federal agencies.

(2) Membership of the Task Force shall include the—

(A) Department of Education,

(B) Department of the Interior,

(C) Department of Agriculture,

(D) the Environmental Protection Agency,

(E) National Oceanic and Atmospheric Administration,

(F) Council on Environmental Quality,

(G) Tennessee Valley Authority, and

(H) National Science Foundation.

(3) The Environmental Protection Agency shall chair the Task Force.

(4) The Administrator may ask other Federal agencies to participate in the meetings and activities of the Task Force where the Administrator finds it appropriate in carrying out the requirements of this chapter.

(d) Reports

(1) The Advisory Council shall, after providing for public review and comment, submit to the Congress, within 24 months of November 16, 1990, and biennially thereafter, a report which shall—

(A) describe and assess the extent and quality of environmental education in the Nation;

(B) provide a general description of the activities conducted pursuant to this chapter and related authorities over the previous 2-year period;

(C) summarize major obstacles to improving environmental education (including environmental education programs relating to national parks and wildlife refuges) and make recommendations for addressing such obstacles;

(D) identify personnel skills, education, and training needed to respond to current and anticipated environmental problems and make recommendations for actions to assure sufficient educational and training opportunities in these professions; and

(E) describe and assess the extent and quality of environmental education programs available to senior Americans and make recommendations thereon; describe the various Federal agency programs to further senior environmental education; and evaluate and make recommendations as to how such educational apparatuses could best be coordinated with nonprofit senior organizations across the Nation, and environmental education institutions and organizations now in existence.

(2) The Federal Task Force on Environmental Education shall review and comment on a draft of the report to Congress.

(Pub. L. 101–619, § 9, Nov. 16, 1990, 104 Stat. 3333.)

REFERENCES IN TEXT

Section 5703 of title 5, referred to in subsec. (b)(5), was amended generally by Pub. L. 94–22, May 19, 1975, § 4, 89 Stat. 85, and, as so amended, does not contain a subsec. (b).

Section 14(a) of the Federal Advisory Committee Act, referred to in subsec. (b)(6), is section 14(a) of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 5509. National Environmental Education and Training Foundation

(a) Establishment and purposes

(1) Establishment

(A) There is hereby established the National Environmental Education and Training Foundation. The Foundation is established in order to extend the contribution of environmental education and training to meeting critical environmental protection needs, both in this country and internationally; to facilitate the cooperation, coordination, and contribution of public and private resources to create an environmentally advanced educational system; and to foster an open and effective partnership among Federal, State, and local government, business, industry, academic institutions, community based environmental groups, and international organizations.

(B) The Foundation is a charitable and nonprofit corporation whose income is exempt from tax, and donations to which are tax deductible to the same extent as those organizations listed pursuant to section 501(c) of title 26. The Foundation is not an agency or establishment of the United States.

(2) Purposes

The purposes of the Foundation are—

(A) subject to the limitation contained in the final sentence of subsection (d) of this section, to encourage, accept, leverage, and administer private gifts for the benefit of, or in connection with, the environmental education and training activities and services of the United States Environmental Protection Agency;

(B) to conduct such other environmental education activities as will further the de-

[1] See References in Text note below.

velopment of an environmentally conscious and responsible public, a well-trained and environmentally literate workforce, and an environmentally advanced educational system;

(C) to participate with foreign entities and individuals in the conduct and coordination of activities that will further opportunities for environmental education and training to address environmental issues and problems involving the United States and Canada or Mexico.

(3) Programs

The Foundation will develop, support, and/or operate programs and projects to educate and train educational and environmental professionals, and to assist them in the development and delivery of environmental education and training programs and studies.

(b) Board of Directors

(1) Establishment and membership

(A) The Foundation shall have a governing Board of Directors (hereafter referred to in this section as ''the Board''), which shall consist of 13 directors, each of whom shall be knowledgeable or experienced in the environment, education and/or training. The Board shall oversee the activities of the Foundation and shall assure that the activities of the Foundation are consistent with the environmental and education goals and policies of the Environmental Protection Agency and with the intents and purposes of this chapter. The membership of the Board, to the extent practicable, shall represent diverse points of view relating to environmental education and training.

(B) The Administrator of the Environmental Protection Agency shall, pursuant to paragraph (2), appoint the Director of the Office of Environmental Education established pursuant to section 5502 of this title as an ex-officio member of the Board. Ex officio membership shall also be offered to other Federal agencies or departments with an interest and/or experience in environmental education and training.

(C) Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(2) Appointment and terms

(A) Members of the Board shall be appointed by the Administrator of the Environmental Protection Agency.

(B) Within 90 days of November 16, 1990, and as appropriate thereafter, the Administrator shall publish in the Federal Register an announcement of appointments of Directors of the Board. At the same time, the Administrator shall transmit a copy of such announcement to the Education and Labor Committee and the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the United States Senate. Such appointments shall become final and effective 90 days after publication in the Federal Register.

(C) The directors shall be appointed for terms of 4 years, except that the Administrator, in making the initial appointments to the Board, shall appoint 5 directors to a term of 2 years, 4 directors to a term of 3 years, and 4 directors to a term of 4 years. The Administrator shall appoint an individual to serve as a director in the event of a vacancy on the Board within 60 days of said vacancy in the manner in which the original appointment was made. No individual may serve more than 2 consecutive terms as a director.

(3) Chair

The Chair shall be elected by the Board from its members for a 2-year term.

(4) Quorum

A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(5) Meetings

The Board shall meet at the call of the Chair at least twice a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and that vacancy filled in accordance with this subsection.

(6) Reimbursement of expenses

Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(7) General powers

(A) The Board may complete the organization of the Foundation by—

(i) appointing officers and employees;

(ii) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this section; and

(iii) undertaking such other acts as may be necessary to carry out the provisions of this section.

(B) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(i) Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5 relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(ii) The first officer or employee appointed by the Board shall be the Executive Director of the Foundation who—

(I) shall serve, at the direction of the Board, as the Secretary of the Board and the Foundation's chief executive officer; and

(II) shall be experienced in matters relating to environmental education and training.

(c) Rights and obligations of Foundation

(1) In general

The Foundation—

(A) shall have perpetual succession;

(B) may conduct business throughout the several States, territories, and possessions of the United States and abroad;

(C) shall have its principal offices in the District of Columbia or in the greater metropolitan area; and

(D) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The service of notice to, or service of notice upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(2) Seal

The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(3) Powers

To carry out its purposes under subsection (a) of this section, the Foundation shall have, in addition to the powers otherwise given it under this section, the usual powers of a corporation acting as a trustee, including the power—

(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(B) to acquire by purchase or exchange any real or personal property or interest therein;

(C) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(D) to sue, or to be sued, and complain or defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(E) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(F) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

(d) Conditions on donations

(1) For the purposes of this section, a gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current future interest therein is for the benefit of the Foundation.

(2) No donation, gift, devise, bequest, property (either real or personal), voluntary services, or any other thing of value may be accepted by the Foundation if it—

(A) is contingent upon the transmission by the Foundation of materials or information prepared by the donor or a third party in such a fashion as to convey a particular point of view favorable to the economic interests of the donor or its constituents or associates; or

(B) in the judgment of the Board carries with it an explicit or implied requirement on the part of the Foundation to do a specific act or make general representations which are to the benefit of the donor and which are not consistent with the environmental and education goals and policies of the Environmental Protection Agency and with the intents and purposes of this chapter.

(3) No materials bearing ''logos'', letterhead or other means of identification associated with a donor or third party may be transmitted by the Foundation, for use in environmental education and training except as required pursuant to subsection (f) of this section.

(e) Administrative services and support

Subject to the requirements of this subsection, the Administrator may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under subsection (b)(6) of this section, not to exceed then current Federal Government per diem rates, for a period of up to 4 years from November 16, 1990, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the costs of providing such services. With respect to personnel, the Administrator may provide no more than 1 full-time employee to serve the Foundation in a policy capacity, and may provide clerical and other support staff at a level equivalent to 2 full-time equivalent employees to the Foundation, for a period not to exceed 2 years from the date of initial assignment of any personnel for this purpose.

(f) Omitted

(g) Volunteer status

The Administrator may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Environmental Protection Agency, as volunteers in the performance of the functions authorized herein, in the manner provided for under this section.

(h) Audits and petition of Attorney General for equitable relief

For purposes of section 10101 of title 36, the Foundation shall be treated as a corporation in part B of subtitle II of title 36.

(i) United States release from liability

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

(j) Amendment and repeal

The Congress expressly reserves the right to repeal or amend this section at any time.

(Pub. L. 101–619, § 10, Nov. 16, 1990, 104 Stat. 3335.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec.

(b)(7)(B)(i), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The civil service classification laws, referred to in subsec. (g), probably should refer to civil service and classification laws. The civil service laws are set forth in Title 5. See, particularly, section 3301 et seq. of Title 5. The classification laws are set forth in chapter 51 and subchapter III of chapter 53 of Title 5.

CODIFICATION

Subsec. (f) of this section, which required the Foundation, as soon as practicable after the end of each fiscal year, to transmit to Congress a report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 183 of House Document No. 103–7.

In subsec. (h), ''section 10101 of title 36'' substituted for ''the Act entitled 'An Act for audit of accounts of private corporations established under Federal law', approved August 30, 1964 (Public Law 88–504; 36 U.S.C. 1101–1103)'' and ''a corporation in part B of subtitle II of title 36'' substituted for ''a private corporation established under Federal law'' on authority of Pub. L. 105–225, § 5(b), Aug. 12, 1998, 112 Stat. 1499, the first section of which enacted Title 36, Patriotic and National Observances, Ceremonies, and Organizations.

CHANGE OF NAME

Committee on Education and Labor of House of Representatives treated as referring to Committee on Economic and Educational Opportunities of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Economic and Educational Opportunities of House of Representatives changed to Committee on Education and the Workforce of House of Representatives by House Resolution No. 5, One Hundred Fifth Congress, Jan. 7, 1997.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

§ 5510. Authorization

(a) Authorization of appropriations

There is hereby authorized to be appropriated to the Environmental Protection Agency to carry out this chapter not to exceed $12,000,000 for each fiscal year 1992 and 1993, not to exceed $13,000,000 for fiscal year 1994, and not to exceed $14,000,000 for each fiscal year 1995 and 1996.

(b) Limitations

Of such sums appropriated in a fiscal year, 25 percent shall be available for the activities of the Office of Environmental Education, 25 percent shall be available for the operation of the environmental education and training program, 38 percent shall be available for environmental education grants, 10 percent shall be available for support of the National Environmental Education and Training Foundation, and 2 percent shall be available to support awards pursuant to section 5507(e) of this title.

(c) Availability of funds to National Environmental Education and Training Foundation

Funds appropriated pursuant to this section may be made available to the National Environmental Education and Training Foundation to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local governments; and

(2) provide administrative services under section 5509(d) of this title:

Provided, That the Administrator determines that such funds will be used to carry out the statutory purposes of the Foundation in a manner consistent with the goals, objectives and programs of this chapter.

(Pub. L. 101–619, § 11, Nov. 16, 1990, 104 Stat. 3339.)

CHAPTER 66—MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

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§ 5601. Findings

The Congress finds that—

(1) for three decades, Congressman Morris K. Udall has served his country with distinction and honor;

(2) Congressman Morris K. Udall has had a lasting impact on this Nation's environment, public lands, and natural resources, and has instilled in this Nation's youth a love of the air, land, and water;

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

(4) it is a fitting tribute to the leadership, courage, and vision Congressman Morris K. Udall exemplifies to establish in his name programs to encourage the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources.

(Pub. L. 102–259, § 3, Mar. 19, 1992, 106 Stat. 78.)

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–160, § 1, Dec. 6, 2003, 117 Stat. 2013, provided that: ''This Act [amending section 5609 of this title] may be cited as the 'Environmental Policy and Conflict Resolution Advancement Act of 2003'.''

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–156, § 1, Feb. 11, 1998, 112 Stat. 8, provided that: ''This Act [enacting sections 5607a and 5607b of this title and amending sections 5602 to 5607, 5608, and 5609 of this title] may be cited as the 'Environmental Policy and Conflict Resolution Act of 1998'.''

SHORT TITLE

Section 1 of Pub. L. 102–259 provided that: ''This Act [enacting this chapter] may be cited as the 'Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992'.''

REPEAL OF PREVIOUS LEGISLATION

Section 2 of Pub. L. 102–259 provided that: ''The Morris K. Udall Scholarship and Excellence in National Environmental Policy Act, S. 1176, One Hundred Second Congress, is hereby repealed.'' [For details concerning purported pocket veto of S. 1176, One Hundred Second Congress, see Weekly Compilation of Presidential Documents, vol. 28 (1992), no. 12, p. 507, Mar. 19, Presidential Statement, and Cong. Rec., vol. 138, pt. 3, p. 4078.]

§ 5602. Definitions

For the purposes of this chapter—

(1) the term ''Board'' means the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under 5603(b) of this title;

(2) the term ''Center'' means the Udall Center for Studies in Public Policy established at the University of Arizona in 1987;

(3) the term ''eligible individual'' means a citizen or national of the United States or a permanent resident alien of the United States;

(4) the term ''environmental dispute'' means a dispute or conflict relating to the environment, public lands, or natural resources;

(5) the term ''Foundation'' means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 5603(a) of this title;

(6) the term ''Institute'' means the United States Institute for Environmental Conflict Resolution established pursuant to section 5605(a)(1)(D) of this title;

(7) the term ''institution of higher education'' has the same meaning given to such term by section 1001 of this title;

(8) the term ''State'' means each of the several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified); and

(9) the term ''Trust Fund'' means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund established in section 5606 of this title.

(Pub. L. 102–259, § 4, Mar. 19, 1992, 106 Stat. 78; Pub. L. 105–156, § 2, Feb. 11, 1998, 112 Stat. 8; Pub. L. 105–244, title I, § 102(a)(6)(I), Oct. 7, 1998, 112 Stat. 1619.)

REFERENCES IN TEXT

For ratification of Compact of Free Association with the Republic of Palau, referred to in par. (8), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1998—Pars. (4), (5). Pub. L. 105–156, § 2(1), (2), added par. (4) and redesignated former par. (4) as (5). Former par. (5) redesignated (9).

Par. (6). Pub. L. 105–156, § 2(3), added par. (6). Former par. (6) redesignated (7).

Par. (7). Pub. L. 105–244, which directed the substitution of ''section 1001'' for ''section 1141(a)'' in par. (6), was executed by making the substitution in par. (7) to reflect the probable intent of Congress and the redesignation of par. (6) as (7) by Pub. L. 105–156, § 2(1). See below.

Pub. L. 105–156, § 2(1), (4), redesignated par. (6) as (7) and struck out ''and'' at end. Former par. (7) redesignated (8).

Par. (8). Pub. L. 105–156, § 2(1), (5), redesignated par. (7) as (8) and substituted ''; and'' for period at end.

Par. (9). Pub. L. 105–156, § 2(1), (6), redesignated par. (5) as (9) and substituted '' 'Trust Fund' '' for '' 'fund' '' and period for semicolon at end.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 5603. Establishment of Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation

(a) Establishment

There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

(b) Board of Trustees

The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of thirteen trustees, eleven of whom shall be voting members of the Board, as follows:

(1) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(2) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the President pro tempore of the Senate, in consultation with the Majority and Minority Leaders of the Senate.

(3) Five Trustees, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; or

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

(4) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(5) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.[1]

(7) The chairperson of the President's Council on Environmental Quality, who shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.[1]

(c) Term of office

(1)[2] IN GENERAL.—The term of office of each member of the Board shall be six years, except that—

(A) in the case of the Trustees first taking offices—

(i) as designated by the President, one Trustee appointed pursuant to subsection (b)(2) of this section and two trustees appointed pursuant to subsection (b)(3) of this section shall each serve two years; and

(ii) as designated by the President, one Trustee appointed pursuant to subsection (b)(1) of this section and two Trustees appointed pursuant to subsection (b)(3) of this section shall each serve four years; and

(iii) as designated by the President, one Trustee appointed pursuant to subsection (b)(1) of this section, one Trustee appointed pursuant to subsection (b)(2) of this section, and one Trustee appointed pursuant to subsection (b)(3) of this section shall each serve six years;

(B) a Trustee appointed to fill a vacancy shall serve for the remainder of the term for which the Trustee's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made; and

(C) a Trustee may serve after the expiration of the Trustee's term until a successor has been chosen.

(d) Travel and subsistence pay

Trustees shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

(e) Location of Foundation

The Foundation shall be located in Tucson, Arizona.

(f) Executive Director

(1) In general

There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this chapter as the Board shall prescribe.

(2) Compensation

The Executive Director of the Foundation shall be compensated at the rate specified for employees in level IV of the Executive Schedule under section 5315 of title 5.

(Pub. L. 102–259, § 5, Mar. 19, 1992, 106 Stat. 79; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 655], Sept. 30, 1996, 110 Stat. 3009–314, 3009–369; Pub. L. 105–156, § 3, Feb. 11, 1998, 112 Stat. 8.)

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–156, § 3(1), substituted ''thirteen'' for ''twelve'' in introductory provisions.

Subsec. (b)(7). Pub. L. 105–156, § 3(2), added par. (7).

1996—Subsec. (c)(1)(C). Pub. L. 104–208 added subpar. (C).

§ 5604. Purpose of Foundation

It is the purpose of the Foundation to—

(1) increase awareness of the importance of and promote the benefit and enjoyment of the Nation's natural resources;

(2) foster among the American population greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States;

(3) identify critical environmental issues;

(4) establish a Program for Environmental Policy Research and Environmental Conflict Resolution and Training at the Center;

(5) develop resources to properly train professionals in the environmental and related fields;

[1] So in original. Probably should be capitalized.

[2] So in original. No par. (2) has been enacted.

(6) provide educational outreach regarding environmental policy;

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy, by conducting management and leadership training of Native Americans, Alaska Natives, and others involved in tribal leadership, providing assistance and resources for policy analysis, and carrying out other appropriate activities.;[1]

(8) establish as part of the Foundation the United States Institute for Environmental Conflict Resolution to assist the Federal Government in implementing section 4331 of title 42 by providing assessment, mediation, and other related services to resolve environmental disputes involving agencies and instrumentalities of the United States; and

(9) complement the direction established by the President in Executive Order No. 12988 (61 Fed. Reg. 4729; relating to civil justice reform).

(Pub. L. 102–259, § 6, Mar. 19, 1992, 106 Stat. 80; Pub. L. 105–156, § 4, Feb. 11, 1998, 112 Stat. 9; Pub. L. 106–568, title VIII, § 817(a), Dec. 27, 2000, 114 Stat. 2918.)

REFERENCES IN TEXT

Executive Order No. 12988, referred to in par. (9), is set out as a note under section 519 of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

2000—Par. (7). Pub. L. 106–568 inserted before semicolon at end ‘‘, by conducting management and leadership training of Native Americans, Alaska Natives, and others involved in tribal leadership, providing assistance and resources for policy analysis, and carrying out other appropriate activities.’’

1998—Par. (4). Pub. L. 105–156, § 4(1), substituted ‘‘Environmental Conflict Resolution and Training’’ for ‘‘an Environmental Conflict Resolution’’.

Pars. (8), (9). Pub. L. 105–156, § 4(2)–(4), added pars. (8) and (9).

§ 5605. Authority of Foundation

(a) Authority of Foundation

(1) In general

(A) The Foundation, in consultation with the Center, is authorized to identify and conduct such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 5604 of this title. The Foundation shall have the authority to award scholarships, fellowships, internships, and grants and fund the Center to carry out and manage other programs, activities and services.

(B) The Foundation may provide, directly or by contract, for the conduct of national competition for the purpose of selecting recipients of scholarships, fellowships, internships, and grants awarded under this chapter.

(C) The Foundation may award scholarships, fellowships, internships and grants to eligible individuals in accordance with the provisions of this chapter for study in fields related to the environment and Native American and Alaska Native health care and tribal public policy. Such scholarships, fellowships, internships and grants shall be awarded to eligible individuals who meet the minimum criteria established by the Foundation.

(D) INSTITUTE FOR ENVIRONMENTAL CONFLICT RESOLUTION.—

(i) IN GENERAL.—The Foundation shall—

(I) establish the United States Institute for Environmental Conflict Resolution as part of the Foundation; and

(II) identify and conduct such programs, activities, and services as the Foundation determines appropriate to permit the Foundation to provide assessment, mediation, training, and other related services to resolve environmental disputes.

(ii) GEOGRAPHIC PROXIMITY OF CONFLICT RESOLUTION PROVISION.—In providing assessment, mediation, training, and other related services under clause (i)(II) to resolve environmental disputes, the Foundation shall consider, to the maximum extent practicable, conflict resolution providers within the geographic proximity of the conflict.

(2) Scholarships

(A) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers related to the environment and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy.

(B) An eligible individual awarded a scholarship under this chapter may receive payments under this chapter only during such periods as the Foundation finds that the eligible individual is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(C) The Foundation may require reports containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary from any eligible individual awarded a scholarship under this chapter. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such individual is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in this subsection.

(3) Fellowships

Fellowships shall be awarded to—

(A) outstanding graduate students who intend to pursue advanced degrees in fields related to the environment and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy, including law and medicine; and

(B) faculty from a variety of disciplines to bring the expertise of such faculty to the Foundation.

(4) Internships

Internships shall be awarded to—

(A) deserving and qualified individuals to participate in internships in Federal, State

[1] So in original. The period probably should not appear.

and local agencies or in offices of major environmental organizations pursuant to section 5604 of this title; and

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 5604 of this title.

(5) Grants

The Foundation shall award grants to the Center—

(A) to provide for an annual panel of experts to discuss contemporary environmental issues;

(B) to conduct environmental policy research;

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues; and

(D) for visiting policymakers to share the practical experiences of such for visiting policymakers with the Foundation.

(6) Repository

The Foundation shall provide direct or indirect assistance from the proceeds of the Trust Fund to the Center to maintain the current site of the repository for Morris K. Udall's papers and other such public papers as may be appropriate and assure such papers' availability to the public.

(7) Coordination

The Foundation shall assist in the development and implementation of a Program for Environmental Policy Research and Environmental Conflict Resolution and Training to be located at the Center.

(b) Morris K. Udall Scholars

Recipients of scholarships, fellowships, internships, and grants under this chapter shall be known as ''Morris K. Udall Scholars''.

(c) Program priorities

The Foundation shall determine the priority of the programs to be carried out under this chapter and the amount of funds to be allocated for such programs. However, not less than 50 percent shall be utilized for the programs set forth in section 5604(a)(2) of this title, section 5604(a)(3) of this title, and section 5604(a)(4) of this title, not more than 15 percent shall be used for salaries and other administrative purposes, and not less than 20 percent shall be appropriated to the Center for section 5604(a)(5) of this title, section 5604(a)(6) of this title, and section 5604(a)(7) of this title conditioned on a 25-percent match from other sources and further conditioned on adequate space at the Center being made available for the Executive Director and other appropriate staff of the Foundation by the Center.

(Pub. L. 102–259, §7, Mar. 19, 1992, 106 Stat. 81; Pub. L. 105–156, §§5, 9(b), Feb. 11, 1998, 112 Stat. 9, 12.)

AMENDMENTS

1998—Subsec. (a)(1)(D). Pub. L. 105–156, §5(1), added subpar. (D).

Subsec. (a)(6). Pub. L. 105–156, §9(b), substituted ''Trust Fund'' for ''Fund''.

Subsec. (a)(7). Pub. L. 105–156, §5(2), inserted ''and Training'' after ''Conflict Resolution''.

§ 5606. Establishment of Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund

(a) Establishment of Trust Fund

There is established in the Treasury of the United States a trust fund to be known as the ''Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund'' to be administered by a Foundation. The Trust Fund shall consist of amounts appropriated to it pursuant to section 5609(a) of this title and amounts credited to it under subsection (b) of this section.

(b) Investment of Trust Fund assets

(1)[1] IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the Trust Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the Trust Fund. Investments in public debt securities shall bear interest ''at rates determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States'' of comparable maturity.

(Pub. L. 102–259, §8, Mar. 19, 1992, 106 Stat. 82; Pub. L. 105–156, §9, Feb. 11, 1998, 112 Stat. 12.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–156, §9(a), substituted ''The Trust Fund'' for ''The fund'' and ''5609(a)'' for ''5609''.

Subsec. (b). Pub. L. 105–156, §9(b), substituted ''Trust Fund'' for ''Fund'' in two places.

§ 5607. Expenditures and audit of Trust Fund

(a) In general

The Foundation shall pay from the interest and earnings of the Trust Fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this chapter.

(b) Audit by Government Accountability Office

The activities of the Foundation and the Center under this chapter may be audited by the Government Accountability Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the Government Accountability Office shall have access to all books, accounts, records, reports filed and all other papers, things, or property belonging to or in use by the Foundation and the Center, pertaining to such federally assisted activities and necessary to facilitate the audit.

(Pub. L. 102–259, §9, Mar. 19, 1992, 106 Stat. 83; Pub. L. 105–156, §9(b), Feb. 11, 1998, 112 Stat. 12; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office'' in heading and in two places in text.

[1] So in original. No par. (2) has been enacted.

1998—Subsec. (a). Pub. L. 105–156 substituted ''Trust Fund'' for ''Fund''.

§ 5607a. Environmental Dispute Resolution Fund

(a) Establishment

There is established in the Treasury of the United States an Environmental Dispute Resolution Fund to be administered by the Foundation. The Fund shall consist of amounts appropriated to the Fund under section 5609(b) of this title and amounts paid into the Fund under section 5607b of this title.

(b) Expenditures

The Foundation shall expend from the Fund such sums as the Board determines are necessary to establish and operate the Institute, including such amounts as are necessary for salaries, administration, the provision of mediation and other services, and such other expenses as the Board determines are necessary, including not to exceed $1,000 annually for official reception and representation expenses.

(c) Distinction from Trust Fund

The Fund shall be maintained separately from the Trust Fund established under section 5606 of this title.

(d) Investment of amounts

(1) In general

The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary, required to meet current withdrawals.

(2) Interest-bearing obligations

Investments may be made only in interest-bearing obligations of the United States.

(3) Acquisition of obligations

For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(4) Sale of obligations

Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(5) Credits to Fund

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(Pub. L. 102–259, § 10, as added Pub. L. 105–156, § 6(b), Feb. 11, 1998, 112 Stat. 10; amended Pub. L. 105–277, div. A, § 101(h) [title V, § 517(c)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–512.)

PRIOR PROVISIONS

A prior section 10 of Pub. L. 102–259 was renumbered section 12 and is classified to section 5608 of this title.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105–277 inserted before period at end '', including not to exceed $1,000 annually for official reception and representation expenses''.

§ 5607b. Use of Institute by Federal agency or other entity

(a) Authorization

A Federal agency may use the Foundation and the Institute to provide assessment, mediation, or other related services in connection with a dispute or conflict related to the environment, public lands, or natural resources.

(b) Payment

(1) In general

A Federal agency may enter into a contract and expend funds to obtain the services of the Institute.

(2) Payment into Environmental Dispute Resolution Fund

A payment from an executive agency on a contract entered into under paragraph (1) shall be paid into the Environmental Dispute Resolution Fund established under section 5607a of this title.

(c) Notification and concurrence

(1) Notification

An agency or instrumentality of the Federal Government shall notify the chairperson of the President's Council on Environmental Quality when using the Foundation or the Institute to provide the services described in subsection (a) of this section.

(2) Notification descriptions

In a matter involving two or more agencies or instrumentalities of the Federal Government, notification under paragraph (1) shall include a written description of—

(A) the issues and parties involved;

(B) prior efforts, if any, undertaken by the agency to resolve or address the issue or issues;

(C) all Federal agencies or instrumentalities with a direct interest or involvement in the matter and a statement that all Federal agencies or instrumentalities agree to dispute resolution; and

(D) other relevant information.

(3) Concurrence

(A) In general

In a matter that involves two or more agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality), the agencies or instrumentalities of the Federal Government shall obtain the concurrence of the chairperson of the President's Council on Environmental Quality before using the Foundation or Institute to provide the services described in subsection (a) of this section.

(B) Indication of concurrence or nonconcurrence

The chairperson of the President's Council on Environmental Quality shall indicate concurrence or nonconcurrence under subparagraph (A) not later than 20 days after receiving notice under paragraph (2).

(d) Exceptions

(1) Legal issues and enforcement

(A) In general

A dispute or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) that con-

cern purely legal issues or matters, interpretation or determination of law, or enforcement of law by one agency against another agency shall not be submitted to the Foundation or Institute.

(B) Applicability

Subparagraph (A) does not apply to a dispute or conflict concerning—

(i) agency implementation of a program or project;

(ii) a matter involving two or more agencies with parallel authority requiring facilitation and coordination of the various Government agencies; or

(iii) a nonlegal policy or decisionmaking matter that involves two or more agencies that are jointly operating a project.

(2) Other mandated mechanisms or avenues

A dispute or conflict involving agencies or instrumentalities of the Federal Government (including branches or divisions of a single agency or instrumentality) for which Congress by law has mandated another dispute resolution mechanism or avenue to address or resolve shall not be submitted to the Foundation or Institute.

(e) Non-Federal entities

(1) Non-Federal entities, including state[1] and local governments, Native American tribal governments, nongovernmental organizations and persons, as defined in section 1 of title 1, may use the Foundation and the Institute to provide assessment, mediation, or other related services in connection with a dispute or conflict involving the Federal government[1] related to the environment, public lands, or natural resources.

(2) PAYMENT INTO THE ENVIRONMENTAL DISPUTE RESOLUTION FUND.—Entities utilizing services pursuant to this subsection shall reimburse the Institute for the costs of services provided. Such amounts shall be deposited into the Environmental Dispute Resolution Fund established under section 5607a of this title.

(Pub. L. 102–259, § 11, as added Pub. L. 105–156, § 7, Feb. 11, 1998, 112 Stat. 10; amended Pub. L. 105–277, div. A, § 101(h) [title V, § 517(a)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–512.)

PRIOR PROVISIONS

A prior section 11 of Pub. L. 102–259 was renumbered section 13 and is classified to section 5609 of this title.

AMENDMENTS

1998—Pub. L. 105–277, § 101(h) [title V, § 517(a)(1)], inserted ''or other entity'' after ''Federal agency'' in section catchline.

Subsec. (e). Pub. L. 105–277, § 101(h) [title V, § 517(a)(2)], added subsec. (e).

§ 5608. Administrative provisions

(a) In general

In order to carry out the provisions of this chapter, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS–15 of the General Schedule under section 5332 of title 5;

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board of Trustees, be entered into without performance or other bonds, and without regard to section 5 of title 41; and

(7) make other necessary expenditures.

(b) The Institute

The authorities set forth above shall, with the exception of paragraph (4), apply to the Institute established pursuant to section 5607a of this title and to the activities of the Foundation under section 5604(7) of this title.

(Pub. L. 102–259, § 12, formerly § 10, Mar. 19, 1992, 106 Stat. 83; renumbered § 12, Pub. L. 105–156, § 6(a), Feb. 11, 1998, 112 Stat. 9; amended Pub. L. 105–277, div. A, § 101(h) [title V, § 517(b)], Oct. 21, 1998, 112 Stat. 2681–480, 2681–512; Pub. L. 106–568, title VIII, § 817(b), Dec. 27, 2000, 114 Stat. 2918.)

AMENDMENTS

2000—Subsec. (b). Pub. L. 106–568 inserted before period at end ''and to the activities of the Foundation under section 5604(7) of this title''.

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

§ 5609. Authorization of appropriations

(a) Trust Fund

There is authorized to be appropriated to the Trust Fund $40,000,000 to carry out the provisions of this chapter.

(b) Environmental Dispute Resolution Fund

There is authorized to be appropriated to the Environmental Dispute Resolution Fund established by section 5607a of this title $4,000,000 for each of fiscal years 2004 through 2008, of which—

(1) $3,000,000 shall be used to pay operations costs (including not more than $1,000 for official reception and representation expenses); and

(2) $1,000,000 shall be used for grants or other appropriate arrangements to pay the costs of services provided in a neutral manner relating to, and to support the participation of non-

[1] So in original. Probably should be capitalized.

Federal entities (such as State and local governments, tribal governments, nongovernmental organizations, and individuals) in, environmental conflict resolution proceedings involving Federal agencies.

(c) Training of professionals in health care and public policy

There is authorized to be appropriated to carry out section 5604(7) of this title $12,300,000 for the 5-fiscal year period beginning with the fiscal year in which this subsection is enacted.

(Pub. L. 102–259, § 13, formerly § 11, Mar. 19, 1992, 106 Stat. 84; renumbered § 13 and amended Pub. L. 105–156, §§ 6(a), 8, Feb. 11, 1998, 112 Stat. 9, 12; Pub. L. 106–568, title VIII, § 817(c), Dec. 27, 2000, 114 Stat. 2918; Pub. L. 108–160, § 2, Dec. 6, 2003, 117 Stat. 2013.)

REFERENCES IN TEXT

This subsection, referred to in subsec. (c), was enacted by Pub. L. 106–568, which was approved Dec. 27, 2000.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–160 added subsec. (b) and struck out former subsec. (b) which read as follows:

''There are authorized to be appropriated to the Environmental Dispute Resolution Fund established under section 5607a of this title—

''(1) $4,250,000 for fiscal year 1998, of which—

''(A) $3,000,000 shall be for capitalization; and

''(B) $1,250,000 shall be for operation costs; and

''(2) $1,250,000 for each of the fiscal years 1999 through 2002 for operation costs.''

2000—Subsec. (c). Pub. L. 106–568 added subsec. (c).

1998—Pub. L. 105–156, § 8, designated existing provisions as subsec. (a), inserted heading, substituted ''There is authorized to be appropriated to the Trust Fund'' for ''There are authorized to be appropriated to the Fund'', and added subsec. (b).

CHAPTER 67—CHRISTOPHER COLUMBUS FELLOWSHIP FOUNDATION

Sec.
5701. Purpose.
5702. Christopher Columbus Fellowship Foundation.
(a) Establishment and purposes.
(b) Membership.
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5703. Fellowship recipients.
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§ 5701. Purpose

The purpose of this chapter is to establish the Christopher Columbus Fellowship Program to encourage and support research, study, and labor designed to produce new discoveries in all fields of endeavor for the benefit of mankind.

(Pub. L. 102–281, title IV, § 422, May 13, 1992, 106 Stat. 142.)

SHORT TITLE

Section 400 of title IV of Pub. L. 102–281 provided that: ''This title [enacting this chapter and provisions set out as a note under section 5112 of Title 31, Money and Finance] may be cited as the 'Frank Annunzio Act'.''

Section 421 of Pub. L. 102–281 provided that: ''This subtitle [subtitle B (§§ 421–429) of title IV of Pub. L. 102–281, enacting this chapter] may be cited as the 'Christopher Columbus Fellowship Act'.''

§ 5702. Christopher Columbus Fellowship Foundation

(a) Establishment and purposes

There is established, as an independent establishment of the executive branch, the Christopher Columbus Fellowship Foundation (hereinafter in this chapter referred to as the ''Foundation'').

(b) Membership

The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members as follows:

(1) 2 members appointed by the President in consultation with the President pro tempore of the Senate.

(2) 2 members appointed by the President in consultation with the Minority Leader of the Senate.

(3) 2 members appointed by the President in consultation with the Speaker of the House of Representatives.

(4) 2 members appointed by the President in consultation with the Minority Leader of the House of Representatives.

(5) 5 members appointed by the President.

(c) Chairman and Vice Chairman of Foundation

The President shall designate a Chairman and a Vice Chairman from among the members appointed by the President.

(d) Terms of office; vacancies

Each member of the Board of Trustees appointed under subsection (b) of this section shall serve for a term of 6 years from the expiration of the term of such member's predecessor, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed—

(A) 4 shall be appointed for a term of 2 years;

(B) 5 shall be appointed for a term of 4 years; and

(C) 4 shall be appointed for a term of 6 years,

as designated by the President.

(e) Expenses; no additional compensation

Members of the Board shall serve without pay, but shall be entitled to reimbursement for trav-

el, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

(Pub. L. 102–281, title IV, § 423, May 13, 1992, 106 Stat. 142.)

§ 5703. Fellowship recipients

(a) Award

The Foundation is authorized to award fellowships to outstanding individuals to encourage new discoveries in all fields of endeavor for the benefit of mankind. Recipients shall be known as ''Columbus Scholars''.

(b) Term

Fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed 2 years.

(c) Selection

The Foundation may provide, directly or by contract, for the conduct of a nationwide competition for the selection of fellowship recipients.

(Pub. L. 102–281, title IV, § 424, May 13, 1992, 106 Stat. 143.)

§ 5704. Stipends

Each person awarded a fellowship under this chapter shall receive a stipend as determined by the Foundation.

(Pub. L. 102–281, title IV, § 425, May 13, 1992, 106 Stat. 143.)

§ 5705. Christopher Columbus Fellowship Fund

(a) In general

There is established in the Treasury a fund to be known as the Christopher Columbus Scholarship[1] Fund (hereafter in this chapter referred to as the ''fund''), which shall consist of—

(1) amounts deposited under subsection (d) of this section;

(2) obligations obtained under subsection (c) of this section;

(3) amounts contributed to the Foundation; and

(4) all surcharges received by the Secretary of the Treasury from the sale of coins minted under the Christopher Columbus Quincentenary Coin Act.

(b) Investments

(1) Duty of Secretary to invest

The Secretary of the Treasury shall invest in full any amount appropriated or contributed to the fund.

(2) Authorized investments

Investments pursuant to paragraph (1) may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) Special obligations

The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that, if such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

(c) Sale of obligations

Any obligations acquired by the fund (except special obligations issued exclusively to the fund in accordance with subsection (b)(3) of this section) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Interest

The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

(e) Availability of fund

(1) Stipends

The fund shall be available to the Foundation for payment of stipends awarded under section 5704 of this title.

(2) Expenses

The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the funds such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this chapter.

(f) Disbursements

Disbursements from the fund shall be made on vouchers approved by the Foundation and signed by the Chairman.

(Pub. L. 102–281, title IV, § 426, May 13, 1992, 106 Stat. 143.)

REFERENCES IN TEXT

The Christopher Columbus Quincentenary Coin Act, referred to in subsec. (a)(4), is subtitle A (§§ 401–411) of title IV of Pub. L. 102–281, May 13, 1992, 106 Stat. 139, which is classified as a note under section 5112 of Title 31, Money and Finance.

§ 5706. Audits

The activities of the Foundation under this chapter may be audited by the Comptroller General of the United States. The Comptroller General shall have access to all books, accounts, records, reports, and files and all other papers,

[1] So in original. Probably should be ''Fellowship''.

things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

(Pub. L. 102–281, title IV, § 427, May 13, 1992, 106 Stat. 144.)

§ 5707. Executive Secretary of Foundation

(a) Duties

There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

(b) Compensation

The Executive Secretary of the Foundation shall be compensated at an annual rate of basic pay not in excess of the amount payable for Executive Level V.

(Pub. L. 102–281, title IV, § 428, May 13, 1992, 106 Stat. 144.)

REFERENCES IN TEXT

Executive Level V, referred to in subsec. (b), probably means level V of the Executive Schedule, which is set out in section 5316 of Title 5, Government Organization and Employees.

§ 5708. Administrative provisions

(a) The Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this chapter, except that in no case shall employees (other than the Executive Secretary) be compensated at a rate in excess of the rate of basic pay payable for GS–15 of the General Schedule;

(2) procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not in excess of the rate of basic pay payable for Executive Level V;

(3) prescribe such regulations as the Foundation may determine to be necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 5 of title 41;

(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 3324(a) and (b) of title 31;

(8) rent office space;

(9) conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging new discoveries in all fields of endeavor for the benefit of mankind; and

(10) to make other necessary expenditures.

(b) ANNUAL REPORT.—The Foundation shall submit to the President and to the Congress an annual report of its operations under this chapter.

(Pub. L. 102–281, title IV, § 429, May 13, 1992, 106 Stat. 144.)

REFERENCES IN TEXT

The General Schedule, referred to in subsec. (a)(1), is set out under section 5332 of Title 5, Government Organization and Employees.

Executive Level V, referred to in subsec. (a)(2), probably means level V of the Executive Schedule, which is set out in section 5316 of Title 5.

CODIFICATION

In subsec. (a)(7), ''section 3324(a) and (b) of title 31'' substituted for reference to section 529 of title 31, United States Code, on authority of Pub. L. 97–258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section relating to submitting an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 156 of House Document No. 103–7.

CHAPTER 68—NATIONAL EDUCATION REFORM

Sec.

5801. Purpose.
5802. Definitions.
(a) Subchapters I, II, III, and X.
(b) Subchapters IV, V, VI, VII, VIII, and IX.

SUBCHAPTER I—NATIONAL EDUCATION GOALS

5811. Purpose.
5812. National Education Goals.

SUBCHAPTER II—NATIONAL EDUCATION REFORM LEADERSHIP, STANDARDS, AND ASSESSMENTS

PART A—NATIONAL EDUCATION GOALS PANEL

5821 to 5827. Repealed.

PART B—LEADERSHIP IN EDUCATIONAL TECHNOLOGY

5861 to 5864. Repealed.

PART C—AUTHORIZATION OF APPROPRIATIONS

5871. Repealed.

SUBCHAPTER III—STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT

5881 to 5891. Repealed.
5891a. Definitions.
5891b. Education flexibility partnership.
(a) Educational flexibility program.
(b) Included programs.
(c) Waivers not authorized.
(d) Treatment of Existing Ed-Flex Partnership States.
(e) Publication.

Sec.
5892 to 5900. Repealed.

SUBCHAPTER IV—PARENTAL ASSISTANCE

5911 to 5918. Repealed.

SUBCHAPTER V—NATIONAL SKILL STANDARDS BOARD

5931 to 5939. Repealed.

SUBCHAPTER VI—INTERNATIONAL EDUCATION PROGRAM

5951. Repealed.

SUBCHAPTER VII—SAFE SCHOOLS

5961. Short title; statement of purpose.
(a) Short title.
(b) Statement of purpose.
5962. Safe schools program authorized.
(a) Authority.
(b) Authorization of appropriations and reservation.
5963. Eligible applicants.
(a) In general.
(b) Priority.
5964. Applications and plans.
(a) Application.
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5965. Use of funds.
(a) In general.
(b) Limitations.
5966. National activities.
(a) National activities.
(b) National model city.
5967. Reports.
(a) Report to Secretary.
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5968. Coordination of Federal assistance.

SUBCHAPTER VIII—MINORITY-FOCUSED CIVICS EDUCATION

5981. Short title.
5982. Purposes.
5983. Grants authorized; authorization of appropriations.
(a) Grants authorized.
(b) Authorization of appropriations.
5984. Definitions.
5985. Applications.
(a) Application required.
(b) Contents of application.
(c) Priority.

SUBCHAPTER IX—EDUCATIONAL RESEARCH AND IMPROVEMENT

6001. Short title.
6002. Findings.

PART A—GENERAL PROVISIONS REGARDING OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

6011. Repealed.

PART B—NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD

6021. Repealed.

PART C—NATIONAL RESEARCH INSTITUTES

6031. Repealed.

PART D—NATIONAL EDUCATION DISSEMINATION SYSTEM

6041. Repealed.

PART E—NATIONAL LIBRARY OF EDUCATION

6051. Repealed.

PART F—CERTAIN MULTIYEAR GRANTS AND CONTRACTS

6052. Continuation of awards.
(a) In general.
(b) Authorization of appropriations.

PART G—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS

6053 to 6053e. Repealed.

PART H—NATIONAL DIFFUSION NETWORK

6054 to 6054b. Repealed.

PART I—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA

6055 to 6055h. Repealed.

PART J—TECHNOLOGY-BASED TECHNICAL ASSISTANCE

6056, 6056a. Repealed.

SUBCHAPTER X—MISCELLANEOUS

PART A—MISCELLANEOUS PROVISIONS

6061. School prayer.
6062. Funding for Individuals with Disabilities Education Act.
(a) Findings.
(b) Sense of Congress.
6063. Study of Goals 2000 and students with disabilities.
(a) Study required.
(b) Study components.
(c) Study panel membership.
(d) Findings and recommendations.
(e) Funding.
6064. Contraceptive devices.
6065. Assessments.
(a) Subchapter II.
(b) Subchapter III.
6066. Public schools.
6067. Sense of Congress.

PART B—ENVIRONMENTAL TOBACCO SMOKE

6081. Short title.
6082. Definitions.
6083. Nonsmoking policy for children's services.
(a) Prohibition.
(b) Additional prohibition.
(c) Federal agencies.
(d) Notice.
(e) Special waiver.
(f) Civil penalties.
6084. Preemption.

§ 5801. Purpose

The purpose of this chapter is to provide a framework for meeting the National Education Goals established by subchapter I of this chapter by—

(1) promoting coherent, nationwide, systemic education reform;

(2) improving the quality of learning and teaching in the classroom and in the workplace;

(3) defining appropriate and coherent Federal, State, and local roles and responsibilities for education reform and lifelong learning;

(4) establishing valid and reliable mechanisms for—

(A) building a broad national consensus on American education reform;

(B) assisting in the development and certification of high-quality, internationally competitive content and student performance standards; and

(C) assisting in the development and certification of high-quality assessment measures that reflect the internationally com-

petitive content and student performance standards;

(5) supporting new initiatives at the Federal, State, local, and school levels to provide equal educational opportunity for all students to meet high academic and occupational skill standards and to succeed in the world of employment and civic participation;

(6) providing a framework for the reauthorization of all Federal education programs by—

(A) creating a vision of excellence and equity that will guide all Federal education and related programs;

(B) providing for the establishment of high-quality, internationally competitive content and student performance standards and strategies that all students will be expected to achieve;

(C) encouraging and enabling all State educational agencies and local educational agencies to develop comprehensive improvement plans that will provide a coherent framework for the implementation of reauthorized Federal education and related programs in an integrated fashion that effectively educates all children to prepare them to participate fully as workers, parents, and citizens;

(D) providing resources to help individual schools, including those serving students with high needs, develop and implement comprehensive improvement plans; and

(E) promoting the use of technology to enable all students to achieve the National Education Goals;

(7) stimulating the development and adoption of a voluntary national system of skill standards and certification to serve as a cornerstone of the national strategy to enhance workforce skills; and

(8) assisting every elementary and secondary school that receives funds under this chapter to actively involve parents and families in supporting the academic work of their children at home and in providing parents with skills to advocate for their children at school.

(Pub. L. 103–227, §2, Mar. 31, 1994, 108 Stat. 128; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(2)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1996—Par. (4)(B) to (D). Pub. L. 104–134, §101(d) [title VII, §703(a)(2)(A)], inserted ''and'' at end of subpar. (B), redesignated subpar. (D) as (C), and struck out former subpar. (C) which read as follows: ''assisting in the development and certification of opportunity-to-learn standards; and''.

Par. (6)(C) to (F). Pub. L. 104–134, §101(d) [title VII, §703(a)(2)(B)], redesignated subpars. (D) to (F) as (C) to (E), respectively, and struck out former subpar. (C) which read as follows: ''providing for the establishment of high-quality, internationally competitive opportunity-to-learn standards that all States, local educational agencies, and schools should achieve;''.

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–25, §1, Apr. 29, 1999, 113 Stat. 41, provided that: ''This Act [enacting sections 5891a and 5891b of this title, amending section 1415 of this title, and enacting provisions set out as notes under sections 1415 and 5891a of this title] may be cited as the 'Education Flexibility Partnership Act of 1999'.''

SHORT TITLE

Section 1(a) of Pub. L. 103–227 provided that: ''This Act (other than titles V and IX) [enacting this chapter (other than subchapters V and IX) and sections 3351 and 3425 of this title, amending sections 1107, 1221e–1, 1232h, 2421, 3381 to 3384, 3386, and 5093 of this title, section 5315 of Title 5, Government Organization and Employees, sections 1632, 1633, and 1635 of Title 29, Labor, and section 11903a of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under sections 5093 and 6301 of this title and section 11901 of Title 42] may be cited as the 'Goals 2000: Educate America Act'.''

§ 5802. Definitions

(a) Subchapters I, II, III, and X

As used in subchapters I, II, III, and X of this chapter—

(1) the terms ''all students'' and ''all children'' mean students or children from a broad range of backgrounds and circumstances, including disadvantaged students and children, students or children with diverse racial, ethnic, and cultural backgrounds, American Indians, Alaska Natives, Native Hawaiians, students or children with disabilities, students or children with limited-English proficiency, school-aged students or children who have dropped out of school, migratory students or children, and academically talented students and children;

(2) the term ''Bureau'', unless otherwise provided, means the Bureau of Indian Affairs;

(3) the terms ''community'', ''public'', and ''advocacy group'' include representatives of organizations advocating for the education of American Indian, Alaska Native, and Native Hawaiian children and Indian tribes;

(4) the term ''content standards'' means broad descriptions of the knowledge and skills students should acquire in a particular subject area;

(5) the term ''Governor'' means the chief executive of the State;

(6) the terms ''local educational agency'' and ''State educational agency'' have the meaning given such terms in section 8801 of this title;[1]

(7) the term ''outlying areas'' means Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, Palau (until the effective date of the Compact of Free Association with the Government of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia;

(8) the term ''performance standards'' means concrete examples and explicit definitions of what students have to know and be able to do to demonstrate that such students are proficient in the skills and knowledge framed by content standards;

[1] See References in Text note below.

(9) the term ''related services'' has the same meaning given such term under section 1401 of this title;

(10) the term ''State assessment'' means measures of student performance which include at least 1 instrument of evaluation, and may include other measures of student performance, for a specific purpose and use which are intended to evaluate the progress of all students in the State toward learning the material in State content standards in 1 or more subject areas;

(11) the term ''school'' means a public school that is under the authority of the State educational agency or a local educational agency or, for the purpose of carrying out section 5895(b)[1] of this title, a school that is operated or funded by the Bureau;

(12) the term ''Secretary'', unless otherwise provided, means the Secretary of Education; and

(13) the term ''State'', unless otherwise provided, means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(b) Subchapters IV, V, VI, VII, VIII, and IX

For the purpose of subchapters IV, V, VI, VII, VIII, and IX of this chapter—

(1) except as provided in paragraph (3) and unless otherwise provided, the terms used in such subchapters have the same meanings given such terms in section 8801 of this title;[1]

(2) the term ''Bureau'', unless otherwise provided, means the Bureau of Indian Affairs; and

(3) the term ''Secretary'', unless otherwise provided, means the Secretary of Education.

(Pub. L. 103–227, § 3, Mar. 31, 1994, 108 Stat. 129; Pub. L. 103–382, title III, § 394(f)(1), Oct. 20, 1994, 108 Stat. 4027; Pub. L. 104–134, title I, § 101(d) [title VII, § 703(a)(3)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 108–446, title III, § 305(e), Dec. 3, 2004, 118 Stat. 2805.)

REFERENCES IN TEXT

Subchapters I to X, referred to in text, were in the original references to titles I to X of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 131–265. Titles I, V, VI, and VIII are classified generally to subchapters I (§ 5811 et seq.), V (§ 5931 et seq.), VI (§ 5951), and VIII (§ 5981 et seq.), respectively, of this chapter. Title II enacted subchapter II (§ 5821 et seq.) of this chapter and section 3425 of this title, amended section 5093 of this title and section 5315 of Title 5, Government Organization and Employees, and enacted provisions set out as a note under section 5093 of this title. Title VII enacted subchapter VII (§ 5961 et seq.) of this chapter and amended section 1221e–1 of this title. Titles III and IV were classified generally to subchapters III (§ 5881 et seq.) and IV (§ 5911 et seq.), respectively, of this chapter and were repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265. Section 5895(b) of this title was repealed by Pub. L. 106–113. Title IX enacted subchapter IX (§ 6001 et seq.) of this chapter, amended sections 2422, 3155, 3412, 3419, 3462, and 4085b of this title, repealed section 1221e of this title, and enacted provisions set out as notes under sections 1221e and 3155 of this title. Title X enacted subchapter X (§ 6061 et seq.) of this chapter and section 3351 of this title, amended sections 1107, 1232h, 2421, 3381 to 3384, and 3386 of this title, sections 1632, 1633, and 1635 of Title 29, Labor, and section 11903a of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under section 6301 of this title and section 11901 of Title 42. For complete classification of titles I to X to the Code, see Tables.

Section 8801 of this title, referred to in subsecs. (a)(6) and (b)(1), was repealed by Pub. L. 107–110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986.

For Oct. 1, 1994, as the date the Compact of Free Association with the Government of Palau takes effect, referred to in subsec. (a)(7), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

AMENDMENTS

2004—Subsec. (a)(9). Pub. L. 108–446 substituted ''section 1401'' for ''section 1401(a)(17)''.

1996—Subsec. (a)(7) to (14). Pub. L. 104–134 redesignated pars. (8) to (14) as (7) to (13), respectively, and struck out former par. (7) which read as follows: ''the term 'opportunity-to-learn standards' means the criteria for, and the basis of, assessing the sufficiency or quality of the resources, practices, and conditions necessary at each level of the education system (schools, local educational agencies, and States) to provide all students with an opportunity to learn the material in voluntary national content standards or State content standards;''.

1994—Subsec. (a)(6). Pub. L. 103–382, § 394(f)(1)(A)(i), substituted ''section 8801'' for ''section 2891''.

Subsec. (a)(10). Pub. L. 103–382, § 394(f)(1)(A)(ii), substituted ''section 1401(a)(17)'' for ''section 1401''.

Subsec. (b)(1). Pub. L. 103–382, § 394(f)(1)(B), substituted ''section 8801'' for ''section 2891''.

SUBCHAPTER I—NATIONAL EDUCATION GOALS

§ 5811. Purpose

The purpose of this subchapter is to establish National Education Goals.

(Pub. L. 103–227, title I, § 101, Mar. 31, 1994, 108 Stat. 130.)

§ 5812. National Education Goals

The Congress declares that the National Education Goals are the following:

(1) School readiness

(A) By the year 2000, all children in America will start school ready to learn.

(B) The objectives for this goal are that—

(i) all children will have access to high-quality and developmentally appropriate preschool programs that help prepare children for school;

(ii) every parent in the United States will be a child's first teacher and devote time each day to helping such parent's preschool child learn, and parents will have access to the training and support parents need; and

(iii) children will receive the nutrition, physical activity experiences, and health care needed to arrive at school with healthy minds and bodies, and to maintain the mental alertness necessary to be prepared to learn, and the number of low-birthweight babies will be significantly reduced through enhanced prenatal health systems.

(2) School completion

(A) By the year 2000, the high school graduation rate will increase to at least 90 percent.

(B) The objectives for this goal are that—

(i) the Nation must dramatically reduce its school dropout rate, and 75 percent of the

students who do drop out will successfully complete a high school degree or its equivalent; and

(ii) the gap in high school graduation rates between American students from minority backgrounds and their non-minority counterparts will be eliminated.

(3) Student achievement and citizenship

(A) By the year 2000, all students will leave grades 4, 8, and 12 having demonstrated competency over challenging subject matter including English, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography, and every school in America will ensure that all students learn to use their minds well, so they may be prepared for responsible citizenship, further learning, and productive employment in our Nation's modern economy.

(B) The objectives for this goal are that—

(i) the academic performance of all students at the elementary and secondary level will increase significantly in every quartile, and the distribution of minority students in each quartile will more closely reflect the student population as a whole;

(ii) the percentage of all students who demonstrate the ability to reason, solve problems, apply knowledge, and write and communicate effectively will increase substantially;

(iii) all students will be involved in activities that promote and demonstrate good citizenship, good health, community service, and personal responsibility;

(iv) all students will have access to physical education and health education to ensure they are healthy and fit;

(v) the percentage of all students who are competent in more than one language will substantially increase; and

(vi) all students will be knowledgeable about the diverse cultural heritage of this Nation and about the world community.

(4) Teacher education and professional development

(A) By the year 2000, the Nation's teaching force will have access to programs for the continued improvement of their professional skills and the opportunity to acquire the knowledge and skills needed to instruct and prepare all American students for the next century.

(B) The objectives for this goal are that—

(i) all teachers will have access to preservice teacher education and continuing professional development activities that will provide such teachers with the knowledge and skills needed to teach to an increasingly diverse student population with a variety of educational, social, and health needs;

(ii) all teachers will have continuing opportunities to acquire additional knowledge and skills needed to teach challenging subject matter and to use emerging new methods, forms of assessment, and technologies;

(iii) States and school districts will create integrated strategies to attract, recruit, prepare, retrain, and support the continued professional development of teachers, administrators, and other educators, so that there is a highly talented work force of professional educators to teach challenging subject matter; and

(iv) partnerships will be established, whenever possible, among local educational agencies, institutions of higher education, parents, and local labor, business, and professional associations to provide and support programs for the professional development of educators.

(5) Mathematics and science

(A) By the year 2000, United States students will be first in the world in mathematics and science achievement.

(B) The objectives for this goal are that—

(i) mathematics and science education, including the metric system of measurement, will be strengthened throughout the system, especially in the early grades;

(ii) the number of teachers with a substantive background in mathematics and science, including the metric system of measurement, will increase by 50 percent; and

(iii) the number of United States undergraduate and graduate students, especially women and minorities, who complete degrees in mathematics, science, and engineering will increase significantly.

(6) Adult literacy and lifelong learning

(A) By the year 2000, every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

(B) The objectives for this goal are that—

(i) every major American business will be involved in strengthening the connection between education and work;

(ii) all workers will have the opportunity to acquire the knowledge and skills, from basic to highly technical, needed to adapt to emerging new technologies, work methods, and markets through public and private educational, vocational, technical, workplace, or other programs;

(iii) the number of quality programs, including those at libraries, that are designed to serve more effectively the needs of the growing number of part-time and midcareer students will increase substantially;

(iv) the proportion of the qualified students, especially minorities, who enter college, who complete at least two years, and who complete their degree programs will increase substantially;

(v) the proportion of college graduates who demonstrate an advanced ability to think critically, communicate effectively, and solve problems will increase substantially; and

(vi) schools, in implementing comprehensive parent involvement programs, will offer more adult literacy, parent training and lifelong learning opportunities to improve the ties between home and school, and enhance parents' work and home lives.

(7) Safe, disciplined, and alcohol- and drug-free schools

(A) By the year 2000, every school in the United States will be free of drugs, violence, and the unauthorized presence of firearms and alcohol and will offer a disciplined environment conducive to learning.

(B) The objectives for this goal are that—

(i) every school will implement a firm and fair policy on use, possession, and distribution of drugs and alcohol;

(ii) parents, businesses, governmental and community organizations will work together to ensure the rights of students to study in a safe and secure environment that is free of drugs and crime, and that schools provide a healthy environment and are a safe haven for all children;

(iii) every local educational agency will develop and implement a policy to ensure that all schools are free of violence and the unauthorized presence of weapons;

(iv) every local educational agency will develop a sequential, comprehensive kindergarten through twelfth grade drug and alcohol prevention education program;

(v) drug and alcohol curriculum should be taught as an integral part of sequential, comprehensive health education;

(vi) community-based teams should be organized to provide students and teachers with needed support; and

(vii) every school should work to eliminate sexual harassment.

(8) Parental participation

(A) By the year 2000, every school will promote partnerships that will increase parental involvement and participation in promoting the social, emotional, and academic growth of children.

(B) The objectives for this Goal are that—

(i) every State will develop policies to assist local schools and local educational agencies to establish programs for increasing partnerships that respond to the varying needs of parents and the home, including parents of children who are disadvantaged or bilingual, or parents of children with disabilities;

(ii) every school will actively engage parents and families in a partnership which supports the academic work of children at home and shared educational decisionmaking at school; and

(iii) parents and families will help to ensure that schools are adequately supported and will hold schools and teachers to high standards of accountability.

(Pub. L. 103–227, title I, §102, Mar. 31, 1994, 108 Stat. 130.)

SUBCHAPTER II—NATIONAL EDUCATION REFORM LEADERSHIP, STANDARDS, AND ASSESSMENTS

PART A—NATIONAL EDUCATION GOALS PANEL

§§ 5821 to 5827. Repealed. Pub. L. 107–110, title X, §1011(4)(A), Jan. 8, 2002, 115 Stat. 1986

Section 5821, Pub. L. 103–227, title II, §201, Mar. 31, 1994, 108 Stat. 133; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(4)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, set forth purpose of part.

Section 5822, Pub. L. 103–227, title II, §202, Mar. 31, 1994, 108 Stat. 134; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(5)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, established National Education Goals Panel.

Section 5823, Pub. L. 103–227, title II, §203, Mar. 31, 1994, 108 Stat. 136; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(6)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, set forth duties of Panel.

Section 5824, Pub. L. 103–227, title II, §204, Mar. 31, 1994, 108 Stat. 136; Pub. L. 103–382, title III, §361(b)(1), Oct. 20, 1994, 108 Stat. 3974; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(7)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to powers of Panel.

Section 5825, Pub. L. 103–227, title II, §205, Mar. 31, 1994, 108 Stat. 137, set forth administrative provisions.

Section 5826, Pub. L. 103–227, title II, §206, Mar. 31, 1994, 108 Stat. 138, related to appointment of Director and staff and procurement of experts and consultants.

Section 5827, Pub. L. 103–227, title II, §207, Mar. 31, 1994, 108 Stat. 138, related to assessment of readiness of children for school.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

PART B—LEADERSHIP IN EDUCATIONAL TECHNOLOGY

PRIOR PROVISIONS

A prior part B, consisting of sections 5841 to 5851 of this title, was repealed by Pub. L. 104–134, title I, §101(d) [title VII, §701(1)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Section 5841, Pub. L. 103–227, title II, §211, Mar. 31, 1994, 108 Stat. 139, stated purpose.

Section 5842, Pub. L. 103–227, title II, §212, Mar. 31, 1994, 108 Stat. 139, established National Education Standards and Improvement Council and provided for composition, appointment rules and qualifications, terms, date of appointment, initiation of duties, retention of appointment, vacancy, compensation, conflict of interest, travel, and officers.

Section 5843, Pub. L. 103–227, title II, §213, Mar. 31, 1994, 108 Stat. 142, related to duties of Council.

Section 5844, Pub. L. 103–227, title II, §214, Mar. 31, 1994, 108 Stat. 147, required Council to submit annual reports to President, Secretary, appropriate committees of Congress, Governor of each State, and Goals Panel regarding its work.

Section 5845, Pub. L. 103–227, title II, §215, Mar. 31, 1994, 108 Stat. 147; Pub. L. 103–382, title III, §361(b)(2), Oct. 20, 1994, 108 Stat. 3975, related to powers of Council.

Section 5846, Pub. L. 103–227, title II, §216, Mar. 31, 1994, 108 Stat. 148, related to publication in Federal Register for public comment of certain proposed procedures, standards, and criteria.

Section 5847, Pub. L. 103–227, title II, §217, Mar. 31, 1994, 108 Stat. 148, contained administrative provisions relating to Council, including provisions relating to meetings, quorum, voting, and public access.

Section 5848, Pub. L. 103–227, title II, §218, Mar. 31, 1994, 108 Stat. 149, related to Council Director and staff, and use of experts and consultants and staffs of Federal agencies.

Section 5849, Pub. L. 103–227, title II, §219, Mar. 31, 1994, 108 Stat. 149, related to opportunity-to-learn development grants.

Section 5850, Pub. L. 103–227, title II, §220, Mar. 31, 1994, 108 Stat. 150, related to assessment development and evaluation grants.

Section 5851, Pub. L. 103–227, title II, §221, Mar. 31, 1994, 108 Stat. 151, required Secretary to make grant, in amount not to exceed $500,000, to National Academy of Sciences or National Academy of Education to evaluate technical quality of work performed, and certain processes used, by Goals Panel and Council, and required recipient of grant to submit final report to Congress, Secretary, and the public regarding activities assisted under this section not later than Jan. 1, 1998.

§§ 5861 to 5864. Repealed. Pub. L. 103–382, title III, § 361(a), Oct. 20, 1994, 108 Stat. 3974

Section 5861, Pub. L. 103–227, title II, §231, Mar. 31, 1994, 108 Stat. 151; Pub. L. 103–382, title III, §394(f)(2), Oct. 20, 1994, 108 Stat. 4027, stated purpose of this part to provide leadership in educational technology.

Section 5862, Pub. L. 103–227, title II, §232, Mar. 31, 1994, 108 Stat. 152; Pub. L. 103–382, title III, §394(f)(3), Oct. 20, 1994, 108 Stat. 4027, related to Federal leadership in use of technology in education.

Section 5863, Pub. L. 103–227, title II, §234, Mar. 31, 1994, 108 Stat. 155, related to uses of funds.

Section 5864, Pub. L. 103–227, title II, §235, Mar. 31, 1994, 108 Stat. 156, related to non-Federal share of cost of activities assisted under grants or contracts under this part.

PART C—AUTHORIZATION OF APPROPRIATIONS

§ 5871. Repealed. Pub. L. 107–110, title X, § 1011(4)(A), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 103–227, title II, §241, Mar. 31, 1994, 108 Stat. 156; Pub. L. 104–134, title I, §101(d) [title VII, §701(3)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, authorized appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SUBCHAPTER III—STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT

§§ 5881 to 5891. Repealed. Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265

Section 5881, Pub. L. 103–227, title III, §301, Mar. 31, 1994, 108 Stat. 157, related to congressional findings.

Section 5882, Pub. L. 103–227, title III, §302, Mar. 31, 1994, 108 Stat. 158, stated purpose of subchapter.

Section 5883, Pub. L. 103–227, title III, §303, Mar. 31, 1994, 108 Stat. 158, related to authorization of appropriations.

Section 5884, Pub. L. 103–227, title III, §304, Mar. 31, 1994, 108 Stat. 158; Pub. L. 104–134, title I, §101(d) [title VII, §§703(a)(8), 704], Apr. 26, 1996, 110 Stat. 1321–211, 1321–252, 1321–255; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to allotment of funds.

Section 5885, Pub. L. 103–227, title III, §305, Mar. 31, 1994, 108 Stat. 159; Pub. L. 104–134, title I, §101(d) [title VII, §705(b)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–256; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to State applications.

Section 5886, Pub. L. 103–227, title III, §306, Mar. 31, 1994, 108 Stat. 160; Pub. L. 104–134, title I, §101(d) [title VII, §§702(a), 703(a)(9), 705(a)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251, 1321–253, 1321–256; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to State improvement plans.

Section 5887, Pub. L. 103–227, title III, §307, Mar. 31, 1994, 108 Stat. 167; Pub. L. 104–134, title I, §101(d) [title VII, §705(c)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–256; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to Secretary's review of applications and payments.

Section 5888, Pub. L. 103–227, title III, §308, Mar. 31, 1994, 108 Stat. 168; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(10)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to State use of funds.

Section 5889, Pub. L. 103–227, title III, §309, Mar. 31, 1994, 108 Stat. 169; Pub. L. 103–382, title III, §361(c), Oct. 20, 1994, 108 Stat. 3975; Pub. L. 104–134, title I, §101(d) [title VII, §§702(b), 703(a)(11)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–251, 1321–253; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to subgrants for local reform and professional development.

Section 5890, Pub. L. 103–227, title III, §310, Mar. 31, 1994, 108 Stat. 174; Pub. L. 103–382, title III, §394(f)(4), Oct. 20, 1994, 108 Stat. 4028, related to availability of information and training.

Section 5891, Pub. L. 103–227, title III, §311, Mar. 31, 1994, 108 Stat. 174; Pub. L. 103–382, title III, §394(f)(5), Oct. 20, 1994, 108 Stat. 4028, related to waivers of statutory and regulatory requirements.

EFFECTIVE DATE OF REPEAL

Pub. L. 106–113, div. B, §1000(a)(4) [title III, §310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265, provided that: ''Titles III [enacting this subchapter] and IV [enacting subchapter IV of this chapter] of the Goals 2000: Educate America Act are repealed on September 30, 2000.''

§ 5891a. Definitions

In this Act:

(1) Local educational agency; State educational agency; outlying area

The terms ''local educational agency'', ''State educational agency'', and ''outlying area'' have the meanings given the terms in section 7801 of this title.

(2) Eligible school attendance area; school attendance area

The terms ''eligible school attendance area'' and ''school attendance area'' have the meanings given the terms in section 6313(a)(2) of this title.

(3) Secretary

The term ''Secretary'' means the Secretary of Education.

(4) State

The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each outlying area.

(Pub. L. 106–25, §3, Apr. 29, 1999, 113 Stat. 42; Pub. L. 107–110, title X, §1076(*o*), Jan. 8, 2002, 115 Stat. 2092.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 106–25, Apr. 29, 1999, 113 Stat. 41, known as the Education Flexibility Partnership Act of 1999, which enacted sections 5891a and 5891b of this title, amended section 1415 of this title, and enacted provisions set out as notes under sections 1415 and 5891a of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 5801 of this title and Tables.

CODIFICATION

Section was enacted as part of the Education Flexibility Partnership Act of 1999, and not as part of the Goals 2000: Educate America Act which comprises this chapter.

AMENDMENTS

2002—Par. (1). Pub. L. 107–110 substituted ''7801'' for ''8801''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

FINDINGS

Pub. L. 106–25, § 2, Apr. 29, 1999, 113 Stat. 41, provided that: ''Congress makes the following findings:

''(1) States differ substantially in demographics, in school governance, and in school finance and funding. The administrative and funding mechanisms that help schools in one State improve may not prove successful in other States.

''(2) Although the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.] and other Federal education statutes afford flexibility to State educational agencies and local educational agencies in implementing Federal programs, certain requirements of Federal education statutes or regulations may impede local efforts to reform and improve education.

''(3) By granting waivers of certain statutory and regulatory requirements, the Federal Government can remove impediments for local educational agencies in implementing educational reforms and raising the achievement levels of all children.

''(4) State educational agencies are closer to local school systems, implement statewide educational reforms with both Federal and State funds, and are responsible for maintaining accountability for local activities consistent with State standards and assessment systems. Therefore, State educational agencies are often in the best position to align waivers of Federal and State requirements with State and local initiatives.

''(5) The Education Flexibility Partnership Demonstration Act [former 20 U.S.C. 5891(e)] allows State educational agencies the flexibility to waive certain Federal requirements, along with related State requirements, but allows only 12 States to qualify for such waivers.

''(6) Expansion of waiver authority will allow for the waiver of statutory and regulatory requirements that impede implementation of State and local educational improvement plans, or that unnecessarily burden program administration, while maintaining the intent and purposes of affected programs, such as the important focus on improving mathematics and science performance under title II of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6601 et seq.] (Dwight D. Eisenhower Professional Development Program), and maintaining such fundamental requirements as those relating to civil rights, educational equity, and accountability.

''(7) To achieve the State goals for the education of children in the State, the focus must be on results in raising the achievement of all students, not process.''

§ 5891b. Education flexibility partnership

(a) Educational flexibility program

(1) Program authorized

(A) In general

The Secretary may carry out an educational flexibility program under which the Secretary authorizes a State educational agency that serves an eligible State to waive statutory or regulatory requirements applicable to one or more programs described in subsection (b) of this section, other than requirements described in subsection (c) of this section, for any local educational agency or school within the State.

(B) Designation

Each eligible State participating in the program described in subparagraph (A) shall be known as an ''Ed-Flex Partnership State''.

(2) Eligible State

For the purpose of this section the term ''eligible State'' means a State that—

(A) has—

(i) developed and implemented the challenging State content standards, challenging State student performance standards, and aligned assessments described in section 1111(b) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311(b)], and for which local educational agencies in the State are producing the individual school performance profiles required by section 1116(a)(3) of such Act;[1] or

(ii)(I) developed and implemented the content standards described in clause (i);

(II) developed and implemented interim assessments; and

(III) made substantial progress (as determined by the Secretary) toward developing and implementing the performance standards and final aligned assessments described in clause (i), and toward having local educational agencies in the State produce the profiles described in clause (i);

(B) holds local educational agencies and schools accountable for meeting the educational goals described in the local applications submitted under paragraph (4) and for engaging in technical assistance and corrective actions consistent with section 1116 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6316], for the local educational agencies and schools that do not make adequate yearly progress as described in section 1111(b)(2) of such Act [20 U.S.C. 6311(b)(2)]; and

(C) waives State statutory or regulatory requirements relating to education while holding local educational agencies or schools within the State that are affected by such waivers accountable for the performance of the students who are affected by such waivers.

(3) State application

(A) In general

Each State educational agency desiring to participate in the educational flexibility program under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall demonstrate that the eligible State has adopted an educational flexibility plan for the State that includes—

(i) a description of the process the State educational agency will use to evaluate applications from local educational agencies or schools requesting waivers of—

[1] See References in Text note below.

(I) Federal statutory or regulatory requirements as described in paragraph (1)(A); and

(II) State statutory or regulatory requirements relating to education;

(ii) a detailed description of the State statutory and regulatory requirements relating to education that the State educational agency will waive;

(iii) a description of clear educational objectives the State intends to meet under the educational flexibility plan;

(iv) a description of how the educational flexibility plan is consistent with and will assist in implementing the State comprehensive reform plan or, if a State does not have a comprehensive reform plan, a description of how the educational flexibility plan is coordinated with activities described in section 1111(b) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6311(b)];

(v) a description of how the State educational agency will evaluate, (consistent with the requirements of title I of the Elementary and Secondary Education Act of 1965) [20 U.S.C. 6301 et seq.], the performance of students in the schools and local educational agencies affected by the waivers; and

(vi) a description of how the State educational agency will meet the requirements of paragraph (8).

(B) Approval and considerations

The Secretary may approve an application described in subparagraph (A) only if the Secretary determines that such application demonstrates substantial promise of assisting the State educational agency and affected local educational agencies and schools within the State in carrying out comprehensive educational reform, after considering—

(i) the eligibility of the State as described in paragraph (2);

(ii) the comprehensiveness and quality of the educational flexibility plan described in subparagraph (A);

(iii) the ability of the educational flexibility plan to ensure accountability for the activities and goals described in such plan;

(iv) the degree to which the State's objectives described in subparagraph (A)(iii)—

(I) are clear and have the ability to be assessed; and

(II) take into account the performance of local educational agencies or schools, and students, particularly those affected by waivers;

(v) the significance of the State statutory or regulatory requirements relating to education that will be waived; and

(vi) the quality of the State educational agency's process for approving applications for waivers of Federal statutory or regulatory requirements as described in paragraph (1)(A) and for monitoring and evaluating the results of such waivers.

(4) Local application

(A) In general

Each local educational agency or school requesting a waiver of a Federal statutory or regulatory requirement as described in paragraph (1)(A) and any relevant State statutory or regulatory requirement from a State educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require. Each such application shall—

(i) indicate each Federal program affected and each statutory or regulatory requirement that will be waived;

(ii) describe the purposes and overall expected results of waiving each such requirement;

(iii) describe, for each school year, specific, measurable, educational goals for each local educational agency or school affected by the proposed waiver, and for the students served by the local educational agency or school who are affected by the waiver;

(iv) explain why the waiver will assist the local educational agency or school in reaching such goals; and

(v) in the case of an application from a local educational agency, describe how the local educational agency will meet the requirements of paragraph (8).

(B) Evaluation of applications

A State educational agency shall evaluate an application submitted under subparagraph (A) in accordance with the State's educational flexibility plan described in paragraph (3)(A).

(C) Approval

A State educational agency shall not approve an application for a waiver under this paragraph unless—

(i) the local educational agency or school requesting such waiver has developed a local reform plan that is applicable to such agency or school, respectively;

(ii) the waiver of Federal statutory or regulatory requirements as described in paragraph (1)(A) will assist the local educational agency or school in reaching its educational goals, particularly goals with respect to school and student performance; and

(iii) the State educational agency is satisfied that the underlying purposes of the statutory requirements of each program for which a waiver is granted will continue to be met.

(D) Termination

The State educational agency shall annually review the performance of any local educational agency or school granted a waiver of Federal statutory or regulatory requirements as described in paragraph (1)(A) in accordance with the evaluation requirement described in paragraph (3)(A)(v), and shall terminate any waiver granted to the

local educational agency or school if the State educational agency determines, after notice and an opportunity for a hearing, that the local educational agency or school's performance with respect to meeting the accountability requirement described in paragraph (2)(C) and the goals described in paragraph (4)(A)(iii)—

(i) has been inadequate to justify continuation of such waiver; or

(ii) has decreased for two consecutive years, unless the State educational agency determines that the decrease in performance was justified due to exceptional or uncontrollable circumstances.

(5) Oversight and reporting

(A) Oversight

Each State educational agency participating in the educational flexibility program under this section shall annually monitor the activities of local educational agencies and schools receiving waivers under this section.

(B) State reports

(i) Annual reports

The State educational agency shall submit to the Secretary an annual report on the results of such oversight and the impact of the waivers on school and student performance.

(ii) Performance data

Not later than 2 years after the date a State is designated an Ed-Flex Partnership State, each such State shall include, as part of the State's annual report submitted under clause (i), data demonstrating the degree to which progress has been made toward meeting the State's educational objectives. The data, when applicable, shall include—

(I) information on the total number of waivers granted for Federal and State statutory and regulatory requirements under this section, including the number of waivers granted for each type of waiver;

(II) information describing the effect of the waivers on the implementation of State and local educational reforms pertaining to school and student performance;

(III) information describing the relationship of the waivers to the performance of schools and students affected by the waivers; and

(IV) an assurance from State program managers that the data reported under this section are reliable, complete, and accurate, as defined by the State, or a description of a plan for improving the reliability, completeness, and accuracy of such data as defined by the State.

(C) Secretary's reports

The Secretary, not later than 2 years after April 29, 1999, and annually thereafter, shall—

(i) make each State report submitted under subparagraph (B) available to Congress and the public; and

(ii) submit to Congress a report that summarizes the State reports and describes the effects that the educational flexibility program under this section had on the implementation of State and local educational reforms and on the performance of students affected by the waivers.

(6) Duration of Federal waivers

(A) In general

The Secretary shall not approve the application of a State educational agency under paragraph (3) for a period exceeding 5 years, except that the Secretary may extend such period if the Secretary determines that such agency's authority to grant waivers—

(i) has been effective in enabling such State or affected local educational agencies or schools to carry out their State or local reform plans and to continue to meet the accountability requirement described in paragraph (2)(C); and

(ii) has improved student performance.

(B) Performance review

Three years after the date a State is designated an Ed-Flex Partnership State, the Secretary shall review the performance of the State educational agency in granting waivers of Federal statutory or regulatory requirements as described in paragraph (1)(A) and shall terminate such agency's authority to grant such waivers if the Secretary determines, after notice and an opportunity for a hearing, that such agency's performance (including performance with respect to meeting the objectives described in paragraph (3)(A)(iii)) has been inadequate to justify continuation of such authority.

(C) Renewal

In deciding whether to extend a request for a State educational agency's authority to issue waivers under this section, the Secretary shall review the progress of the State educational agency to determine if the State educational agency—

(i) has made progress toward achieving the objectives described in the application submitted pursuant to paragraph (3)(A)(iii); and

(ii) demonstrates in the request that local educational agencies or schools affected by the waiver authority or waivers have made progress toward achieving the desired results described in the application submitted pursuant to paragraph (4)(A)(iii).

(7) Authority to issue waivers

Notwithstanding any other provision of law, the Secretary is authorized to carry out the educational flexibility program under this section for each of the fiscal years 1999 through 2004.

(8) Public notice and comment

Each State educational agency seeking waiver authority under this section and each local educational agency seeking a waiver under this section—

(A) shall provide the public with adequate and efficient notice of the proposed waiver

authority or waiver, consisting of a description of the agency's application for the proposed waiver authority or waiver in a widely read or distributed medium, including a description of any improved student performance that is expected to result from the waiver authority or waiver;

(B) shall provide the opportunity for parents, educators, and all other interested members of the community to comment regarding the proposed waiver authority or waiver;

(C) shall provide the opportunity described in subparagraph (B) in accordance with any applicable State law specifying how the comments may be received, and how the comments may be reviewed by any member of the public; and

(D) shall submit the comments received with the agency's application to the Secretary or the State educational agency, as appropriate.

(b) Included programs

The statutory or regulatory requirements referred to in subsection (a)(1)(A) of this section are any such requirements for programs that are authorized under the following provisions and under which the Secretary provides funds to State educational agencies on the basis of a formula:

(1) The following provisions of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.]:

(A) Part A [20 U.S.C. 6311 et seq.] (other than sections 1111 and 1116 [20 U.S.C. 6311, 6316]), subpart 3 of part B [20 U.S.C. 6381 et seq.], and parts C, D, and F [20 U.S.C. 6391 et seq., 6421 et seq., 6511 et seq.] of title I.

(B) Subparts 2 and 3 of part A of title II [20 U.S.C. 6621 et seq., 6631 et seq.].

(C) Subpart 1 of part D of title II [20 U.S.C. 6761 et seq.].

(D) Subpart 4 of part B of title III [20 U.S.C. 6961 et seq.], if the funding trigger in section 3001 of such Act [20 U.S.C. 6801] is not reached.

(E) Subpart 1 of part A of title IV [20 U.S.C. 7111 et seq.].

(F) Part A of title V [20 U.S.C. 7201 et seq.].

(2) The Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.).

(c) Waivers not authorized

The Secretary and the State educational agency may not waive under subsection (a)(1)(A) of this section any statutory or regulatory requirement—

(1) relating to—

(A) maintenance of effort;

(B) comparability of services;

(C) equitable participation of students and professional staff in private schools;

(D) parental participation and involvement;

(E) distribution of funds to States or to local educational agencies;

(F) serving eligible school attendance areas in rank order under section 1113(a)(3) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6313(a)(3)];

(G) the selection of a school attendance area or school under subsections (a) and (b) of section 1113 of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6313(a), (b)], except that a State educational agency may grant a waiver to allow a school attendance area or school to participate in activities under part A of title I of such Act [20 U.S.C. 6311 et seq.] if the percentage of children from low-income families in the school attendance area of such school or who attend such school is not less than 10 percentage points below the lowest percentage of such children for any school attendance area or school of the local educational agency that meets the requirements of such subsections (a) and (b) of this section;

(H) use of Federal funds to supplement, not supplant, non-Federal funds; and

(I) applicable civil rights requirements; and

(2) unless the underlying purposes of the statutory requirements of the program for which a waiver is granted continue to be met to the satisfaction of the Secretary.

(d) Treatment of existing Ed-Flex Partnership States

(1) In general

Except as provided in paragraphs (3) and (4), this section shall not apply to a State educational agency that has been granted waiver authority under the provisions of law described in paragraph (2) for the duration of the waiver authority.

(2) Applicable provisions

The provisions of law referred to in paragraph (1) are as follows:

(A) Section 311(e) of the Goals 2000: Educate America Act.

(B) The proviso referring to such section 311(e) under the heading ''EDUCATION REFORM'' in the Department of Education Appropriations Act, 1996 (Public Law 104–134; 110 Stat. 1321–229).

(3) Special rule

If a State educational agency granted waiver authority pursuant to the provisions of law described in subparagraph (A) or (B) of paragraph (2) applies to the Secretary for waiver authority under this section—

(A) the Secretary shall review the progress of the State educational agency in achieving the objectives set forth in the application submitted pursuant to section 311(e) of the Goals 2000: Educate America Act; and

(B) the Secretary shall administer the waiver authority granted under this section in accordance with the requirements of this section.

(4) Technology

In the case of a State educational agency granted waiver authority under the provisions of law described in subparagraph (A) or (B) of paragraph (2), the Secretary shall permit a State educational agency to expand, on or after April 29, 1999, the waiver authority to include programs under subpart 2 of part A of title III of the Elementary and Secondary

Education Act of 1965 (other than section 3136 of such Act).[1]

(e) Publication

A notice of the Secretary's decision to authorize State educational agencies to issue waivers under this section, including a description of the rationale the Secretary used to approve applications under subsection (a)(3)(B) of this section, shall be published in the Federal Register and the Secretary shall provide for the dissemination of such notice to State educational agencies, interested parties (including educators, parents, students, and advocacy and civil rights organizations), and the public.

(Pub. L. 106–25, § 4, Apr. 29, 1999, 113 Stat. 42; Pub. L. 107–110, title X, § 1073, Jan. 8, 2002, 115 Stat. 2090.)

REFERENCES IN TEXT

Section 1116(a)(3) of such Act, referred to in subsec. (a)(2)(A)(i), means section 1116(a)(3) of Pub. L. 89–10. Section 1116 of Pub. L. 89–10, which was classified to section 6317 of this title, was omitted in the general amendment of subchapter I (§ 6301 et seq.) of chapter 70 of this title, and a new section 1116, which is classified to section 6316 of this title, was enacted, by Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1439. The new section 1116 does not contain a subsec. (a)(3).

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (a)(3)(A)(v), (b)(1), and (c)(1)(G), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. Part A of title I of the Act is classified generally to part A (§ 6311 et seq.) of subchapter I of chapter 70 of this title. Subpart 3 of part B of title I is classified generally to subpart 3 (§ 6381 et seq.) of part B of subchapter I of chapter 70 of this title. Parts C, D, and F of title I are classified generally to parts C (§ 6391 et seq.), D (§ 6421 et seq.), and F (§ 6511 et seq.), respectively, of subchapter I of chapter 70 of this title. Subparts 2 and 3 of part A of title II are classified generally to subparts 2 (§ 6621 et seq.) and 3 (§ 6631 et seq.), respectively, of part A of subchapter II of chapter 70 of this title. Subpart 1 of part D of title II is classified generally to subpart 1 (§ 6761 et seq.) of part D of subchapter II of chapter 70 of this title. Subpart 4 of part B of title III is classified generally to subpart 4 (§ 6961 et seq.) of part B of subchapter III of chapter 70 of this title. Subpart 1 of part A of title IV is classified generally to subpart 1 (§ 7111 et seq.) of part A of subchapter IV of chapter 70 of this title. Part A of title V is classified generally to part A (§ 7201 et seq.) of subchapter V of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Carl D. Perkins Vocational and Technical Education Act of 1998, referred to in subsec. (b)(2), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

Section 311(e) of the Goals 2000: Educate America Act, referred to in subsec. (d)(2), (3)(A), is section 311(e) of Pub. L. 103–227, which was classified to section 5891(e) of this title and was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265.

The proviso referring to such section 311(e) under the heading ''EDUCATION REFORM'' in the Department of Education Appropriations Act, 1996, referred to in subsec. (d)(2)(B), is Pub. L. 104–134, title I, § 101(d) [title III], Apr. 26, 1996, 110 Stat. 1321–211, 1321–229; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, which is set out as a note below.

Subpart 2 of part A of title III of the Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(4), means subpart 2 of part A of title III of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3644, which related to State and local programs for school technology resources, and was classified generally to subpart 2 (§ 6841 et seq.) of part A of subchapter III of this chapter prior to the general amendment of title III of Pub. L. 89–10 by Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1689, which enacted a new subpart 2 of part A, relating to accountability and administration.

Section 3136 of such Act, referred to in subsec. (d)(4), means section 3136 of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3648, which was classified to section 6846 of this title prior to the general amendment of title III of Pub. L. 89–10 by Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1689.

CODIFICATION

Section was enacted as part of the Education Flexibility Partnership Act of 1999, and not as part of the Goals 2000: Educate America Act which comprises this chapter.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–110 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: ''The statutory or regulatory requirements referred to in subsection (a)(1)(A) of this section are any such requirements for programs carried out under the following provisions:

''(1) Title I of the Elementary and Secondary Education Act of 1965 (other than subsections (a) and (c) of section 1116 of such Act).

''(2) Part B of title II of the Elementary and Secondary Education Act of 1965.

''(3) Subpart 2 of part A of title III of the Elementary and Secondary Education Act of 1965 (other than section 3136 of such Act).

''(4) Title IV of the Elementary and Secondary Education Act of 1965.

''(5) Title VI of the Elementary and Secondary Education Act of 1965.

''(6) Part C of title VII of the Elementary and Secondary Education Act of 1965.

''(7) The Carl D. Perkins Vocational and Technical Education Act of 1998.''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

ADDITIONAL STATE EDUCATIONAL AGENCIES AUTHORIZED TO WAIVE FEDERAL REQUIREMENTS

Pub. L. 104–134, title I, § 101(d) [title III], Apr. 26, 1996, 110 Stat. 1321–211, 1321–229; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, provided in part: ''That notwithstanding section 311(e) of Public Law 103–227 [20 U.S.C. 5891(e)], the Secretary is authorized to grant up to six additional State education agencies authority to waive Federal statutory or regulatory requirements for fiscal year 1996 and succeeding fiscal years''.

§§ 5892 to 5895. Repealed. Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265

Section 5892, Pub. L. 103–227, title III, § 312, Mar. 31, 1994, 108 Stat. 178; Pub. L. 104–134, title I, § 101(d) [title VII, §§ 703(a)(12), 705(d)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253, 1321–257; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, related to progress reports.

Section 5893, Pub. L. 103–227, title III, § 313, Mar. 31, 1994, 108 Stat. 179, related to technical and other assistance regarding school finance equity.

Section 5894, Pub. L. 103–227, title III, §314, Mar. 31, 1994, 108 Stat. 180; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(13)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to national leadership.

Section 5895, Pub. L. 103–227, title III, §315, Mar. 31, 1994, 108 Stat. 181; Pub. L. 103–382, title III, §384, Oct. 20, 1994, 108 Stat. 4018; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(14)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–253; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to assistance to outlying areas and to Secretary of the Interior.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 30, 2000, see section 1000(a)(4) [title III, §310(i)] of Pub. L. 106–113, set out as a note under section 5881 of this title.

§5896. Repealed. Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(15)(A)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327

Section, Pub. L. 103–227, title III, §316, Mar. 31, 1994, 108 Stat. 184, provided that standards or State assessments described in State improvement plan submitted in accordance with section 5886 of this title were not to be required to be certified by Council.

§§5897 to 5900. Repealed. Pub. L. 106–113, div. B, §1000(a)(4) [title III, §310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265

Section 5897, Pub. L. 103–227, title III, §317, Mar. 31, 1994, 108 Stat. 184; Pub. L. 103–382, title III, §361(d), Oct. 20, 1994, 108 Stat. 3975; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(16)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to State planning for improving student achievement through integration of technology into curriculum.

Section 5898, Pub. L. 103–227, title III, §318, Mar. 31, 1994, 108 Stat. 186, related to prohibition on Federal mandates, direction, and control.

Section 5899, Pub. L. 103–227, title III, §319, Mar. 31, 1994, 108 Stat. 186, related to State and local government control of education.

Section 5900, Pub. L. 103–227, title III, §320, as added Pub. L. 104–134, title I, §101(d) [title VII, §706], Apr. 26, 1996, 110 Stat. 1321–211, 1321–257; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, related to certain prohibited conditions to receiving assistance and to limitations on Government officials.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 30, 2000, see section 1000(a)(4) [title III, §310(i)] of Pub. L. 106–113, set out as a note under section 5881 of this title.

SUBCHAPTER IV—PARENTAL ASSISTANCE

§§5911 to 5918. Repealed. Pub. L. 106–113, div. B, §1000(a)(4) [title III, §310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265

Section 5911, Pub. L. 103–227, title IV, §401, Mar. 31, 1994, 108 Stat. 187, related to parental information and resource centers.

Section 5912, Pub. L. 103–227, title IV, §402, Mar. 31, 1994, 108 Stat. 187, related to applications.

Section 5913, Pub. L. 103–227, title IV, §403, Mar. 31, 1994, 108 Stat. 189, related to uses of funds.

Section 5914, Pub. L. 103–227, title IV, §404, Mar. 31, 1994, 108 Stat. 189, related to technical assistance.

Section 5915, Pub. L. 103–227, title IV, §405, Mar. 31, 1994, 108 Stat. 189, related to definitions.

Section 5916, Pub. L. 103–227, title IV, §406, Mar. 31, 1994, 108 Stat. 190, related to reports.

Section 5917, Pub. L. 103–227, title IV, §407, Mar. 31, 1994, 108 Stat. 190, related to general provisions prohibiting required participation in any program of parent education or developmental screening or any action infringing on the right of a parent to direct the education of their children.

Section 5918, Pub. L. 103–227, title IV, §408, Mar. 31, 1994, 108 Stat. 191, related to authorization of appropriations.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 30, 2000, see section 1000(a)(4) [title III, §310(i)] of Pub. L. 106–113, set out as a note under section 5881 of this title.

SUBCHAPTER V—NATIONAL SKILL STANDARDS BOARD

§§5931 to 5939. Repealed. Pub. L. 103–227, title V, §509(a), Mar. 31, 1994, 108 Stat. 200

Section 5931, Pub. L. 103–227, title V, §501, Mar. 31, 1994, 108 Stat. 191, set forth short title of subchapter as National Skill Standards Act of 1994.

Section 5932, Pub. L. 103–227, title V, §502, Mar. 31, 1994, 108 Stat. 191, stated purpose of subchapter.

Section 5933, Pub. L. 103–227, title V, §503, Mar. 31, 1994, 108 Stat. 192; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(17)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327, established National Skill Standards Board.

Section 5934, Pub. L. 103–227, title V, §504, Mar. 31, 1994, 108 Stat. 195; Pub. L. 104–134, title I, §101(d) [title VII, §703(a)(18)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(17)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, related to functions of National Skill Standards Board.

Section 5935, Pub. L. 103–227, title V, §505, Mar. 31, 1994, 108 Stat. 199, related to deadline for identifying occupational clusters and promoting development of skill standards for the clusters.

Section 5936, Pub. L. 103–227, title V, §506, Mar. 31, 1994, 108 Stat. 199, related to reports to the President and Congress.

Section 5937, Pub. L. 103–227, title V, §507, Mar. 31, 1994, 108 Stat. 199, authorized appropriations.

Section 5938, Pub. L. 103–227, title V, §508, Mar. 31, 1994, 108 Stat. 200; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(17)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, related to definitions for subchapter.

Section 5939, Pub. L. 103–227, title V, §509, Mar. 31, 1994, 108 Stat. 200, repealed this subchapter effective Sept. 30, 1999.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 30, 1999, see section 509(a) of Pub. L. 103–227, which was formerly classified to section 5939(a) of this title.

SUBCHAPTER VI—INTERNATIONAL EDUCATION PROGRAM

§5951. Repealed. Pub. L. 107–110, title X, §1011(4)(B), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 103–227, title VI, §601, Mar. 31, 1994, 108 Stat. 200; Pub. L. 105–277, div. A, §101(f) [title VIII, §301(e)], div. G, subdiv. A, title XIII, §1335(e), Oct. 21, 1998, 112 Stat. 2681–337, 2681–410, 2681–788, related to International Education Program.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SUBCHAPTER VII—SAFE SCHOOLS

§ 5961. Short title; statement of purpose

(a) Short title

This subchapter may be cited as the ''Safe Schools Act of 1994''.

(b) Statement of purpose

It is the purpose of this subchapter to help local school systems achieve Goal Six[1] of the National Education Goals, which provides that by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning, by ensuring that all schools are safe and free of violence.

(Pub. L. 103–227, title VII, § 701, Mar. 31, 1994, 108 Stat. 204.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title VII of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 204, which enacted this subchapter and amended section 1221e–1 of this title.

§ 5962. Safe schools program authorized

(a) Authority

(1) In general

From funds appropriated pursuant to the authority of subsection (b)(1) of this section, the Secretary shall make competitive grants to eligible local educational agencies to enable such agencies to carry out projects and activities designed to achieve Goal Six[1] of the National Education Goals by helping to ensure that all schools are safe and free of violence.

(2) Grant duration and amount

Grants under this subchapter may not exceed—

(A) two fiscal years in duration; and

(B) $3,000,000.

(3) Geographic distribution

To the extent practicable, grants under this subchapter shall be awarded to eligible local educational agencies serving rural, as well as urban, areas.

(b) Authorization of appropriations and reservation

(1) Authorization

There are authorized to be appropriated $50,000,000 for fiscal year 1994 to carry out this subchapter.

(2) Reservation

The Secretary is authorized in each fiscal year to reserve not more than 10 percent of the amount appropriated pursuant to the authority of paragraph (1) to carry out national activities described in section 5966 of this title, of which 50 percent of such amount shall be available in such fiscal year to carry out the program described in section 5966(b) of this title.

(Pub. L. 103–227, title VII, § 702, Mar. 31, 1994, 108 Stat. 204.)

§ 5963. Eligible applicants

(a) In general

To be eligible to receive a grant under this subchapter, a local educational agency shall demonstrate in the application submitted pursuant to section 5964(a) of this title that such agency—

(1) serves an area in which there is a high rate of—

(A) homicides committed by persons between the ages 5 to 18, inclusive;

(B) referrals of youth to juvenile court;

(C) youth under the supervision of the courts;

(D) expulsions and suspensions of students from school;

(E) referrals of youth, for disciplinary reasons, to alternative schools; or

(F) victimization of youth by violence, crime, or other forms of abuse; and

(2) has serious school crime, violence, and discipline problems, as indicated by other appropriate data.

(b) Priority

In awarding grants under this subchapter, the Secretary shall give priority to a local educational agency that submits an application that assures a strong local commitment to the projects or activities assisted under this subchapter, such as—

(1) the formation of partnerships among the local educational agency, a community-based organization, a nonprofit organization with a demonstrated commitment to or expertise in developing education programs or providing educational services to students or the public, a local law enforcement agency, or any combination thereof; and

(2) a high level of youth participation in such projects or activities.

(Pub. L. 103–227, title VII, § 703, Mar. 31, 1994, 108 Stat. 205.)

§ 5964. Applications and plans

(a) Application

In order to receive a grant under this subchapter, an eligible local educational agency shall submit to the Secretary an application that includes—

(1) an assessment of the current violence and crime problems in the schools to be served by the grant and in the community to be served by the applicant;

(2) an assurance that the applicant has written policies regarding school safety, student discipline, and the appropriate handling of violent or disruptive acts;

(3) a description of the schools and communities to be served by the grant, the activities and projects to be carried out with grant funds, and how these activities and projects will help to reduce the current violence and crime problems in the schools and communities served;

(4) a description of educational materials to be developed in the first most predominate non-English language of the schools and communities to be served by the grant, if applicable;

[1] So in original. Probably should be ''Goal Seven''.

[1] So in original. Probably should be ''Goal Seven''.

(5) if the local educational agency receives Federal education funds, an explanation of how activities assisted under this subchapter will be coordinated with and support any systemic education improvement plan prepared with such funds;

(6) the applicant's plan to establish school-level advisory committees, which include faculty, parents, staff, and students, for each school to be served by the grant and a description of how each committee will assist in assessing that school's violence and discipline problems as well as in designing appropriate programs, policies, and practices to combat such problems;

(7) the applicant's plan for collecting baseline and future data, by individual schools, to monitor violence and discipline problems and to measure the applicant's progress in achieving the purpose of this subchapter;

(8) a description of how, in subsequent fiscal years, the grantee will integrate the violence prevention activities the grantee carries out with funds under this subchapter with activities carried out under the grantee's comprehensive plan for drug and violence prevention adopted under the Drug-Free Schools and Communities Act of 1986;

(9) a description of how the grantee will coordinate the grantee's school crime and violence prevention efforts with education, law enforcement, judicial, health, and social service programs supported under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.], and other appropriate agencies and organizations serving the community;

(10) a description of how the grantee will inform parents about the extent of crime and violence in their children's schools and maximize the participation of parents in the grantee's violence prevention activities;

(11) an assurance that grant funds under this subchapter will be used to supplement and not supplant State and local funds that would, in the absence of funds under this subchapter, be made available by the applicant for the purposes of the grant;

(12) an assurance that the applicant will cooperate with, and provide assistance to, the Secretary in gathering statistics and other data the Secretary determines are necessary to determine the effectiveness of projects and activities assisted under this subchapter or the extent of school violence and discipline problems throughout the Nation; and

(13) such other information as the Secretary may require.

(b) Plan

In order to receive funds under this subchapter for a second year, a grantee shall submit to the Secretary a comprehensive, long-term, school safety plan for reducing and preventing school violence and discipline problems. Such plan shall contain a description of how the grantee will coordinate the grantee's school crime and violence prevention efforts with education, law-enforcement, judicial, health, social service, and other appropriate agencies and organizations serving the community.

(Pub. L. 103–227, title VII, § 704, Mar. 31, 1994, 108 Stat. 205.)

REFERENCES IN TEXT

The Drug-Free Schools and Communities Act of 1986, referred to in subsec. (a)(8), is title V of Pub. L. 89–10 as added by Pub. L. 100–297, title I, § 1001, Apr. 28, 1988, 102 Stat. 252, which was classified generally to subchapter V (§ 3171 et seq.) of chapter 47 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519. See section 7101 et seq. of this title.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (a)(9), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§ 5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

§ 5965. Use of funds

(a) In general

A local educational agency shall use grant funds received under this subchapter for one or more of the following activities:

(1) Identifying and assessing school violence and discipline problems, including coordinating needs assessment activities with education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations, juvenile justice programs, and gang prevention activities.

(2) Conducting school safety reviews or violence prevention reviews of programs, policies, practices, and facilities to determine what changes are needed to reduce or prevent violence and promote safety and discipline.

(3) Planning for comprehensive, long-term strategies for addressing and preventing school violence and discipline problems through the involvement and coordination of school programs with other education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations.

(4) Training school personnel in programs of demonstrated effectiveness in addressing violence, including violence prevention, conflict resolution, anger management, peer mediation, and identification of high-risk youth.

(5) Activities which involve parents in efforts to promote school safety and prevent school violence.

(6) Community education programs, including video- and technology-based projects, informing parents, businesses, local government, the media and other appropriate entities about—

(A) the local educational agency's plan to promote school safety and reduce and prevent school violence and discipline problems; and

(B) the need for community support.

(7) Coordination of school-based activities designed to promote school safety and reduce or prevent school violence and discipline problems with related efforts of education, law enforcement, judicial, health, social service, and other appropriate agencies and organizations and juvenile justice programs.

(8) Developing and implementing violence prevention activities and materials, including—

(A) conflict resolution and social skills development for students, teachers, aides, other school personnel, and parents;

(B) disciplinary alternatives to expulsion and suspension of students who exhibit violent or antisocial behavior;

(C) student-led activities such as peer mediation, peer counseling, and student courts; or

(D) alternative after-school programs that provide safe havens for students, which may include cultural, recreational, educational and instructional activities, and mentoring and community service programs.

(9) Educating students and parents regarding the dangers of guns and other weapons and the consequences of their use.

(10) Developing and implementing innovative curricula to prevent violence in schools and training staff how to stop disruptive or violent behavior if such behavior occurs.

(11) Supporting ''safe zones of passage'' for students between home and school through such measures as Drug- and Weapon-Free School Zones, enhanced law enforcement, and neighborhood patrols.

(12) Counseling programs for victims and witnesses of school violence and crime.

(13) Acquiring and installing metal detectors and hiring security personnel.

(14) Reimbursing law enforcement authorities for their personnel who participate in school violence prevention activities.

(15) Evaluating projects and activities assisted under this subchapter.

(16) The cost of administering projects or activities assisted under this subchapter.

(17) Other projects or activities that meet the purpose of this subchapter.

(b) Limitations

(1) In general

A local educational agency may use not more than—

(A) a total of 5 percent of grant funds received under this subchapter in each fiscal year for activities described in paragraphs (11), (13), and (14) of subsection (a) of this section; and

(B) 5 percent of grant funds received under this subchapter in each fiscal year for activities described in paragraph (16) of subsection (a) of this section.

(2) Special rule

A local educational agency shall only be able to use grant funds received under this subchapter for activities described in paragraphs (11), (13), and (14) of subsection (a) of this section if funding for such activities is not available from other Federal sources.

(3) Prohibition

A local educational agency may not use grant funds received under this subchapter for construction.

(Pub. L. 103–227, title VII, § 705, Mar. 31, 1994, 108 Stat. 206.)

§ 5966. National activities

(a) National activities

(1) In general

To carry out the purpose of this subchapter, the Secretary—

(A) is authorized to use funds reserved under section 5962(b)(2) of this title to—

(i) conduct national leadership activities such as research, program development and evaluation, data collection, public awareness activities, training and technical assistance, dissemination (through appropriate research entities assisted by the Department of Education) of information on successful projects, activities, and strategies developed pursuant to this subchapter;

(ii) provide grants to noncommercial telecommunications entities for the production and distribution of national video-based projects that provide young people with models for conflict resolution and responsible decisionmaking; and

(iii) conduct peer review of applications under this subchapter; and

(B) shall develop a written safe schools model so that all schools can develop models that enable all students to participate regardless of any language barrier.

(2) Special rule

The Secretary may carry out the activities described in paragraph (1) directly, through interagency agreements, or through grants, contracts or cooperative agreements.

(b) National model city

The Secretary shall designate the District of Columbia as a national model city and shall provide funds made available pursuant to section 5962(b)(2) of this title in each fiscal year to a local educational agency serving the District of Columbia in an amount sufficient to enable such agency to carry out a comprehensive program to address school and youth violence.

(Pub. L. 103–227, title VII, § 706, Mar. 31, 1994, 108 Stat. 208.)

§ 5967. Reports

(a) Report to Secretary

Each local educational agency that receives funds under this subchapter shall submit to the Secretary a report not later than March 1, 1995, that describes progress achieved in carrying out the plan described in section 5964(b) of this title.

(b) Report to Congress

The Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report not later than October 1, 1995, which shall contain a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants under section 5964(a) of this title, and an evaluation of programs assisted under this subchapter.

(Pub. L. 103–227, title VII, § 708, Mar. 31, 1994, 108 Stat. 209.)

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

§ 5968. Coordination of Federal assistance

The Secretary, as a member of the Coordinating Council on Juvenile Justice and Delinquency Prevention of the Department of Justice, shall coordinate the programs and activities carried out under this subchapter with the programs and activities carried out by the departments and offices represented within the Council that provide assistance under other Federal law for purposes that are determined by the Secretary to be similar to the purpose of this subchapter, in order to avoid redundancy and coordinate Federal assistance, research, and programs for youth violence prevention.

(Pub. L. 103–227, title VII, § 709, Mar. 31, 1994, 108 Stat. 209.)

SUBCHAPTER VIII—MINORITY-FOCUSED CIVICS EDUCATION

§ 5981. Short title

This subchapter may be cited as the ''Minority-Focused Civics Education Act of 1994''.

(Pub. L. 103–227, title VIII, § 801, Mar. 31, 1994, 108 Stat. 209.)

§ 5982. Purposes

It is the purpose of this subchapter—

(1) to encourage improved instruction for minorities and Native Americans in American government and civics through a national program of accredited summer teacher training and staff development seminars or institutes followed by academic year inservice training programs conducted on college and university campuses or other appropriate sites, for—

(A) social studies and other teachers responsible for American history, government, and civics classes; and

(B) other educators who work with minority and Native American youth; and

(2) through such improved instruction to improve minority and Native American student knowledge and understanding of the American system of government.

(Pub. L. 103–227, title VIII, § 802, Mar. 31, 1994, 108 Stat. 209.)

§ 5983. Grants authorized; authorization of appropriations

(a) Grants authorized

(1) In general

The Secretary is authorized to make grants to eligible entities for the development and implementation of seminars in American government and civics for elementary and secondary school teachers and other educators who work with minority and Native American students.

(2) Award rule

In awarding grants under this subchapter, the Secretary shall ensure that there is wide geographic distribution of such grants.

(b) Authorization of appropriations

There are authorized to be appropriated $5,000,000 for fiscal 1995, and such sums as may be necessary for each of the fiscal years 1996, 1997, and 1998, to carry out this subchapter.

(Pub. L. 103–227, title VIII, § 803, Mar. 31, 1994, 108 Stat. 210.)

§ 5984. Definitions

For purposes of this subchapter—

(1) the term ''eligible entity'' means a State educational agency, an institution of higher education or a State higher education agency, or a public or private nonprofit organization, with experience in coordinating or conducting teacher training seminars in American government and civics education, or a consortium thereof; and

(2) the term ''State higher education agency'' means the officer or agency primarily responsible for the State supervision of higher education.

(Pub. L. 103–227, title VIII, § 804, Mar. 31, 1994, 108 Stat. 210.)

§ 5985. Applications

(a) Application required

Each eligible entity desiring a grant under this subchapter shall submit an application to the Secretary, at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require.

(b) Contents of application

Each application submitted pursuant to subsection (a) of this section shall—

(1) define the learning objectives and course content of each seminar to be held and describe the manner in which seminar participants shall receive substantive academic instruction in the principles, institutions and processes of American government;

(2) provide assurances that educators successfully participating in each seminar will qualify for either graduate credit or professional development or advancement credit according to the criteria established by a State or local educational agency;

(3) describe the manner in which seminar participants shall receive exposure to a broad array of individuals who are actively involved in the political process, including political party representatives drawn equally from the major political parties, as well as representatives of other organizations involved in the political process;

(4) provide assurances that the seminars will be conducted on a nonpartisan basis;

(5) describe the manner in which the seminars will address the role of minorities or Native Americans in the American political process, including such topics as—

(A) the history and current political state of minorities or Native Americans;

(B) recent research on minority or Native American political socialization patterns and cognitive learning styles; and

(C) studies of political participation patterns of minorities or Native Americans;

(6) describe the pedagogical elements for teachers that will enable teachers to develop effective strategies and lesson plans for teaching minorities or Native American students at the elementary and secondary school levels;

(7) identify the eligible entities which will conduct the seminars for which assistance is sought;

(8) in the case that the eligible entity is an institution of higher education, describe the plans for collaborating with national organizations in American government and civics education;

(9) provide assurances that during the academic year educators participating in the summer seminars will provide inservice training programs based upon what such educators have learned and the curricular materials such educators have developed or acquired for their peers in their school systems with the approval and support of their school administrators; and

(10) describe the activities or services for which assistance is sought, including activities and services such as—

(A) development of seminar curricula;

(B) development and distribution of instructional materials;

(C) scholarships for participating teachers; and

(D) program assessment and evaluation.

(c) Priority

The Secretary, in approving applications for assistance under this subchapter, shall give priority to applications which demonstrate that—

(1) the applicant will serve teachers who teach in schools with a large number or concentration of economically disadvantaged students;

(2) the applicant has demonstrated national experience in conducting or coordinating accredited summer seminars in American government or civics education for elementary and secondary school teachers;

(3) the applicant will coordinate or conduct seminars on a national or multistate basis through a collaboration with an institution of higher education, State higher education agency or a public or private nonprofit organization, with experience in coordinating or conducting teacher training programs in American government and civics education;

(4) the applicant will coordinate or conduct seminars designed for more than one minority student population and for Native Americans; and

(5) the applicant will coordinate or conduct seminars that offer a combination of academic instruction in American government, exposure to the practical workings of the political system, and training in appropriate pedagogical techniques for working with minority and Native American students.

(Pub. L. 103–227, title VIII, § 805, Mar. 31, 1994, 108 Stat. 210.)

SUBCHAPTER IX—EDUCATIONAL RESEARCH AND IMPROVEMENT

§ 6001. Short title

This subchapter may be cited as the ''Educational Research, Development, Dissemination, and Improvement Act of 1994''.

(Pub. L. 103–227, title IX, § 901, Mar. 31, 1994, 108 Stat. 212.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title IX of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 212, which enacted this subchapter, amended sections 2422, 3155, 3412, 3419, 3462, and 4085b of this title, repealed section 1221e of this title, and enacted provisions set out as notes under sections 1221e and 3155 of this title.

§ 6002. Findings

The Congress finds as follows with respect to improving education in the United States:

(1) A majority of public schools in the United States are failing to prepare students to achieve the National Education Goals. The Federal Government should support an extensive program of educational research, development, dissemination, replication and assistance to identify and support the best responses for the challenges ahead. A significant investment in attaining a deeper understanding of the processes of learning and schooling and developing new ideas holds the best hope of making a substantial difference to the lives of every student in the United States. The Office of Educational Research and Improvement within the Department of Education should be at the center of this campaign in order to coordinate such efforts.

(2) The Federal role in educational research has been closely identified with youths who are socioeconomically disadvantaged, are minorities, belong to a language minority, or have a disability. The Federal commitment to education was sufficient to serve not more than—

(A) in 1993, 1 out of every 6 low-income children in need of preschool education;

(B) in 1990, 3 out of every 5 children in need of remediation;

(C) in 1991, 1 out of every 5 children in need of bilingual education; and

(D) in 1992, 1 out of every 20 youths eligible for assistance under the Job Training Partnership Act.

(3) The failure of the Federal Government to adequately invest in educational research and development has denied the United States a sound foundation of knowledge on which to design school improvements. The educational achievement of minority children is of particular concern because at least half of the public school students in 25 of the largest cities of the United States are minority children, and demographers project that, by the year 2005, almost all urban public school students will be minority children or other children in poverty.

(4) The investment goal of the Federal research, development, and dissemination func-

tion should be at least 1 percent of the total amount of funds spent on education.

(5) Nationwide model programs and reliable interventions should be demonstrated and replicated, and for such purposes, programs should be established to conduct research and evaluations, and to disseminate information.

(6) The Office should develop a national dissemination policy that will advance the goal of placing a national treasure chest of research results, models, and materials at the disposal of the education decisionmakers of the United States.

(7) A National Educational Research Policy and Priorities Board should be established to work collaboratively with the Assistant Secretary to forge a national consensus with respect to a long-term agenda for educational research, development, dissemination, and the activities of the Office.

(8) Existing research and development entities should adopt expanded, proactive roles and new institutions should be created to promote knowledge development necessary to accelerate the application of research findings to high priority areas.

(9) Greater use should be made of existing technologies in efforts to improve the educational system of the United States, including efforts to disseminate research findings.

(10) Minority educational researchers are inadequately represented throughout the Department of Education, but particularly in the Office. The Office therefore should assume a leadership position in the recruitment, retention, and promotion of qualified minority educational researchers.

(11) The coordination of the mission of the Office with that of other components of the Department of Education is critical. The Office should improve the coordination of the educational research, development, and dissemination function with those of other Federal agencies.

(Pub. L. 103–227, title IX, § 902, Mar. 31, 1994, 108 Stat. 212.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in par. (2)(D), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor, and was repealed by Pub. L. 105–220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Job Training Partnership Act to the Code, see Tables. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

The Office of Educational Research and Improvement was established by section 3419 of this title. Section 3419 was repealed and a new section 3419 establishing the Institute of Educational Sciences was enacted by Pub. L. 107–279, title IV, § 402(2), Nov. 5, 2002, 116 Stat. 1985.

PART A—GENERAL PROVISIONS REGARDING OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

§ 6011. Repealed. Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985

Section, Pub. L. 103–227, title IX, § 912, Mar. 31, 1994, 108 Stat. 213; Pub. L. 103–382, title II, § 271(a)(3)(B), Oct. 20, 1994, 108 Stat. 3929, stated policy and purpose of Office of Educational Research and Improvement and set forth provisions relating to employees, publications, reports on activities, research, coordination of activities, evaluations, definitions, and appropriations.

PART B—NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD

§ 6021. Repealed. Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985

Section, Pub. L. 103–227, title IX, § 921, Mar. 31, 1994, 108 Stat. 223, established National Educational Research Policy and Priorities Board.

PART C—NATIONAL RESEARCH INSTITUTES

§ 6031. Repealed. Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985

Section, Pub. L. 103–227, title IX, § 931, Mar. 31, 1994, 108 Stat. 227, established the National Institute on Student Achievement, Curriculum, and Assessment, the National Institute on the Education of At-Risk Students, the National Institute on Educational Governance, Finance, Policy-Making, and Management, the National Institute on Early Childhood Development and Education, and the National Institute on Postsecondary Education, Libraries, and Lifelong Education.

PART D—NATIONAL EDUCATION DISSEMINATION SYSTEM

§ 6041. Repealed. Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985

Section, Pub. L. 103–227, title IX, § 941, Mar. 31, 1994, 108 Stat. 243; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 301(b)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410, established Office of Reform Assistance and Dissemination.

PART E—NATIONAL LIBRARY OF EDUCATION

§ 6051. Repealed. Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985

Section, Pub. L. 103–227, title IX, § 951, Mar. 31, 1994, 108 Stat. 260, established within the Department of Education a National Library of Education.

PART F—CERTAIN MULTIYEAR GRANTS AND CONTRACTS

CODIFICATION

This part was, in the original, part J of title IX of Pub. L. 103–227 and has been designated part F of this subchapter for purposes of codification.

§ 6052. Continuation of awards

(a) In general

Notwithstanding any other provision of law, from funds appropriated under subsection (b) of this section, the Secretary—

(1) shall continue to fund any multiyear grant or contract awarded under section 3141 and parts A and C of title XIII of the Elementary and Secondary Education Act of 1965 (as

such provisions were in effect on the day preceding January 8, 2002), for the duration of that multiyear award in accordance with its terms; and

(2) may extend, on a year-to-year basis, any multiyear grant or contract awarded under an authority described in paragraph (1) that expires after January 8, 2002, but before the enactment of successor authority to this subchapter.[1]

(b) Authorization of appropriations

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out subsection (a) of this section.

(Pub. L. 103–227, title IX, § 995, as added Pub. L. 107–110, title X, § 1074, Jan. 8, 2002, 115 Stat. 2090.)

REFERENCES IN TEXT

Section 3141 and parts A and C of title XIII of the Elementary and Secondary Education Act of 1965 (as such provisions were in effect on the day preceding January 8, 2002), referred to in subsec. (a)(1), are section 3141 and parts A and C of title XIII of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3649, 3877, 3882. Section 3141 of the Act was classified to section 6861 of this title, prior to the general amendment of title III of Pub. L. 89–10 by Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1689. Part A of title XIII of the Act was classified to part A (§ 8621 et seq.) of subchapter XIII of chapter 70 of this title, prior to its redesignation as part K of title IX of Pub. L. 103–227 by Pub. L. 107–110, title X, § 1021(a), Jan. 8, 2002, 115 Stat. 1987, and transfer to part G (§ 6053 et seq.) of this subchapter. Part C of title XIII of the Act was classified to part C (§ 8671 et seq.) of subchapter XIII of chapter 70 of this title, prior to its redesignation as part M of title IX of Pub. L. 103–227 by Pub. L. 107–110, title X, § 1023(a), Jan. 8, 2002, 115 Stat. 1987, and transfer to part I (§ 6055 et seq.) of this subchapter.

This subchapter, referred to in subsec. (a)(2), was in the original ''this Act'' and has been translated as reading ''this title'' to reflect the probable intent of Congress.

EFFECTIVE DATE

Section effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as a note under section 6301 of this title.

PART G—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS

CODIFICATION

Part K of title IX of Pub. L. 103–227, which comprised this part, was designated part G of this subchapter for purposes of codification. Part K of title IX of Pub. L. 103–227 was formerly part A of title XIII of Pub. L. 89–10, which was classified to part A (§ 8621 et seq.) of subchapter XIII of chapter 70 of this title, prior to being redesignated as part K of title IX of Pub. L. 103–227 by Pub. L. 107–110, title X, § 1021(a), Jan. 8, 2002, 115 Stat. 1987, transferred to this part, and subsequently repealed by Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985.

§§ 6053 to 6053e. Repealed. Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985

Section 6053, Pub. L. 103–227, title IX, § 1001, formerly Pub. L. 89–10, title XIII, § 13101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3877; renumbered Pub. L. 103–227, title IX, § 1001, and amended Pub. L. 107–110, title X, §§ 1021(a),(b), 1025(a)(2)(A), (17)(A), (B), (19), Jan. 8, 2002, 115 Stat. 1987–1989, authorized program for establishment of comprehensive regional assistance centers.

Section 6053a, Pub. L. 103–227, title IX, § 1002, formerly Pub. L. 89–10, title XIII, § 13102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3878; renumbered Pub. L. 103–227, title IX, § 1002, and amended Pub. L. 107–110, title X, §§ 1021(a),(b), 1025(a)(1), (2)(B), (6), (7), (10), (17)(C), (19), Jan. 8, 2002, 115 Stat. 1987–1989, related to requirements of centers.

Section 6053b, Pub. L. 103–227, title IX, § 1003, formerly Pub. L. 89–10, title XIII, § 13103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3879; renumbered Pub. L. 103–227, title IX, § 1003, and amended Pub. L. 107–110, title X, §§ 1021(a),(b), 1025(a)(8), (10), (16), Jan. 8, 2002, 115 Stat. 1987–1989, related to maintenance of service and application requirements.

Section 6053c, Pub. L. 103–227, title IX, § 1004, formerly Pub. L. 89–10, title XIII, § 13104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880; renumbered Pub. L. 103–227, title IX, § 1004, and amended Pub. L. 107–110, title X, §§ 1021(a),(b), 1025(a)(9), (18), Jan. 8, 2002, 115 Stat. 1987–1989, related to transition and phase in of centers.

Section 6053d, Pub. L. 103–227, title IX, § 1005, formerly Pub. L. 89–10, title XIII, § 13105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880; renumbered Pub. L. 103–227, title IX, § 1005, Pub. L. 107–110, title X, § 1021(a),(b), Jan. 8, 2002, 115 Stat. 1987, authorized appropriations.

Section 6053e, Pub. L. 103–227, title IX, § 1006, as added Pub. L. 107–110, title X, § 1021(c), Jan. 8, 2002, 115 Stat. 1987, applied section 7801 definitions to this part.

PART H—NATIONAL DIFFUSION NETWORK

CODIFICATION

Part L of title IX of Pub. L. 103–227, which comprised this part, was designated part H of this subchapter for purposes of codification. Part L of title IX of Pub. L. 103–227 was formerly part B of title XIII of Pub. L. 89–10, which was classified to part B (§ 8651 et seq.) of subchapter XIII of chapter 70 of this title, prior to being redesignated as part L of title IX of Pub. L. 103–227 by Pub. L. 107–110, title X, § 1022(a), Jan. 8, 2002, 115 Stat. 1987, transferred to this part, and subsequently repealed by Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985.

§§ 6054 to 6054b. Repealed. Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985

Section 6054, Pub. L. 103–227, title IX, § 1011, formerly Pub. L. 89–10, title XIII, § 13201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880; renumbered Pub. L. 103–227, title IX, § 1011, and amended Pub. L. 107–110, title X, §§ 1022(a),(b), 1025(a)(2)(A), (B)–(4), (5), (6), (16), (17)(D), (20), Jan. 8, 2002, 115 Stat. 1987–1989, authorized establishment of National Diffusion Network.

Another section 1011 of Pub. L. 103–227 is classified to section 6061 of this title.

Section 6054a, Pub. L. 103–227, title IX, § 1012, formerly Pub. L. 89–10, title XIII, § 13202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3882; renumbered Pub. L. 103–227, title IX, § 1012, Pub. L. 107–110, title X, § 1022(a),(b), Jan. 8, 2002, 115 Stat. 1987, authorized appropriations.

Section 6054b, Pub. L. 103–227, title IX, § 1013, as added Pub. L. 107–110, title X, § 1022(c), Jan. 8, 2002, 115 Stat. 1987, applied section 7801 definitions to this part.

PART I—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA

CODIFICATION

Part M of title IX of Pub. L. 103–227, which comprised this part, was designated part I of this subchapter for purposes of codification. Part M of title IX of Pub. L.

[1] See References in Text note below.

103–227 was formerly part C of title XIII of Pub. L. 89–10, which was classified to part C (§ 8671 et seq.) of subchapter XIII of chapter 70 of this title, prior to being redesignated as part M of title IX of Pub. L. 103–227 by Pub. L. 107–110, title X, § 1023(a), Jan. 8, 2002, 115 Stat. 1987, transferred to this part, and subsequently repealed by Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985.

§§ 6055 to 6055h. Repealed. Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985

Section 6055, Pub. L. 103–227, title IX, § 1021, formerly Pub. L. 89–10, title XIII, § 13301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3882; renumbered Pub. L. 103–227, title IX, § 1021, and amended Pub. L. 107–110, title X, §§ 1023(a),(b), 1025(a)(15), Jan. 8, 2002, 115 Stat. 1987, 1988, authorized grants and contracts for establishment and operation of regional mathematics and science education consortia.

Another section 1021 of Pub. L. 103–227 amended section 2421 of this title prior to the general amendment of chapter 44 of this title by Pub. L. 105–332.

Section 6055a, Pub. L. 103–227, title IX, § 1022, formerly Pub. L. 89–10, title XIII, § 13302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3883; renumbered Pub. L. 103–227, title IX, § 1022, and amended Pub. L. 107–110, title X, §§ 1023(a),(b), 1025(a)(11), (14), (21), Jan. 8, 2002, 115 Stat. 1987–1989, related to use of funds.

Another section 1022 of Pub. L. 103–227 is classified to section 6067 of this title.

Section 6055b, Pub. L. 103–227, title IX, § 1023, formerly Pub. L. 89–10, title XIII, § 13303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3884; renumbered Pub. L. 103–227, title IX, § 1023, Pub. L. 107–110, title X, § 1023(a),(b), Jan. 8, 2002, 115 Stat. 1987, related to application for grant or contract and review.

Section 6055c, Pub. L. 103–227, title IX, § 1024, formerly Pub. L. 89–10, title XIII, § 13304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885; renumbered Pub. L. 103–227, title IX, § 1024, Pub. L. 107–110, title X, § 1023(a),(b), Jan. 8, 2002, 115 Stat. 1987, required each entity in receipt of a grant or contract to establish a regional board for oversight and establishment of program priorities.

Section 6055d, Pub. L. 103–227, title IX, § 1025, formerly Pub. L. 89–10, title XIII, § 13305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885; renumbered Pub. L. 103–227, title IX, § 1025, and amended Pub. L. 107–110, title X, §§ 1023(a),(b), 1025(a)(13), Jan. 8, 2002, 115 Stat. 1987, 1988, related to payments and Federal and non-Federal shares.

Section 6055e, Pub. L. 103–227, title IX, § 1026, formerly Pub. L. 89–10, title XIII, § 13306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885; renumbered Pub. L. 103–227, title IX, § 1026, and amended Pub. L. 107–110, title X, §§ 1023(a),(b), 1025(a)(22), Jan. 8, 2002, 115 Stat. 1987, 1989, related to evaluations and reports.

Section 6055f, Pub. L. 103–227, title IX, § 1027, formerly Pub. L. 89–10, title XIII, § 13307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886; renumbered Pub. L. 103–227, title IX, § 1027, and amended Pub. L. 107–110, title X, §§ 1023(a),(b), 1025(a)(4), (12) Jan. 8, 2002, 115 Stat. 1987, 1988, defined terms for purposes of this part.

Section 6055g, Pub. L. 103–227, title IX, § 1028, formerly Pub. L. 89–10, title XIII, § 13308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886; renumbered Pub. L. 103–227, title IX, § 1028, Pub. L. 107–110, title X, § 1023(a),(b), Jan. 8, 2002, 115 Stat. 1987, authorized appropriations.

Section 6055h, Pub. L. 103–227, title IX, § 1029, as added Pub. L. 107–110, title X, § 1023(c), Jan. 8, 2002, 115 Stat. 1987, applied section 7801 definitions to this part.

PART J—TECHNOLOGY-BASED TECHNICAL ASSISTANCE

CODIFICATION

Part N of title IX of Pub. L. 103–227, which comprised this part, was designated part J of this subchapter for purposes of codification. Part N of title IX of Pub. L. 103–227 was formerly part D of title XIII of Pub. L. 89–10, which was classified to part D (§ 8701 et seq.) of subchapter XIII of chapter 70 of this title, prior to being redesignated as part N of title IX of Pub. L. 103–227 by Pub. L. 107–110, title X, § 1024(a), Jan. 8, 2002, 115 Stat. 1987, transferred to this part, and subsequently repealed by Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985.

§§ 6056, 6056a. Repealed. Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985

Section 6056, Pub. L. 103–227, title IX, § 1031, formerly Pub. L. 89–10, title XIII, § 13401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886; renumbered Pub. L. 103–227, title IX, § 1031, and amended Pub. L. 107–110, title X, §§ 1024(a),(b), 1025(a)(17)(E), Jan. 8, 2002, 115 Stat. 1987–1989, authorized technology-based technical assistance.

Another section 1031 of Pub. L. 103–227 is set out as a note under section 6301 of this title.

Section 6056a, Pub. L. 103–227, title IX, § 1032, as added Pub. L. 107–110, title X, § 1024(c), Jan. 8, 2002, 115 Stat. 1988, applied section 7801 definitions to this part.

Another section 1032 of Pub. L. 103–227 enacted section 3351 of this title and amended sections 3381 to 3384 and 3386 of this title prior to the general amendment of chapter 47 of this title by Pub. L. 103–382.

SUBCHAPTER X—MISCELLANEOUS

PART A—MISCELLANEOUS PROVISIONS

§ 6061. School prayer

No funds authorized to be appropriated under this chapter may be used by any State or local educational agency to adopt policies that prevent voluntary prayer and meditation in public schools.

(Pub. L. 103–227, title X, § 1011, Mar. 31, 1994, 108 Stat. 265.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original this ''Act'', meaning Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

CODIFICATION

Another section 1011 of Pub. L. 103–227 was classified to section 6054 of this title, prior to repeal by Pub. L. 107–279.

§ 6062. Funding for Individuals with Disabilities Education Act

(a) Findings

The Congress finds that—

(1) the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.] was established with the commitment of forty percent Federal funding but currently receives only eight percent Federal funding;

(2) this funding shortfall is particularly burdensome to school districts and schools in low-income areas which serve higher than average proportions of students with disabilities and have fewer local resources to contribute; and

(3) it would cost the Federal Government approximately $10,000,000,000 each year to fully fund the Individuals with Disabilities Education Act.

(b) Sense of Congress

It is the sense of the Congress that the Federal Government should provide States and communities with adequate resources under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.] as soon as reasonably possible, through the reallocation of noneducation funds within the current budget monetary constraints.

(Pub. L. 103–227, title X, § 1012, Mar. 31, 1994, 108 Stat. 265.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in text, is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

CODIFICATION

Another section 1012 of Pub. L. 103–227 was classified to section 6054a of this title, prior to repeal by Pub. L. 107–279.

§ 6063. Study of Goals 2000 and students with disabilities

(a) Study required

(1) In general

Not later than 180 days after March 31, 1994, the Secretary shall make appropriate arrangements with the National Academy of Sciences or the National Academy of Education to conduct a comprehensive study of the inclusion of children with disabilities in school reform activities assisted under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.].

(2) "Children with disabilities" defined

For purposes of this section, the term ''children with disabilities'' has the same meaning given such term in section 1401 of this title.

(b) Study components

The study conducted under subsection (a) of this section shall include—

(1) an evaluation of the National Education Goals and objectives, curriculum reforms, standards, and other programs and activities intended to achieve those goals;

(2) a review of the adequacy of assessments and measures used to gauge progress towards meeting National Education Goals and any national and State standards, and an examination of other methods or accommodations necessary or desirable to collect data on the educational progress of children with disabilities, and the costs of such methods and accommodations;

(3) an examination of what incentives or assistance might be provided to States to develop improvement plans that adequately address the needs of children with disabilities;

(4) the relation of the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] to other Federal laws governing or affecting the education of children with disabilities; and

(5) such other issues as the National Academy of Sciences or the National Academy of Education considers appropriate.

(c) Study panel membership

Any panel constituted in furtherance of the study to be conducted under subsection (a) of this section shall include consumer representatives.

(d) Findings and recommendations

The Secretary shall request the National Academy of Sciences or the National Academy of Education to submit an interim report of its findings and recommendations to the President and Congress not later than 12 months, and a final report not later than 24 months, from the date of the completion of procurement relating to the study.

(e) Funding

From funds appropriated to the Secretary for research related to individuals with disabilities the Secretary shall make available $600,000 for fiscal year 1994, and such sums as may be necessary for fiscal year 1995, to carry out this section. Amounts made available under this subsection shall remain available until expended.

(Pub. L. 103–227, title X, § 1015, Mar. 31, 1994, 108 Stat. 266.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsecs. (a)(1) and (b)(4), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to this chapter (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 6064. Contraceptive devices

The Department of Health and Human Services and the Department of Education shall ensure that all federally funded programs which provide for the distribution of contraceptive devices to unemancipated minors develop procedures to encourage, to the extent practical, family participation in such programs.

(Pub. L. 103–227, title X, § 1018, Mar. 31, 1994, 108 Stat. 268.)

§ 6065. Assessments

(a) Subchapter II

No funds provided under subchapter II of this chapter shall be used to develop or undertake assessments that will be used to make decisions regarding the graduation, grade promotion, or retention of students for 5 years after March 31, 1994.

(b) Subchapter III [1]

Assessments developed with funds under subchapter III [1] of this chapter may be used for decisions regarding graduation, grade promotion, or retention of students only on the condition that students have been prepared in the content for which the students are being assessed.

(Pub. L. 103–227, title X, § 1019, Mar. 31, 1994, 108 Stat. 269.)

REFERENCES IN TEXT

Subchapters II and III of this chapter, referred to in text, were in the original references to titles II and III, respectively, of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 133, 157. Title II enacted subchapter II of this chapter

[1] See References in Text note below.

and section 3425 of this title, amended section 5093 of this title and section 5315 of Title 5, Government Organization and Employees, and enacted provisions set out as a note under section 5093 of this title. Title III was classified generally to subchapter III (§ 5881 et seq.) of this chapter and was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265.

§ 6066. Public schools

Except as provided in section 5890[1] of this title, nothing in this chapter shall be construed to authorize the use of funds under subchapter III[1] of this chapter to directly or indirectly benefit any school other than a public school.

(Pub. L. 103–227, title X, § 1020, Mar. 31, 1994, 108 Stat. 269.)

REFERENCES IN TEXT

Section 5890 of this title, referred to in text, was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265.

Subchapter III of this chapter, referred to in text, was in the original a reference to title III of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 157, which was classified generally to subchapter III (§ 5881 et seq.) of this chapter and was repealed by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265.

§ 6067. Sense of Congress

It is the sense of the Congress that—

(1) no funds appropriated pursuant to this chapter should be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1993[1] (41 U.S.C. 10a–10c, popularly known as the ''Buy American Act'');

(2) in the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this chapter, entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products;

(3) in providing financial assistance under this chapter, the head of each Federal agency should provide to each recipient of the assistance a notice describing the statement made in subsection (a)[2] by the Congress; and

(4) if it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning to any product sold in or shipped to the United States that is not made in the United States, such person should be ineligible to receive any contract or subcontract made with funds provided pursuant to this chapter, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations, as such sections existed on March 31, 1994.

(Pub. L. 103–227, title X, § 1022, Mar. 31, 1994, 108 Stat. 270.)

REFERENCES IN TEXT

The Buy American Act, referred to in par. (1), is title III of act Mar. 3, 1933, ch. 212, 47 Stat. 1520, as amended, which is classified generally to sections 10a, 10b, and 10c of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 10a of Title 41 and Tables.

CODIFICATION

Another section 1022 of Pub. L. 103–227 was classified to section 6055a of this title, prior to repeal by Pub. L. 107–279.

PART B—ENVIRONMENTAL TOBACCO SMOKE

CODIFICATION

This part was, in the original, part C of title X of Pub. L. 103–227 and has been designated part B of this subchapter for purposes of codification.

Similar provisions relating to environmental tobacco smoke are contained in part C (§ 7181 et seq.) of subchapter IV of chapter 70 of this title.

§ 6081. Short title

This part may be cited as the ''Pro-Children Act of 1994''.

(Pub. L. 103–227, title X, § 1041, Mar. 31, 1994, 108 Stat. 271.)

§ 6082. Definitions

As used in this part:

(1) Children

The term ''children'' means individuals who have not attained the age of 18.

(2) Children's services

The term ''children's services'' means the provision on a routine or regular basis of health, day care, education, or library services—

(A) that are funded, after March 31, 1994, directly by the Federal Government or through State or local governments, by Federal grant, loan, loan guarantee, or contract programs—

(i) administered by either the Secretary of Health and Human Services or the Secretary of Education (other than services provided and funded solely under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.]); or

(ii) administered by the Secretary of Agriculture in the case of a clinic (as defined in 7 CFR 246.2) under section 17(b)(6) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(6)), or

(B) that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds, as determined by the appropriate Secretary in any enforcement action under this subchapter,

except that nothing in clause (ii) of subparagraph (A) is intended to include facilities (other than clinics) where coupons are redeemed under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(3) Person

The term ''person'' means any State or local subdivision thereof, agency of such State or subdivision, corporation, or partnership that owns or operates or otherwise controls and provides children's services or any individual who owns or operates or otherwise controls and provides such services.

[1] See References in Text note below.

[1] So in original. Probably should be ''1933''.

[2] So in original. No subsec. (a) has been enacted.

(4) Indoor facility

The term ''indoor facility'' means a building that is enclosed.

(5) Secretary

The term ''Secretary'' means the Secretary of Health and Human Services.

(Pub. L. 103–227, title X, § 1042, Mar. 31, 1994, 108 Stat. 271.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in par. (2), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Social Security Act, referred to in par. (2)(A)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

This subchapter, referred to in par. (2)(B), was in the original ''this title'', meaning title X of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 265, which enacted this subchapter and section 3351 of this title, amended sections 1107, 1232h, 2421, 3381 to 3384, and 3386 of this title, sections 1632, 1633, and 1635 of Title 29, Labor, and section 11903a of Title 42, and enacted provisions set out as notes under section 2701 of this title and section 11901 of Title 42.

§ 6083. Nonsmoking policy for children's services

(a) Prohibition

After March 31, 1994, no person shall permit smoking within any indoor facility owned or leased or contracted for and utilized by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

(b) Additional prohibition

After March 31, 1994, no person shall permit smoking within any indoor facility (or portion thereof) owned or leased or contracted for by such person for the provision by such person of regular or routine health care or day care or early childhood development (Head Start) services to children or for the use of the employees of such person who provides such services, except that this subsection shall not apply to—

(1) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(2) any private residence.

(c) Federal agencies

(1) Kindergarten, elementary, or secondary education or library services

After March 31, 1994, no Federal agency shall permit smoking within any indoor facility in the United States operated by such agency, directly or by contract, to provide routine or regular kindergarten, elementary, or secondary education or library services to children.

(2) Health or day care or early childhood development services

After March 31, 1994, no Federal agency shall permit smoking within any indoor facility (or portion thereof) operated by such agency, directly or by contract, to provide routine or regular health or day care or early childhood development (Head Start) services to children, except that this paragraph shall not apply to—

(A) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(B) any private residence.

(3) Application of provisions

The provisions of paragraph (2) shall also apply to the provision of such routine or regular kindergarten, elementary or secondary education or library services in the facilities described in paragraph (2) not subject to paragraph (1).

(d) Notice

The prohibitions in subsections (a) through (c) of this section shall be incorporated by publication of a notice in the Federal Register by the Secretary (in consultation with the heads of other affected agencies) and by such agency heads in funding arrangements involving the provision of children's services administered by such heads. Such prohibitions shall be effective 90 days after such notice is published, or 270 days after March 31, 1994, whichever occurs first.

(e) Special waiver

(1) In general

On receipt of an application, the head of the Federal agency may grant a special waiver to a person described in subsection (a) of this section who employs individuals who are members of a labor organization and provide children's services pursuant to a collective bargaining agreement that—

(A) took effect before March 31, 1994; and

(B) includes provisions relating to smoking privileges that are in violation of the requirements of this section.

(2) Termination of waiver

A special waiver granted under this subsection shall terminate on the earlier of—

(A) the first expiration date (after March 31, 1994) of the collective bargaining agreement containing the provisions relating to smoking privileges; or

(B) the date that is 1 year after March 31, 1994.

(f) Civil penalties

(1) In general

Any failure to comply with a prohibition in this section shall be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Secretary. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty under this section, the total amount shall not exceed the amount of Federal funds received by such person for the fiscal year in which the continuing violations occurred. For the purpose of the prohibi-

tion in subsection (c) of this section, the term ''person'' shall mean the head of the applicable Federal agency or the contractor of such agency providing the services to children.

(2) Administrative proceeding

A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued, by the Secretary only after an opportunity for a hearing in accordance with section 554 of title 5. Before making such assessment or issuing such order, or both, the Secretary shall give written notice thereof to such person by certified mail with return receipt and provide therein an opportunity to request in writing not later than 30 days after the date of receipt of such notice such hearing. The notice shall reasonably describe the violation and be accompanied with the procedures for such hearing and a simple form to request such hearing if such person desires to use such form. If a hearing is requested, the Secretary shall establish by such certified notice the time and place for such hearing which should be located, to the greatest extent possible, at a location convenient to such person. The Secretary (or the Secretary's designee) and such person may consult to arrange a suitable date and location where appropriate.

(3) Circumstances affecting penalty or order

In determining the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, any good faith efforts to comply, the importance of achieving early and permanent compliance, the ability to pay or comply, the effect of the penalty or order on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and any demonstration of willingness to comply with the prohibitions of this section in a timely manner; and

(C) such other matters as justice may require.

(4) Modification

The Secretary may, as appropriate, compromise, modify, or remit, with or without conditions, any civil penalty or administrative compliance order. In the case of a civil penalty, the amount, as finally determined by the Secretary or agreed upon in compromise, may be deducted from any sums that the United States or its agencies or instrumentalities owes to the person against whom the penalty is assessed.

(5) Petition for review

Any person aggrieved by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for judicial review thereof with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. Such person shall provide a copy thereof to the Secretary or the Secretary's designee. The petition shall be filed within 30 days after the Secretary's assessment or order, or both, are final and have been provided to such person by certified mail. The Secretary shall promptly provide to the court a certified copy of the transcript of any hearing held under this section and a copy of the notice or order.

(6) Failure to comply

If a person fails to pay an assessment of a civil penalty or comply with an order, after either or both are final under this section, or after a court under paragraph (5) has entered a final judgment in favor of the Secretary, the Attorney General, at the request of the Secretary, shall recover the amount of the civil penalty (plus interest at then currently prevailing rates from the day either or both are final) or enforce the order in an action brought in the appropriate district court of the United States. In such action, the validity and appropriateness of the penalty or order or the amount of the penalty shall not be subject to review.

(Pub. L. 103–227, title X, §1043, Mar. 31, 1994, 108 Stat. 272.)

§6084. Preemption

Nothing in this part is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this part.

(Pub. L. 103–227, title X, §1044, Mar. 31, 1994, 108 Stat. 274.)

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§ 6101. Findings

Congress finds that—

(1) three-fourths of high school students in the United States enter the workforce without baccalaureate degrees, and many do not possess the academic and entry-level occupational skills necessary to succeed in the changing United States workplace;

(2) a substantial number of youths in the United States, especially disadvantaged students, students of diverse racial, ethnic, and cultural backgrounds, and students with disabilities, do not complete high school;

(3) unemployment among youths in the United States is intolerably high, and earnings of high school graduates have been falling relative to earnings of individuals with more education;

(4) the workplace in the United States is changing in response to heightened international competition and new technologies, and such forces, which are ultimately beneficial to the Nation, are shrinking the demand for and undermining the earning power of unskilled labor;

(5) the United States lacks a comprehensive and coherent system to help its youths acquire the knowledge, skills, abilities, and informa-

tion about and access to the labor market necessary to make an effective transition from school to career-oriented work or to further education and training;

(6) students in the United States can achieve high academic and occupational standards, and many learn better and retain more when the students learn in context, rather than in the abstract;

(7) while many students in the United States have part-time jobs, there is infrequent linkage between—

(A) such jobs; and

(B) the career planning or exploration, or the school-based learning, of such students;

(8) the work-based learning approach, which is modeled after the time-honored apprenticeship concept, integrates theoretical instruction with structured on-the-job training, and this approach, combined with school-based learning, can be very effective in engaging student interest, enhancing skill acquisition, developing positive work attitudes, and preparing youths for high-skill, high-wage careers;

(9) Federal resources currently fund a series of categorical, work-related education and training programs, many of which serve disadvantaged youths, that are not administered as a coherent whole; and

(10) in 1992 approximately 3,400,000 individuals in the United States age 16 through 24 had not completed high school and were not currently enrolled in school, a number representing approximately 11 percent of all individuals in this age group, which indicates that these young persons are particularly unprepared for the demands of a 21st century workforce.

(Pub. L. 103–239, § 2, May 4, 1994, 108 Stat. 569.)

EFFECTIVE DATE

Section 801 of Pub. L. 103–239 provided that: ''This Act [see Short Title note below] shall take effect on the date of enactment of this Act [May 4, 1994].''

SHORT TITLE

Section 1(a) of Pub. L. 103–239 provided that: ''This Act [enacting this chapter, amending sections 2394b, 2394c, and 4441 of this title, section 1699 of Title 29, Labor, and sections 11449 and 11450 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and section 4401 of this title] may be cited as the 'School-to-Work Opportunities Act of 1994'.''

§ 6102. Purposes and Congressional intent

(a) Purposes

The purposes of this chapter are—

(1) to establish a national framework within which all States can create statewide School-to-Work Opportunities systems that—

(A) are a part of comprehensive education reform;

(B) are integrated with the systems developed under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] and the National Skill Standards Act of 1994; [1] and

(C) offer opportunities for all students to participate in a performance-based education and training program that will—

(i) enable the students to earn portable credentials;

(ii) prepare the students for first jobs in high-skill, high-wage careers; and

(iii) increase their opportunities for further education, including education in a 4-year college or university;

(2) to facilitate the creation of a universal, high-quality school-to-work transition system that enables youths in the United States to identify and navigate paths to productive and progressively more rewarding roles in the workplace;

(3) to utilize workplaces as active learning environments in the educational process by making employers joint partners with educators in providing opportunities for all students to participate in high-quality, work-based learning experiences;

(4) to use Federal funds under this chapter as venture capital, to underwrite the initial costs of planning and establishing statewide School-to-Work Opportunities systems that will be maintained with other Federal, State, and local resources;

(5) to promote the formation of local partnerships that are dedicated to linking the worlds of school and work among secondary schools and postsecondary educational institutions, private and public employers, labor organizations, government, community-based organizations, parents, students, State educational agencies, local educational agencies, and training and human service agencies;

(6) to promote the formation of local partnerships between elementary schools and secondary schools (including middle schools) and local businesses as an investment in future workplace productivity and competitiveness;

(7) to help all students attain high academic and occupational standards;

(8) to build on and advance a range of promising school-to-work activities, such as tech-prep education, career academies, school-to-apprenticeship programs, cooperative education, youth apprenticeship, school-sponsored enterprises, business-education compacts, and promising strategies that assist school dropouts, that can be developed into programs funded under this chapter;

(9) to improve the knowledge and skills of youths by integrating academic and occupational learning, integrating school-based and work-based learning, and building effective linkages between secondary and postsecondary education;

(10) to encourage the development and implementation of programs that will require paid high-quality, work-based learning experiences;

(11) to motivate all youths, including low-achieving youths, school dropouts, and youths with disabilities, to stay in or return to school or a classroom setting and strive to succeed, by providing enriched learning experiences and assistance in obtaining good jobs and continuing their education in postsecondary educational institutions;

(12) to expose students to a broad array of career opportunities, and facilitate the selection of career majors, based on individual interests, goals, strengths, and abilities;

[1] See References in Text note below.

(13) to increase opportunities for minorities, women, and individuals with disabilities, by enabling individuals to prepare for careers that are not traditional for their race, gender, or disability; and

(14) to further the National Education Goals set forth in title I of the Goals 2000: Educate America Act [20 U.S.C. 5811 et seq.].

(b) Congressional intent

It is the intent of Congress that the Secretary of Labor and the Secretary of Education jointly administer this chapter in a flexible manner that—

(1) promotes State and local discretion in establishing and implementing statewide School-to-Work Opportunities systems and School-to-Work Opportunities programs; and

(2) contributes to reinventing government by—

(A) building on State and local capacity;

(B) eliminating duplication in education and training programs for youths by integrating such programs into 1 comprehensive system;

(C) maximizing the effective use of resources;

(D) supporting locally established initiatives;

(E) requiring measurable goals for performance; and

(F) offering flexibility in meeting such goals.

(Pub. L. 103–239, § 3, May 4, 1994, 108 Stat. 570.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Goals 2000: Educate America Act, referred to in subsec. (a)(1)(B), (14), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). Title I of the Act is classified generally to subchapter I (§ 5811 et seq.) of chapter 68 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The National Skill Standards Act of 1994, referred to in subsec. (a)(1)(B), is title V of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 191, which was classified generally to subchapter V (§ 5931 et seq.) of chapter 68 of this title, prior to repeal by section 509(a) of Pub. L. 103–227, effective Sept. 30, 1999. For complete classification of this Act to the Code, see Tables.

§ 6103. Definitions

As used in this chapter:

(1) All aspects of an industry

The term ''all aspects of an industry'' means all aspects of the industry or industry sector a student is preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, health and safety issues, and environmental issues, related to such industry or industry sector.

(2) All students

The term ''all students'' means both male and female students from a broad range of backgrounds and circumstances, including disadvantaged students, students with diverse racial, ethnic, or cultural backgrounds, American Indians, Alaska Natives, Native Hawaiians, students with disabilities, students with limited-English proficiency, migrant children, school dropouts, and academically talented students.

(3) Approved State plan

The term ''approved State plan'' means a statewide School-to-Work Opportunities system plan that is submitted by a State under section 6143 of this title, is determined by the Secretaries to include the program components described in sections 6112 through 6114 of this title and otherwise meet the requirements of this chapter, and is consistent with the State improvement plan for the State, if any, under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.].

(4) Career guidance and counseling

The term ''career guidance and counseling'' means programs—

(A) that pertain to the body of subject matter and related techniques and methods organized for the development in individuals of career awareness, career planning, career decisionmaking, placement skills, and knowledge and understanding of local, State, and national occupational, educational, and labor market needs, trends, and opportunities;

(B) that assist individuals in making and implementing informed educational and occupational choices; and

(C) that aid students to develop career options with attention to surmounting gender, race, ethnic, disability, language, or socioeconomic impediments to career options and encouraging careers in nontraditional employment.

(5) Career major

The term ''career major'' means a coherent sequence of courses or field of study that prepares a student for a first job and that—

(A) integrates academic and occupational learning, integrates school-based and work-based learning, establishes linkages between secondary schools and postsecondary educational institutions;

(B) prepares the student for employment in a broad occupational cluster or industry sector;

(C) typically includes at least 2 years of secondary education and at least 1 or 2 years of postsecondary education;

(D) provides the students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are planning to enter;

(E) results in the award of—

(i) a high school diploma or its equivalent, such as—

(I) a general equivalency diploma; or

(II) an alternative diploma or certificate for students with disabilities for

whom such alternative diploma or certificate is appropriate;

(ii) a certificate or diploma recognizing successful completion of 1 or 2 years of postsecondary education (if appropriate); and

(iii) a skill certificate; and

(F) may lead to further education and training, such as entry into a registered apprenticeship program, or may lead to admission to a 2- or 4-year college or university.

(6) Community-based organizations

The term ''community-based organizations'' has the meaning given such term in section 4(5) of the Job Training Partnership Act (29 U.S.C. 1503(5)).[1]

(7) Elementary school

The term ''elementary school'' means a day or residential school that provides elementary education, as determined under State law.

(8) Employer

The term ''employer'' includes both public and private employers.

(9) Governor

The term ''Governor'' means the chief executive of a State.

(10) Local educational agency

The term ''local educational agency'' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(11) Local partnership

The term ''local partnership'' means a local entity that is responsible for local School-to-Work Opportunities programs and that—

(A) consists of employers, representatives of local educational agencies and local postsecondary educational institutions (including representatives of area vocational education schools, where applicable), local educators (such as teachers, counselors, or administrators), representatives of labor organizations or nonmanagerial employee representatives, and students; and

(B) may include other entities, such as—

(i) employer organizations;

(ii) community-based organizations;

(iii) national trade associations working at the local levels;

(iv) industrial extension centers;

(v) rehabilitation agencies and organizations;

(vi) registered apprenticeship agencies;

(vii) local vocational education entities;

(viii) proprietary institutions of higher education (as defined in section 102(b) of the Higher Education Act of 1965 [20 U.S.C. 1002(b)][2] that continue to meet the eligibility and certification requirements under title IV of such Act (20 U.S.C. 1070 et seq. [and 42 U.S.C. 2751 et seq.]);

(ix) local government agencies;

(x) parent organizations;

(xi) teacher organizations;

(xii) vocational student organizations;

(xiii) private industry councils established under section 102 of the Job Training Partnership Act (29 U.S.C. 1512);[1]

(xiv) federally recognized Indian tribes, Indian organizations, and Alaska Native villages within the meaning of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

(xv) Native Hawaiian entities.

(12) Postsecondary educational institution

The term ''postsecondary educational institution'' means an institution of higher education (as such term is defined in section 102 of the Higher Education Act of 1965 [20 U.S.C. 1002]) which continues to meet the eligibility and certification requirements under title IV of such Act (20 U.S.C. 1070 et seq. [and 42 U.S.C. 2751 et seq.]).

(13) Registered apprenticeship agency

The term ''registered apprenticeship agency'' means the Bureau of Apprenticeship and Training in the Department of Labor or a State apprenticeship agency recognized and approved by the Bureau of Apprenticeship and Training as the appropriate body for State registration or approval of local apprenticeship programs and agreements for Federal purposes.

(14) Registered apprenticeship program

The term ''registered apprenticeship program'' means a program registered by a registered apprenticeship agency.

(15) Related services

The term ''related services'' includes the types of services described in section 1401 of this title.

(16) Rural community with low population density

The term ''rural community with low population density'' means a county, block number area in a nonmetropolitan county, or consortium of counties or of such block number areas, that has a population density of 20 or fewer individuals per square mile.

(17) School dropout

The term ''school dropout'' means a youth who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

(18) School site mentor

The term ''school site mentor'' means a professional employed at a school who is des-

[1] See References in Text note below.

[2] So in original. Probably should be followed by a closing parenthesis.

ignated as the advocate for a particular student, and who works in consultation with classroom teachers, counselors, related services personnel, and the employer of the student to design and monitor the progress of the School-to-Work Opportunities program of the student.

(19) School-to-Work Opportunities program

The term ''School-to-Work Opportunities program'' means a program that meets the requirements of this chapter, other than a program described in section 6191(a) of this title.

(20) Secondary school

The term ''secondary school'' means—

(A) a nonprofit day or residential school that provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12; and

(B) a Job Corps center under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.).[1]

(21) Secretaries

The term ''Secretaries'' means the Secretary of Education and the Secretary of Labor.

(22) Skill certificate

The term ''skill certificate'' means a portable, industry-recognized credential issued by a School-to-Work Opportunities program under an approved State plan, that certifies that a student has mastered skills at levels that are at least as challenging as skill standards endorsed by the National Skill Standards Board established under the National Skill Standards Act of 1994,[1] except that until such skill standards are developed, the term ''skill certificate'' means a credential issued under a process described in the approved State plan.

(23) State

The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(24) State educational agency

The term ''State educational agency'' means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

(25) Workplace mentor

The term ''workplace mentor'' means an employee or other individual, approved by the employer at a workplace, who possesses the skills and knowledge to be mastered by a student, and who instructs the student, critiques the performance of the student, challenges the student to perform well, and works in consultation with classroom teachers and the employer of the student.

(Pub. L. 103–239, § 4, May 4, 1994, 108 Stat. 572; Pub. L. 103–382, title III, § 394(j)(1), Oct. 20, 1994, 108 Stat. 4029; Pub. L. 105–244, title I, § 102(c)(1), Oct. 7, 1998, 112 Stat. 1622; Pub. L. 108–446, title III, § 305(f), Dec. 3, 2004, 118 Stat. 2805.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in par. (3), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Higher Education Act of 1965, referred to in pars. (11)(B)(viii) and (12), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§ 1070 et seq.) of chapter 28 of this title and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (11)(B)(xiv), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Job Training Partnership Act, referred to in pars. (6), (11)(B)(xiii), and (20)(B), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was repealed by Pub. L. 105–220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Part B of title IV of the Act was classified generally to part B (§ 1691 et seq.) of subchapter IV of chapter 19 of Title 29, Labor, and sections 4 and 102 of the Act were classified to sections 1503 and 1512, respectively, of Title 29. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Job Training Partnership Act to the Code, see Tables. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

The National Skill Standards Act of 1994, referred to in par. (22), is title V of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 191, which was classified generally to subchapter V (§ 5931 et seq.) of chapter 68 of this title, prior to repeal by section 509(a) of Pub. L. 103–227, effective Sept. 30, 1999. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2004—Par. (15). Pub. L. 108–446 substituted ''section 1401'' for ''section 1401(a)(17)''.

1998—Par. (11)(B)(viii). Pub. L. 105–244, § 102(c)(1)(A), substituted ''section 102(b)'' for ''section 481(b)''.

Par. (12). Pub. L. 105–244, § 102(c)(1)(B), substituted ''section 102'' for ''section 481''.

1994—Par. (15). Pub. L. 103–382 substituted ''section 1401(a)(17)'' for ''section 1401(17)''.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 6104. Federal administration

(a) Joint administration

(1) In general

Notwithstanding the Department of Education Organization Act (20 U.S.C. 3401 et seq.), the General Education Provisions Act (20 U.S.C. 1221 et seq.), the Act entitled ''An

Act To Create a Department of Labor'', approved March 4, 1913 (29 U.S.C. 551 et seq.), and section 166 of the Job Training Partnership Act (29 U.S.C. 1576),[1] the Secretaries shall jointly provide for, and shall exercise final authority over, the administration of this chapter, and shall have final authority to jointly issue whatever procedures, guidelines, and regulations, in accordance with section 553 of title 5, the Secretaries consider necessary and appropriate to administer and enforce the provisions of this chapter.

(2) Submission of plan

Not later than 120 days after May 4, 1994, the Secretaries shall prepare a plan for the joint administration of this chapter and submit such plan to Congress for review and comment.

(b) Acceptance of gifts

The Secretaries are authorized, in carrying out this chapter, to accept, purchase, or lease in the name of the Department of Labor or the Department of Education, and employ or dispose of in furtherance of the purposes of this chapter, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

(c) Use of voluntary and uncompensated services

Notwithstanding section 1342 of title 31, the Secretaries are authorized to accept voluntary and uncompensated services in furtherance of the purposes of this chapter.

(Pub. L. 103–239, § 5, May 4, 1994, 108 Stat. 575.)

REFERENCES IN TEXT

The Department of Education Organization Act, referred to in subsec. (a)(1), is Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668, which is classified principally to chapter 48 (§ 3401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of this title and Tables.

The General Education Provisions Act, referred to in subsec. (a)(1), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

The Act entitled ''An Act To Create a Department of Labor'', approved March 4, 1913, referred to in subsec. (a)(1), is act Mar. 4, 1913, ch. 141, 37 Stat. 736, as amended, which is classified principally to sections 2, 551, and 555 to 562 of Title 29, Labor. For complete classification of this Act to the Code, see Tables.

Section 166 of the Job Training Partnership Act, referred to in subsec. (a)(1), which was classified to section 1576 of Title 29, Labor, was repealed by Pub. L. 105–220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

[1] See References in Text note below.

SUBCHAPTER I—SCHOOL-TO-WORK OPPORTUNITIES BASIC PROGRAM COMPONENTS

§ 6111. General program requirements

A School-to-Work Opportunities program under this chapter shall—

(1) integrate school-based learning and work-based learning, as provided for in sections 6112 and 6113 of this title, integrate academic and occupational learning, and establish effective linkages between secondary and postsecondary education;

(2) provide participating students with the opportunity to complete career majors;

(3) incorporate the program components provided in sections 6112 through 6114 of this title;

(4) provide participating students, to the extent practicable, with strong experience in and understanding of all aspects of the industry the students are preparing to enter; and

(5) provide all students with equal access to the full range of such program components (including both school-based and work-based learning components) and related activities, such as recruitment, enrollment, and placement activities, except that nothing in this chapter shall be construed to provide any individual with an entitlement to services under this chapter.

(Pub. L. 103–239, title I, § 101, May 4, 1994, 108 Stat. 576.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

§ 6112. School-based learning component

The school-based learning component of a School-to-Work Opportunities program shall include—

(1) career awareness and career exploration and counseling (beginning at the earliest possible age, but not later than the 7th grade) in order to help students who may be interested to identify, and select or reconsider, their interests, goals, and career majors, including those options that may not be traditional for their gender, race, or ethnicity;

(2) initial selection by interested students of a career major not later than the beginning of the 11th grade;

(3) a program of study designed to meet the same academic content standards the State has established for all students, including, where applicable, standards established under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.], and to meet the requirements necessary to prepare a student for postsecondary education and the requirements necessary for a student to earn a skill certificate;

(4) a program of instruction and curriculum that integrates academic and vocational learning (including applied methodologies and team-teaching strategies), and incorporates instruction, to the extent practicable, in all aspects of an industry, appropriately tied to the career major of a participant;

(5) regularly scheduled evaluations involving ongoing consultation and problem solving with students and school dropouts to identify their academic strengths and weaknesses, academic progress, workplace knowledge, goals, and the need for additional learning opportunities to master core academic and vocational skills; and

(6) procedures to facilitate the entry of students participating in a School-to-Work Opportunities program into additional training or postsecondary education programs, as well as to facilitate the transfer of the students between education and training programs.

(Pub. L. 103–239, title I, § 102, May 4, 1994, 108 Stat. 576.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in par. (3), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 6113. Work-based learning component

(a) Mandatory activities

The work-based learning component of a School-to-Work Opportunities program shall include—

(1) work experience;

(2) a planned program of job training and work experiences (including training related to preemployment and employment skills to be mastered at progressively higher levels) that are coordinated with learning in the school-based learning component described in section 6112 of this title and are relevant to the career majors of students and lead to the award of skill certificates;

(3) workplace mentoring;

(4) instruction in general workplace competencies, including instruction and activities related to developing positive work attitudes, and employability and participative skills; and

(5) broad instruction, to the extent practicable, in all aspects of the industry.

(b) Permissible activities

Such component may include such activities as paid work experience, job shadowing, school-sponsored enterprises, or on-the-job training.

(Pub. L. 103–239, title I, § 103, May 4, 1994, 108 Stat. 577.)

§ 6114. Connecting activities component

The connecting activities component of a School-to-Work Opportunities program shall include—

(1) matching students with the work-based learning opportunities of employers;

(2) providing, with respect to each student, a school site mentor to act as a liaison among the student and the employer, school, teacher, school administrator, and parent of the student, and, if appropriate, other community partners;

(3) providing technical assistance and services to employers, including small- and medium-sized businesses, and other parties in—

(A) designing school-based learning components described in section 6112 of this title, work-based learning components described in section 6113 of this title, and counseling and case management services; and

(B) training teachers, workplace mentors, school site mentors, and counselors;

(4) providing assistance to schools and employers to integrate school-based and work-based learning and integrate academic and occupational learning into the program;

(5) encouraging the active participation of employers, in cooperation with local education officials, in the implementation of local activities described in section 6112 of this title, section 6113 of this title, or this section;

(6)(A) providing assistance to participants who have completed the program in finding an appropriate job, continuing their education, or entering into an additional training program; and

(B) linking the participants with other community services that may be necessary to assure a successful transition from school to work;

(7) collecting and analyzing information regarding post-program outcomes of participants in the School-to-Work Opportunities program, to the extent practicable, on the basis of socioeconomic status, race, gender, ethnicity, culture, and disability, and on the basis of whether the participants are students with limited-English proficiency, school dropouts, disadvantaged students, or academically talented students; and

(8) linking youth development activities under this chapter with employer and industry strategies for upgrading the skills of their workers.

(Pub. L. 103–239, title I, § 104, May 4, 1994, 108 Stat. 577.)

SUBCHAPTER II—SCHOOL-TO-WORK OPPORTUNITIES SYSTEM DEVELOPMENT AND IMPLEMENTATION GRANTS TO STATES

PART A—STATE DEVELOPMENT GRANTS

§ 6121. Purpose

The purpose of this part is to assist States in planning and developing comprehensive statewide School-to-Work Opportunities systems.

(Pub. L. 103–239, title II, § 201, May 4, 1994, 108 Stat. 578.)

§ 6122. Authorization

(a) Grants to States

(1) In general

On the application of the Governor on behalf of a State in accordance with section 6123 of this title, the Secretaries may provide a development grant to the State in such amounts as the Secretaries determine to be necessary to enable such State to complete planning and development of a comprehensive statewide School-to-Work Opportunities system.

(2) Amount

The amount of a development grant under this section may not exceed $1,000,000 for any fiscal year.

(3) Completion

The Secretaries may provide such grant to complete development of a statewide School-to-Work Opportunities systems initiated with funds received under the Job Training Partnership Act (29 U.S.C. 1501 et seq.)[1] or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(b) Grants to territories

In providing grants under this section to the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, the Secretaries shall use amounts reserved under section 6235(b)(1) of this title.

(Pub. L. 103–239, title II, §202, May 4, 1994, 108 Stat. 578.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (a)(3), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor, and was repealed by Pub. L. 105–220, title I, §199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Job Training Partnership Act to the Code, see Tables. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (a)(3), was Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which was classified generally to chapter 44 (§2301 et seq.) of this title, prior to being amended generally and renamed the Carl D. Perkins Vocational and Technical Education Act of 1998 by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

§ 6123. Application

(a) In general

The Secretaries may not provide a development grant under section 6122 of this title to a State unless the Governor of the State, on behalf of the State, submits to the Secretaries an application, at such time, in such form, and containing such information as the Secretaries may reasonably require.

(b) Contents

Such application shall include—

(1) a timetable and an estimate of the amount of funding needed to complete the planning and development necessary to implement a comprehensive statewide School-to-Work Opportunities system for all students;

(2) a description of how—

(A) the Governor;

(B) the State educational agency;

(C) the State agency officials responsible for economic development;

(D) the State agency officials responsible for employment;

(E) the State agency officials responsible for job training;

(F) the State agency officials responsible for postsecondary education;

(G) the State agency officials responsible for vocational education;

(H) the State agency officials responsible for vocational rehabilitation;

(I) the individual assigned by the State under section 2321(b)(1)[1] of this title;

(J) other appropriate officials, including the State human resource investment council established in accordance with title VII of the Job Training Partnership Act (29 U.S.C. 1792 et seq.),[1] if the State has established such a council; and

(K) representatives of the private sector;

will collaborate in the planning and development of the statewide School-to-Work Opportunities system;

(3) a description of the manner in which the State has obtained and will continue to obtain the active and continued participation, in the planning and development of the statewide School-to-Work Opportunities system, of employers and other interested parties, such as locally elected officials, secondary schools and postsecondary educational institutions (or related agencies), business associations, industrial extension centers, employees, labor organizations or associations of such organizations, teachers, related services personnel, students, parents, community-based organizations, rehabilitation agencies and organizations, Indian tribes, registered apprenticeship agencies, vocational educational agencies, vocational student organizations, and human service agencies;

(4) a description of the manner in which the State will coordinate planning activities with any local school-to-work programs, including programs funded under subchapter III of this chapter, if any;

(5) a designation of a fiscal agent to receive and be accountable for funds provided from a grant under section 6122 of this title; and

(6) a description of how the State will provide opportunities for students from low-income families, low-achieving students, students with limited-English proficiency, students with disabilities, students living in rural communities with low population densities, school dropouts, and academically talented students to participate in School-to-Work Opportunities programs.

(c) Coordination with Goals 2000: Educate America Act

A State seeking assistance under both this part and the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] may—

(1) submit a single application containing plans that meet the requirements of such part

[1] See References in Text note below.

[1] See References in Text note below.

and such Act and ensure that the plans are coordinated and not duplicative; or

(2) if such State has already submitted its application for funds under the Goals 2000: Educate America Act, submit its application under this part as an amendment to the Goals 2000: Educate America Act application if such amendment meets the requirements of this part and is coordinated with and not duplicative of the Goals 2000: Educate America Act application.

(Pub. L. 103–239, title II, § 203, May 4, 1994, 108 Stat. 579.)

REFERENCES IN TEXT

Section 2321(b)(1) of this title, referred to in subsec. (b)(2)(I), was omitted in the general amendment of chapter 44 (§ 2301 et seq.) of this title by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076.

The Job Training Partnership Act, referred to in subsec. (b)(2)(J), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was repealed by Pub. L. 105–220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Title VII of the Act was classified to subchapter VI (§ 1792 et seq.) of chapter 19 of Title 29, Labor. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Job Training Partnership Act to the Code, see Tables. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Goals 2000: Educate America Act, referred to in subsec. (c), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 6124. Approval of application

The Secretaries may approve an application submitted by a State under section 6123 of this title only if the State demonstrates in such application that the activities proposed to be undertaken by the State to develop a statewide School-to-Work Opportunities system are consistent with the State improvement plan for the State, if any, under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.].

(Pub. L. 103–239, title II, § 204, May 4, 1994, 108 Stat. 580.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in text, is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 6125. Use of amounts

The Secretaries may not provide a development grant under section 6122 of this title to a State unless the State agrees that the State will use all amounts received from such grant for activities to develop a statewide School-to-Work Opportunities system, which may include—

(1) identifying or establishing an appropriate State structure to administer the statewide School-to-Work Opportunities system;

(2) identifying secondary and postsecondary school-to-work programs in existence on or after May 4, 1994, that might be incorporated into such system;

(3) identifying or establishing broad-based partnerships among employers, labor, education, government, and other community-based organizations and parent organizations to participate in the design, development, and administration of School-to-Work Opportunities programs;

(4) developing a marketing plan to build consensus and support for such programs;

(5) promoting the active involvement of business (including small- and medium-sized businesses) in planning, developing, and implementing local School-to-Work Opportunities programs, and in establishing partnerships between business and elementary schools and secondary schools (including middle schools);

(6) identifying ways that local school-to-work programs in existence on or after May 4, 1994, could be coordinated with the statewide School-to-Work Opportunities system;

(7) supporting local planning and development activities to provide guidance, training and technical assistance for teachers, employers, mentors, counselors, administrators, and others in the development of School-to-Work Opportunities programs;

(8) identifying or establishing mechanisms for providing training and technical assistance to enhance the development of the statewide School-to-Work Opportunities system;

(9) developing a training and technical support system for teachers, employers, mentors, counselors, related services personnel, and others that includes specialized training and technical support for the counseling and training of women, minorities, and individuals with disabilities for high-skill, high-wage careers in nontraditional employment;

(10) initiating pilot programs for testing key components of the program design of programs under the statewide School-to-Work Opportunities system;

(11) developing a State process for issuing skill certificates that is, to the extent feasible, consistent with the skill standards certification systems endorsed under the National Skill Standards Act of 1994;[1]

(12) designing challenging curricula, in cooperation with representatives of local partnerships, that take into account the diverse learning needs and abilities of the student population served by the statewide School-to-Work Opportunities system;

(13) developing a system for labor market analysis and strategic planning for local targeting of industry sectors or broad occupational clusters that can provide students with placements in high-skill workplaces;

[1] See References in Text note below.

(14) analyzing the post-high school employment experiences of recent high school graduates and school dropouts;

(15) preparing the plan described in section 6143(d) of this title;

(16) working with localities to develop strategies to recruit and retain all students in programs under this chapter through collaborations with community-based organizations, where appropriate, and other entities with expertise in working with such students;

(17) coordinating recruitment of out-of-school, at-risk, and disadvantaged youths with those organizations and institutions that have a successful history of working with such youths; and

(18) providing technical assistance to rural areas in planning, developing, and implementing local School-to-Work Opportunities programs that meet the needs of rural communities with low population densities.

(Pub. L. 103–239, title II, § 205, May 4, 1994, 108 Stat. 580.)

REFERENCES IN TEXT

The National Skill Standards Act of 1994, referred to in par. (11), is title V of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 191, which was classified generally to subchapter V (§ 5931 et seq.) of chapter 68 of this title, prior to repeal by section 509(a) of Pub. L. 103–227, effective Sept. 30, 1999. For complete classification of this Act to the Code, see Tables.

This chapter, referred to in par. (16), was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

§ 6126. Maintenance of effort

(a) In general

A State may receive a development grant under section 6122 of this title for a fiscal year only if the State provides assurances, satisfactory to the Secretaries, that—

(1) the amount of State funds expended per student by the State for school-to-work activities of the type described in subchapter I of this chapter for the preceding fiscal year was not less than 90 percent of the amount so expended for the second preceding fiscal year; or

(2) the aggregate amount of State funds expended by the State for such activities for the preceding fiscal year was not less than 90 percent of the amount so expended for the second preceding fiscal year.

(b) Waiver

(1) Determination

The Secretaries may jointly waive the requirements described in subsection (a) of this section for a State that requests such a waiver if the Secretaries determine that such a waiver would be equitable due to—

(A) exceptional or uncontrollable circumstances such as a natural disaster; or

(B) a precipitous decline in the financial resources of the State.

(2) Request

To be eligible to receive such a waiver, a State shall submit a request at such time, in such form, and containing such information as the Secretaries may require.

(Pub. L. 103–239, title II, § 206, May 4, 1994, 108 Stat. 581.)

§ 6127. Reports

The Secretaries may not provide a development grant under section 6122 of this title to a State unless the State agrees that the State will submit to the Secretaries such reports as the Secretaries may reasonably require, relating to the use of amounts from such grant, except that the Secretaries may not require more than 1 such report during any 3-month period.

(Pub. L. 103–239, title II, § 207, May 4, 1994, 108 Stat. 582.)

PART B—STATE IMPLEMENTATION GRANTS

§ 6141. Purpose

The purpose of this part is to assist States in the implementation of comprehensive statewide School-to-Work Opportunities systems.

(Pub. L. 103–239, title II, § 211, May 4, 1994, 108 Stat. 582.)

§ 6142. Authorization

(a) Grants to States

On the application of the Governor on behalf of a State in accordance with section 6143 of this title, the Secretaries may provide an implementation grant to the State in such amounts as the Secretaries determine to be necessary to enable such State to implement a comprehensive statewide School-to-Work Opportunities system.

(b) Grants to territories

In providing grants under this section to the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, the Secretaries shall use amounts reserved under section 6235(b)(1) of this title.

(c) Period of grant

The provision of payments under a grant under subsection (a) of this section shall not exceed 5 fiscal years and shall be subject to the annual approval of the Secretaries and subject to the availability of appropriations for the fiscal year involved to make the payments.

(d) Limitation

A State shall be eligible to receive only 1 implementation grant under subsection (a) of this section.

(Pub. L. 103–239, title II, § 212, May 4, 1994, 108 Stat. 582.)

§ 6143. Application

(a) In general

(1) Submission by Governor on behalf of State

Subject to paragraph (2), the Secretaries may not provide an implementation grant under section 6142 of this title to a State unless the Governor of the State, on behalf of the State, submits to the Secretaries an applica-

tion, at such time, in such form, and containing such information as the Secretaries may reasonably require.

(2) Review and comment by certain individuals and entities

If, after a reasonable effort, the Governor is unable in accordance with subsection (d)(4) of this section to obtain the support of the individuals and entities described in subparagraphs (A) through (J) of subsection (b)(4) of this section for the State plan described in subsection (d) of this section, then the Governor shall—

(A) provide such individuals and entities with copies of such application;

(B) allow such individuals and entities to submit to the Governor, not later than the end of the 30-day period beginning on the date on which the Governor provides such individuals and entities with copies of such application under subparagraph (A), comments on those portions of the plan that address matters that, under State or other applicable law, are under the jurisdiction of such individuals or entities; and

(C) include any such comments in the application in accordance with subsection (b)(5) of this section.

(b) Contents

Such application shall include—

(1) a plan for a comprehensive, statewide School-to-Work Opportunities system that meets the requirements of subsection (d) of this section;

(2) a description of the manner in which the State will allocate funds made available through such a grant to local partnerships under section 6145(b)(7) of this title;

(3) a request, if the State decides to submit such a request, for 1 or more waivers of certain statutory or regulatory requirements, as provided for under subchapter V of this chapter;

(4) a description of the manner in which—

(A) the Governor;

(B) the State educational agency;

(C) the State agency officials responsible for economic development;

(D) the State agency officials responsible for employment;

(E) the State agency officials responsible for job training;

(F) the State agency officials responsible for postsecondary education;

(G) the State agency officials responsible for vocational education;

(H) the State agency officials responsible for vocational rehabilitation;

(I) the individual assigned for the State under section 111(b)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2321(b)(1));[1]

(J) other appropriate officials, including the State human resource investment council established in accordance with title VII of the Job Training Partnership Act (29 U.S.C. 1792 et seq.),[1] if the State has established such a council; and

(K) representatives of the private sector;

collaborated in the development of the application;

(5) the comments submitted to the Governor under subsection (a)(2) of this section, where applicable; and

(6) such other information as the Secretaries may require.

(c) Coordination with Goals 2000: Educate America Act

A State seeking assistance under both this part and the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] may—

(1) submit a single application containing plans that meet the requirements of such part and such Act and ensure that the plans are coordinated and not duplicative; or

(2) if such State has already submitted its application for funds under the Goals 2000: Educate America Act, submit its application under this part as an amendment to the Goals 2000: Educate America Act application if such amendment meets the requirements of this part and is coordinated with and not duplicative of the Goals 2000: Educate America Act application.

(d) State plan

A State plan referred to in subsection (b)(1) of this section shall—

(1) designate the geographical areas, including urban and rural areas, to be served by local partnerships that receive grants under section 6145(b) of this title, which geographic areas shall, to the extent feasible, reflect local labor market areas;

(2) describe the manner in which the State will stimulate and support local School-to-Work Opportunities programs and the manner in which the statewide School-to-Work Opportunities system will be expanded over time to cover all geographic areas in the State, including urban and rural areas;

(3) describe the procedure by which the individuals and entities described in subsection (b)(4) of this section will collaborate in the implementation of the School-to-Work Opportunities system;

(4) demonstrate the support of individuals and entities described in subparagraphs (A) through (J) of subsection (b)(4) of this section for the plan, except in the case where the Governor is unable to obtain the support of such individuals and entities as provided in subsection (a)(2) of this section;

(5) describe the manner in which the State has obtained and will continue to obtain the active and continued involvement, in the statewide School-to-Work Opportunities system, of employers and other interested parties such as locally elected officials, secondary schools and postsecondary educational institutions (or related agencies), business associations, industrial extension centers, employees, labor organizations or associations of such organizations, teachers, related services personnel, students, parents, community-based organizations, rehabilitation agencies and organizations, registered apprenticeship agencies, local vocational educational agencies, vocational student organizations, State or regional cooperative education associations, and human service agencies;

[1] See References in Text note below.

(6) describe the manner in which the statewide School-to-Work Opportunities system will coordinate with or integrate local school-to-work programs in existence on or after May 4, 1994, including programs financed from State and private sources, with funds available from such related Federal programs as programs under—

(A) the Adult Education Act (20 U.S.C. 1201 et seq.);[1]

(B) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(C) the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(D) the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.);

(E) part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) relating to work activities;

(F) the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.];

(G) the National Skills[2] Standards Act of 1994;[2]

(H) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(I) the Job Training Partnership Act (29 U.S.C. 1501 et seq.);[1]

(J) the Act of August 16, 1937 (commonly known as the ''National Apprenticeship Act''; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.);

(K) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.); and

(L) the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

(7) describe the strategy of the State for providing training for teachers, employers, mentors, counselors, related services personnel, and others, including specialized training and technical support for the counseling and training of women, minorities, and individuals with disabilities for high-skill, high-wage careers in nontraditional employment, and provide assurances of coordination with similar training and technical support under other provisions of law;

(8) describe how the State will adopt, develop, or assist local partnerships to adopt or develop model curricula and innovative instructional methodologies, to be used in the secondary, and where possible, the elementary grades, that integrate academic and vocational learning and promote career awareness, and that are consistent with academic and skill standards established pursuant to the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.] and the National Skill Standards Act of 1994;[1]

(9) describe how the State will expand and improve career and academic counseling in the elementary and secondary grades, which may include linkages to career counseling and labor market information services outside of the school system;

(10) describe the strategy of the State for integrating academic and vocational education;

(11) describe the resources, including private sector resources, the State intends to employ in maintaining the statewide School-to-Work Opportunities system when funds under this chapter are no longer available;

(12) describe the extent to which the statewide School-to-Work Opportunities system will include programs that will require paid high-quality, work-based learning experiences, and the steps the State will take to generate such paid experiences;

(13) describe the manner in which the State will ensure effective and meaningful opportunities for all students in the State to participate in School-to-Work Opportunities programs;

(14) describe the goals of the State and the methods the State will use, such as awareness and outreach, to ensure opportunities for young women to participate in School-to-Work Opportunities programs in a manner that leads to employment in high-performance, high-paying jobs, including nontraditional employment, and goals to ensure an environment free from racial and sexual harassment;

(15) describe how the State will ensure opportunities for low achieving students, students with disabilities, school dropouts, and academically talented students to participate in School-to-Work Opportunities programs;

(16) describe the process of the State for assessing the skills and knowledge required in career majors, and the process for awarding skill certificates that is, to the extent feasible, consistent with the skills standards certification systems endorsed under the National Skill Standards Act of 1994;[1]

(17) describe the manner in which the State will ensure that students participating in the programs are provided, to the greatest extent possible, with flexibility to develop new career goals over time and to change career majors;

(18) describe the manner in which the State will, to the extent feasible, continue programs funded under subchapter III of this chapter in the statewide School-to-Work Opportunities system;

(19) describe how the State will serve students from rural communities with low population densities;

(20) describe how local School-to-Work Opportunities programs, including those funded under subchapter III of this chapter, if any, will be integrated into the statewide School-to-Work Opportunities system;

(21) describe the performance standards that the State intends to meet in establishing and carrying out the statewide School-to-Work Opportunities system, including how such standards relate to those performance standards established under other related programs;

(22) designate a fiscal agent to receive and be accountable for funds provided from a grant under section 6142 of this title; and

(23) describe the procedures to facilitate the entry of students participating in a School-to-Work Opportunities program into additional training or postsecondary education programs, as well as to facilitate the transfer of the students between education and training programs.

[2] So in original. Probably should be ''Skill''. See References in Text note below.

(Pub. L. 103–239, title II, § 213, May 4, 1994, 108 Stat. 583; Pub. L. 104–193, title I, § 110(v), Aug. 22, 1996, 110 Stat. 2175.)

REFERENCES IN TEXT

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsecs. (b)(4)(I) and (d)(6)(B), was Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which was classified generally to chapter 44 (§ 2301 et seq.) of this title, prior to being amended generally and renamed the Carl D. Perkins Vocational and Technical Education Act of 1998 by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Job Training Partnership Act, referred to in subsecs. (b)(4)(J) and (d)(6)(I), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor, and was repealed by Pub. L. 105–220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Title VII of the Act was classified to subchapter VI (§ 1792 et seq.) of chapter 19 of Title 29. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Job Training Partnership Act to the Code, see Tables. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Goals 2000: Educate America Act, referred to in subsecs. (c) and (d)(6)(F), (8), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§ 5801 et seq.) of this title (except subchapters V (§ 5931 et seq.) and IX (§ 6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

The Adult Education Act, referred to in subsec. (d)(6)(A), was title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1216, as amended, which was classified generally to chapter 30 (§ 1201 et seq.) of this title, prior to repeal by Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079. For complete classification of this Act to the Code, see Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (d)(6)(C), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (d)(6)(D), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The Social Security Act, referred to in subsec. (d)(6)(E), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The National Skill Standards Act of 1994, referred to in subsec. (d)(6)(G), (8), (16), is title V of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 191, which was classified generally to subchapter V (§ 5931 et seq.) of chapter 68 of this title, prior to repeal by section 509(a) of Pub. L. 103–227, effective Sept. 30, 1999. For complete classification of this Act to the Code, see Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (d)(6)(H), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

Act of August 16, 1937, commonly known as the National Apprenticeship Act, referred to in subsec. (d)(6)(J), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, as amended, which is classified generally to chapter 4C (§ 50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (d)(6)(K), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to chapter 16 (§ 701 et seq.) of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The National and Community Service Act of 1990, referred to in subsec. (d)(6)(L), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended, which is classified principally to chapter 129 (§ 12501 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (d)(6)(E). Pub. L. 104–193 amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: ''part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);''.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of Title 42, The Public Health and Welfare.

§ 6144. Review of application

(a) Considerations

In evaluating applications submitted under section 6143 of this title, the Secretaries shall—

(1) give priority to applications that describe the highest levels of concurrence by the individuals and entities described in section 6143(b)(4) of this title with the State plan for the statewide School-to-Work Opportunities system;

(2) give priority to applications that require paid, high-quality work-based learning experiences as an integral part of such system; and

(3) take into consideration the quality of the application, including the replicability, sustainability, and innovation of School-to-Work Opportunities programs described in the application.

(b) Approval criteria

The Secretaries—

(1) shall approve only those applications submitted under section 6143 of this title that demonstrate the highest levels of collaboration by the individuals and entities described in section 6143(b)(4) of this title in the development and implementation of the statewide School-to-Work system;

(2) shall approve an application submitted under section 6143 of this title only if the State provides the assurances described in sec-

tion 6126(a) of this title (relating to maintenance of effort) in accordance with such section, except that this requirement may be waived in accordance with section 6126(b) of this title; and

(3) may approve an application submitted under section 6143 of this title only if the State demonstrates in the application—

(A) that other Federal, State, and local resources will be used to implement the proposed State plan;

(B) the extent to which such plan would limit administrative costs and increase amounts spent on delivery of services to students enrolled in programs under this chapter;

(C) that the State, where appropriate, will ensure the establishment of a partnership in at least 1 urban and 1 rural area in the State; and

(D) that the State plan contained in such application is consistent with the State improvement plan for the State, if any, under the Goals 2000: Educate America Act [20 U.S.C. 5801 et seq.].

(c) Actions

(1) In general

In reviewing each application submitted under section 6143 of this title, the Secretaries shall determine whether the application and the plan described in such application meet the approval criteria in subsection (b) of this section.

(2) Actions after affirmative determination

If the determination under paragraph (1) is affirmative, the Secretaries may take 1 or more of the following actions:

(A) Provide an implementation grant under section 6142 of this title to the State submitting the application.

(B) Approve the request of the State, if any, for a waiver in accordance with the procedures set forth in subchapter V of this chapter.

(3) Action after nonaffirmative determination

If the determination under paragraph (1) is not affirmative, the Secretaries shall inform the State of the opportunity to apply for development funds under part A of this subchapter in accordance with such part.

(d) Use of funds for review of applications

The Secretaries may use amounts reserved under section 6235(b)(4) of this title for the review of applications submitted under section 6143 of this title.

(Pub. L. 103–239, title II, §214, May 4, 1994, 108 Stat. 586.)

REFERENCES IN TEXT

The Goals 2000: Educate America Act, referred to in subsec. (b)(3)(D), is Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125 (except titles V and IX), as amended, which is classified principally to chapter 68 (§5801 et seq.) of this title (except subchapters V (§5931 et seq.) and IX (§6001 et seq.)). For complete classification of this Act to the Code, see Short Title note set out under section 5801 of this title and Tables.

§ 6145. Use of amounts

(a) In general

The Secretaries may not provide an implementation grant under section 6142 of this title to a State unless the State agrees that the State will use all amounts received from such grant to implement the statewide School-to-Work Opportunities system in accordance with this section.

(b) Subgrants to local partnerships

(1) Authority

(A) In general

Except as provided in subparagraph (B), the State shall provide subgrants to local partnerships, according to criteria established by the State, for the purpose of carrying out School-to-Work Opportunities programs.

(B) Prohibition

The State shall not provide subgrants to local partnerships that have received implementation grants under subchapter III of this chapter, except that this prohibition shall not apply with respect to local partnerships that are located in high poverty areas, as such term is defined in section 6177 of this title.

(2) Application

A local partnership that seeks a subgrant to carry out a local School-to-Work Opportunities program, including a program initiated under section 6172 of this title, shall submit an application to the State that—

(A) describes how the program will include the program components described in sections 6112, 6113, and 6114 of this title and otherwise meet the requirements of this chapter;

(B) sets forth measurable program goals and outcomes;

(C) describes the local strategies and timetables of the local partnership to provide opportunities for all students in the area served to participate in a School-to-Work Opportunities program;

(D) describes the extent to which the program will require paid high-quality, work-based learning experiences, and the steps the local partnerships will take to generate such paid experiences;

(E) describes the process that will be used to ensure employer involvement in the development and implementation of the local School-to-Work Opportunities program;

(F) provides assurances that, to the extent practicable, opportunities provided to students to participate in a School-to-Work Opportunities program will be in industries and occupations offering high-skill, high-wage employment opportunities;

(G) provides such other information as the State may require; and

(H) is submitted at such time and in such form as the State may require.

(3) Disapproval of application

If the State determines that an application submitted by a local partnership does not meet the criteria under paragraph (2), or that

the application is incomplete or otherwise unsatisfactory, the State shall—

(A) notify the local partnership of the reasons for the failure to approve the application; and

(B) permit the local partnership to resubmit a corrected or amended application.

(4) Allowable activities

A local partnership shall expend funds provided through subgrants under this subsection only for activities undertaken to carry out local School-to-Work Opportunities programs, and such activities may include, for each such program—

(A) recruiting and providing assistance to employers, including small- and medium-size businesses, to provide the work-based learning components described in section 6113 of this title;

(B) establishing consortia of employers to support the School-to-Work Opportunities program and provide access to jobs related to the career majors of students;

(C) supporting or establishing intermediaries (selected from among the members of the local partnership) to perform the activities described in section 6114 of this title and to provide assistance to students or school dropouts in obtaining jobs and further education and training;

(D) designing or adapting school curricula that can be used to integrate academic, vocational, and occupational learning, school-based and work-based learning, and secondary and postsecondary education for all students in the area served;

(E) providing training to work-based and school-based staff on new curricula, student assessments, student guidance, and feedback to the school regarding student performance;

(F) establishing, in schools participating in the School-to-Work Opportunities program, a graduation assistance program to assist at-risk students, low-achieving students, and students with disabilities, in graduating from high school, enrolling in postsecondary education or training, and finding or advancing in jobs;

(G) providing career exploration and awareness services, counseling and mentoring services, college awareness and preparation services, and other services (beginning at the earliest possible age, but not later than the 7th grade) to prepare students for the transition from school to work;

(H) providing supplementary and support services, including child care and transportation, when such services are necessary for participation in a local School-to-Work Opportunities program;

(I) conducting or obtaining an in-depth analysis of the local labor market and the generic and specific skill needs of employers to identify high-demand, high-wage careers to target;

(J) integrating school-based and work-based learning into job training programs that are for school dropouts and that are in existence on or after May 4, 1994;

(K) establishing or expanding school-to-apprenticeship programs in cooperation with registered apprenticeship agencies and apprenticeship sponsors;

(L) assisting participating employers, including small- and medium-size businesses, to identify and train workplace mentors and to develop work-based learning components;

(M) promoting the formation of partnerships between elementary schools and secondary schools (including middle schools) and local businesses as an investment in future workplace productivity and competitiveness;

(N) designing local strategies to provide adequate planning time and staff development activities for teachers, school counselors, related services personnel, and school site mentors, including opportunities outside the classroom that are at the worksite;

(O) enhancing linkages between after-school, weekend, and summer jobs, career exploration, and school-based learning; and

(P) obtaining the assistance of organizations and institutions that have a history of success in working with school dropouts and at-risk and disadvantaged youths in recruiting such school dropouts and youths to participate in the local School-to-Work Opportunities program.

(5) Local partnership compact

The State may not provide a subgrant under paragraph (1) to a local partnership unless the partnership agrees that the local partnership will establish a process by which the responsibilities and expectations of students, parents, employers, and schools are clearly established and agreed upon at the point of entry of the student into a career major program of study.

(6) Administrative costs

The local partnership may not use more than 10 percent of amounts received from a subgrant under paragraph (1) for any fiscal year for administrative costs associated with activities in carrying out, but not including, activities under paragraphs (4) and (5) for such fiscal year.

(7) Allocation requirements

(A) First year

In the 1st fiscal year for which a State receives amounts from a grant under section 6142 of this title, the State shall use not less than 70 percent of such amounts to provide subgrants to local partnerships under paragraph (1).

(B) Second year

In the 2d fiscal year for which a State receives amounts from a grant under section 6142 of this title, the State shall use not less than 80 percent of such amounts to provide subgrants to local partnerships under paragraph (1).

(C) Third year and succeeding years

In the 3d fiscal year for which a State receives amounts from a grant under section 6142 of this title, and in each succeeding

year, the State shall use not less than 90 percent of such amounts to provide subgrants to local partnerships under paragraph (1).

(c) Additional State activities

In carrying out the statewide School-to-Work Opportunities system, the State may also—

(1) recruit and provide assistance to employers to provide work-based learning for all students;

(2) conduct outreach activities to promote and support collaboration, in School-to-Work Opportunities programs, by businesses, labor organizations, and other organizations;

(3) provide training for teachers, employers, workplace mentors, school site mentors, counselors, related services personnel, and other parties;

(4) provide labor market information to local partnerships that is useful in determining which high-skill, high-wage occupations are in demand;

(5) design or adapt model curricula that can be used to integrate academic, vocational, and occupational learning, school-based and work-based learning, and secondary and postsecondary education, for all students in the State;

(6) design or adapt model work-based learning programs and identify best practices for such programs;

(7) conduct outreach activities and provide technical assistance to other States that are developing or implementing School-to-Work Opportunities systems;

(8) reorganize and streamline school-to-work programs in the State to facilitate the development of a comprehensive statewide School-to-Work Opportunities system;

(9) identify ways that local school-to-work programs in existence on or after May 4, 1994, could be integrated with the statewide School-to-Work Opportunities system;

(10) design career awareness and exploration activities (beginning at the earliest possible age, but not later than the 7th grade), such as job shadowing, job site visits, school visits by individuals in various occupations, and mentoring;

(11) design and implement school-sponsored work experiences, such as school-sponsored enterprises and community development projects;

(12) promote the formation of partnerships between elementary schools and secondary schools (including middle schools) and local businesses as an investment in future workplace productivity and competitiveness;

(13) obtain the assistance of organizations and institutions that have a history of success in working with school dropouts and at-risk and disadvantaged youths in recruiting such school dropouts and youths to participate in the statewide School-to-Work Opportunities system;

(14) conduct outreach to all students in a manner that most appropriately meets their needs and the needs of their communities; and

(15) provide career exploration and awareness services, counseling and mentoring services, college awareness and preparation services, and other services (beginning at the earliest possible age, but not later than the 7th grade) to prepare students for the transition from school to work.

(Pub. L. 103–239, title II, § 215, May 4, 1994, 108 Stat. 587.)

§ 6146. Allocation requirement

The Secretaries shall establish the minimum and maximum amounts available for an implementation grant under section 6142 of this title, and shall determine the actual amount granted to any State under such section, based on such criteria as the scope and quality of the plan described in section 6143(d) of this title and the number of projected participants in programs carried out through the system.

(Pub. L. 103–239, title II, § 216, May 4, 1994, 108 Stat. 591.)

§ 6147. Limitation on administrative costs

A State that receives an implementation grant under section 6142 of this title may not use more than 10 percent of the amounts received through the grant for any fiscal year for administrative costs associated with implementing the statewide School-to-Work Opportunities system for such fiscal year.

(Pub. L. 103–239, title II, § 217, May 4, 1994, 108 Stat. 591.)

§ 6148. Reports

The Secretaries may not provide an implementation grant under section 6142 of this title to a State unless the State agrees that the State will submit to the Secretaries such reports as the Secretaries may reasonably require, relating to the use of amounts from such grant, except that the Secretaries may not require more than 1 such report during any 3-month period.

(Pub. L. 103–239, title II, § 218, May 4, 1994, 108 Stat. 591.)

PART C—DEVELOPMENT AND IMPLEMENTATION GRANTS FOR SCHOOL-TO-WORK PROGRAMS FOR INDIAN YOUTHS

§ 6161. Authorization

(a) In general

From amounts reserved under section 6235(b)(2) of this title, the Secretaries shall provide grants to establish and carry out School-to-Work Opportunities programs for Indian youths that involve Bureau funded schools (as defined in section 2019(3)[1] of title 25).

(b) Additional authorities

The Secretaries may carry out subsection (a) of this section through such means as the Secretaries find appropriate, including—

(1) the transfer of funds to the Secretary of the Interior; and

(2) the provision of financial assistance to Indian tribes and Indian organizations.

(Pub. L. 103–239, title II, § 221, May 4, 1994, 108 Stat. 592.)

[1] See References in Text note below.

REFERENCES IN TEXT

Section 2019(3) of title 25, referred to in subsec. (a), was omitted in the general amendment of chapter 22 (§ 2001 et seq.) of Title 25, Indians, by Pub. L. 103–382, title III, § 381, Oct. 20, 1994, 108 Stat. 3979.

§ 6162. Requirements

In providing grants under section 6161 of this title, the Secretaries shall require recipients of such grants to comply with requirements similar to those requirements imposed on States under parts A and B of this subchapter.

(Pub. L. 103–239, title II, § 222, May 4, 1994, 108 Stat. 592.)

SUBCHAPTER III—FEDERAL IMPLEMENTATION GRANTS TO LOCAL PARTNERSHIPS

§ 6171. Purposes

The purposes of this subchapter are—

(1) to authorize the Secretaries to provide competitive grants directly to local partnerships in order to provide funding for communities that have built a sound planning and development base for School-to-Work Opportunities programs and are ready to begin implementing a local School-to-Work Opportunities program; and

(2) to authorize the Secretaries to provide competitive grants to local partnerships to implement School-to-Work Opportunities programs in high poverty areas of urban and rural communities to provide support for a comprehensive range of education, training, and support services for youths residing in such areas.

(Pub. L. 103–239, title III, § 301, May 4, 1994, 108 Stat. 592.)

§ 6172. Authorization

(a) Grants to local partnerships

(1) In general

Subject to paragraph (2), the Secretaries may provide implementation grants, in accordance with competitive criteria established by the Secretaries, directly to local partnerships in States in such amounts as the Secretaries determine to be necessary to enable such partnerships to implement School-to-Work Opportunities programs.

(2) Restrictions

A local partnership—

(A) shall be eligible to receive only 1 grant under this subsection; and

(B) shall not be eligible to receive a grant under this subsection if such partnership is located in a State that—

(i) has been provided an implementation grant under section 6142 of this title; and

(ii) has received amounts from such grant for any fiscal year after the 1st fiscal year under such grant.

(b) Grants to local partnerships in high poverty areas

(1) In general

Subject to paragraphs (2) and (3), the Secretaries shall, from amounts reserved under section 6235(b)(3) of this title, provide grants to local partnerships that are located in high poverty areas in States in such amounts as the Secretaries determine to be necessary to enable such partnerships to implement School-to-Work Opportunities programs in such areas.

(2) Restriction

A local partnership shall be eligible to receive only 1 grant under this subsection.

(3) Priority

In providing grants under paragraph (1), the Secretaries shall give priority to local partnerships that have a demonstrated effectiveness in the delivery of comprehensive vocational preparation programs with successful rates in job placement through cooperative activities among local educational agencies, local businesses, labor organizations, and other organizations.

(c) Period of grant

The provision of payments under a grant under subsection (a) or (b) of this section shall not exceed 5 fiscal years and shall be subject to the annual approval of the Secretaries and subject to the availability of appropriations for the fiscal year involved to make the payments.

(Pub. L. 103–239, title III, § 302, May 4, 1994, 108 Stat. 592.)

§ 6173. Application

(a) In general

A local partnership that desires to receive a Federal implementation grant under section 6172 of this title shall submit an application to the Secretaries at such time and in such form as the Secretaries may require. The local partnership shall submit the application to the State for review and comment before submitting the application to the Secretaries.

(b) Time limit for State review and comment

(1) In general

The State shall provide for review and comment on the application under subsection (a) of this section not later than 30 days after the date on which the State receives the application from the local partnership.

(2) Submission without State review and comment

If the State does not provide review and comment within the 30-day time period specified in paragraph (1), the local partnership may submit the application to the Secretaries without first obtaining such review and comment.

(c) Contents

The application described in subsection (a) of this section shall include a plan for local School-to-Work Opportunities programs that—

(1) describes the manner in which the local partnership will meet the requirements of this chapter;

(2) includes the comments of the State on the plan, if any;

(3) contains information that is consistent with the information required to be submitted

as part of a State plan in accordance with paragraphs (5) through (17) and paragraph (23) of section 6143(d) of this title;

(4) designates a fiscal agent to receive and be accountable for funds under this section; and

(5) provides such other information as the Secretaries may require.

(d) Use of funds for review of applications

The Secretaries may use amounts reserved under section 6235(b)(4) of this title for the review of applications submitted under subsection (a) of this section.

(Pub. L. 103–239, title III, § 303, May 4, 1994, 108 Stat. 593.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

§ 6174. Use of amounts

The Secretaries may not provide an implementation grant under section 6172 of this title to a local partnership unless the partnership agrees that it will use all amounts from such grant to carry out activities to implement a School-to-Work Opportunities program, including the activities described in section 6145(b)(4) of this title.

(Pub. L. 103–239, title III, § 304, May 4, 1994, 108 Stat. 594.)

§ 6175. Conformity with approved State plan

The Secretaries shall not provide a grant under section 6172 of this title to a local partnership in a State that has an approved State plan unless the Secretaries determine, after consultation with the State, that the plan submitted by the partnership is in accordance with such approved State plan.

(Pub. L. 103–239, title III, § 305, May 4, 1994, 108 Stat. 594.)

§ 6176. Reports

The Secretaries may not provide an implementation grant under section 6172 of this title to a local partnership unless the partnership agrees that the local partnership will submit to the Secretaries such reports as the Secretaries may reasonably require, relating to the use of amounts from such grant, except that the Secretaries may not require more than 1 such report during any 3-month period.

(Pub. L. 103–239, title III, § 306, May 4, 1994, 108 Stat. 594.)

§ 6177. "High poverty area" defined

For purposes of this subchapter, the term ''high poverty area'' means an urban census tract, a contiguous group of urban census tracts, a block number area in a nonmetropolitan county, a contiguous group of block number areas in a nonmetropolitan county, or an Indian reservation (as defined in section 3202(9) of title 25), with a poverty rate of 20 percent or more among individuals who have not attained the age of 22, as determined by the Bureau of the Census.

(Pub. L. 103–239, title III, § 307, May 4, 1994, 108 Stat. 594.)

SUBCHAPTER IV—NATIONAL PROGRAMS

§ 6191. Research, demonstration, and other projects

(a) In general

The Secretaries shall conduct research and development projects and establish a program of experimental and demonstration projects, to further the purposes of this chapter.

(b) Additional use of funds

The Secretaries may provide assistance for programs or services authorized under any other provision of this chapter that are most appropriately administered at the national level and that will operate in, or benefit, more than 1 State.

(Pub. L. 103–239, title IV, § 401, May 4, 1994, 108 Stat. 594.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

§ 6192. Performance outcomes and evaluation

(a) In general

The Secretaries, in collaboration with the States, shall by grant, contract, or otherwise, establish a system of performance measures for assessing State and local programs regarding—

(1) progress in the development and implementation of State plans described in section 6143(d) of this title that include the basic program components described in sections 6112, 6113, and 6114 of this title and otherwise meet the requirements of subchapter I of this chapter;

(2) participation in School-to-Work Opportunities programs by employers, schools, students, and school dropouts, including information on the gender, race, ethnicity, socioeconomic background, limited-English proficiency, and disability of all participants and whether the participants are academically talented students;

(3) progress in developing and implementing strategies for addressing the needs of students and school dropouts;

(4) progress in meeting the goals of the State to ensure opportunities for young women to participate in School-to-Work Opportunities programs, including participation in nontraditional employment through such programs;

(5) outcomes for participating students and school dropouts, by gender, race, ethnicity, socioeconomic background, limited-English proficiency, and disability of the participants, and whether the participants are academically talented students, including information on—

(A) academic learning gains;

(B) staying in school and attaining—

(i) a high school diploma, or a general equivalency diploma, or an alternative diploma or certificate for those students with disabilities for whom such alternative diploma or certificate is appropriate;

(ii) a skill certificate; and

(iii) a postsecondary degree;

(C) attainment of strong experience in and understanding of all aspects of the industry the students are preparing to enter;

(D) placement and retention in further education or training, particularly in the career major of the student; and

(E) job placement, retention, and earnings, particularly in the career major of the student; and

(6) the extent to which the program has met the needs of employers.

(b) Evaluation

Not later than September 30, 1998, the Secretaries shall complete a national evaluation of School-to-Work Opportunities programs funded under this chapter by grants, contracts, or otherwise, that will track and assess the progress of implementation of State and local programs and their effectiveness based on measures such as those measures described in subsection (a) of this section.

(c) Reports to Secretaries

(1) In general

Each State shall prepare and submit to the Secretaries periodic reports, at such intervals as the Secretaries may determine, containing information regarding the matters described in paragraphs (1) through (6) of subsection (a) of this section.

(2) Federal programs

Each State shall prepare and submit reports to the Secretaries, at such intervals as the Secretaries may determine, containing information on the extent to which Federal programs that are in existence on the date of submission of the report and that are implemented at the State or local level may be duplicative, outdated, overly restrictive, or otherwise counterproductive to the development of comprehensive statewide School-to-Work Opportunities systems.

(Pub. L. 103–239, title IV, § 402, May 4, 1994, 108 Stat. 594.)

§ 6193. Training and technical assistance

(a) Purpose

The Secretaries shall work in cooperation with the States, the individuals assigned under section 2321(b)(1)[1] of this title, employers and their associations, secondary schools and postsecondary educational institutions, student and teacher organizations, labor organizations, and community-based organizations, to increase their capacity to develop and implement effective School-to-Work Opportunities programs.

(b) Authorized activities

The Secretaries shall provide, through grants, contracts, or otherwise—

(1) training, technical assistance, and other activities that will—

(A) enhance the skills, knowledge, and expertise of the personnel involved in planning and implementing State and local School-to-Work Opportunities programs, such as training of the personnel to assist students; and

(B) improve the quality of services provided to individuals served under this chapter;

(2) assistance to States and local partnerships involved in carrying out School-to-Work Opportunities programs in order to integrate resources available under this chapter with resources available under other Federal, State, and local authorities;

(3) assistance to States and such local partnerships, including local partnerships in rural communities with low population densities or in urban areas, to recruit employers to provide the work-based learning component, described in section 6113 of this title, of School-to-Work Opportunities programs; and

(4) assistance to States and local partnerships involved in carrying out School-to-Work Opportunities programs to design and implement school-sponsored enterprises.

(Pub. L. 103–239, title IV, § 403, May 4, 1994, 108 Stat. 596.)

REFERENCES IN TEXT

Section 2321(b)(1) of this title, referred to in subsec. (a), was omitted in the general amendment of chapter 44 (§ 2301 et seq.) of this title by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076.

§ 6194. Capacity Building and Information and Dissemination Network

The Secretaries, acting through such mechanisms as the Capacity Building and Information and Dissemination Network established under section 453(b) of the Job Training Partnership Act (29 U.S.C. 1733(b)),[1] the Educational Resources Information Center Clearinghouses referred to in the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002), and the National Network for Curriculum Coordination in Vocational and Technical Education under section 2402(c)[1] of this title, shall—

(1) collect and disseminate information—

(A) on successful School-to-Work Opportunities programs and innovative school- and work-based curricula;

(B) on research and evaluation conducted concerning school-to-work activities;

(C) that will assist States and local partnerships in undertaking labor market analysis, surveys, or other activities related to economic development;

(D) on skill certificates, skill standards, and related assessment technologies; and

(E) on methods for recruiting and building the capacity of employers to provide work-based learning opportunities; and

(2) facilitate communication and the exchange of information and ideas among States

[1] See References in Text note below.

[1] See References in Text note below.

and local partnerships carrying out School-to-Work Opportunities programs.

(Pub. L. 103–239, title IV, § 404, May 4, 1994, 108 Stat. 596; Pub. L. 107–279, title IV, § 404(e), Nov. 5, 2002, 116 Stat. 1986.)

REFERENCES IN TEXT

Section 453(b) of the Job Training Partnership Act (29 U.S.C. 1733(b)), referred to in text, which was classified to section 1733(b) of Title 29, Labor, was repealed by Pub. L. 105–220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002), referred to in text, means title IX of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 212, which was classified principally to subchapter IX (§ 6001 et seq.) of chapter 68 of this title and was substantially repealed by Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985. For complete classification of this Act to the Code, see section 6001 of this title and Tables.

Section 2402 of this title, referred to in text, was omitted in the general amendment of chapter 44 (§ 2301 et seq.) of this title by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076.

AMENDMENTS

2002—Pub. L. 107–279 inserted ''(as such Act existed on the day before November 5, 2002)'' after ''Act of 1994'' in introductory provisions.

§ 6195. Reports to Congress

(a) In general

Not later than 24 months after May 4, 1994, and every 12 months thereafter, the Secretaries shall prepare and submit a report to the Congress on all activities carried out pursuant to this chapter.

(b) Contents

The Secretaries shall, at a minimum, include in each such report—

(1) information concerning the programs that receive assistance under this chapter;

(2) a summary of the information contained in the State and local partnership reports submitted under subchapters II and III of this chapter and section 6192(c) of this title; and

(3) information regarding the findings and actions taken as a result of any evaluation conducted by the Secretaries.

(Pub. L. 103–239, title IV, § 405, May 4, 1994, 108 Stat. 597.)

§ 6196. Funding

The Secretaries shall use funds reserved under section 6235(b)(4) of this title to carry out activities under this subchapter.

(Pub. L. 103–239, title IV, § 406, May 4, 1994, 108 Stat. 597.)

SUBCHAPTER V—WAIVER OF STATUTORY AND REGULATORY REQUIREMENTS

§ 6211. State and local partnership requests and responsibilities for waivers

(a) State request for waiver

A State may submit to the Secretaries a request for a waiver of 1 or more requirements of the provisions of law referred to in sections 6212 and 6213 of this title, or of the regulations issued under such provisions, in order to carry out the statewide School-to-Work Opportunities system established by such State under part B of subchapter II of this chapter. The State may submit the request as a part of the application described in section 6143 of this title (or as an amendment to the application at any time after submission of the application). Such request may include a request for different waivers with respect to different areas within the State.

(b) Local partnership request for waiver

(1) In general

A local partnership that seeks a waiver of such a requirement shall submit an application for such waiver to the State, and the State shall determine whether to submit a request for a waiver to the Secretaries, as provided in subsection (a) of this section.

(2) Time limit

(A) In general

The State shall make a determination to submit or not submit the request for a waiver under paragraph (1) not later than 30 days after the date on which the State receives the application from the local partnership.

(B) Direct submission

####### (i) In general

If the State does not make a determination to submit or not submit the request within the 30-day time period specified in subparagraph (A), the local partnership may submit the application to the Secretaries.

####### (ii) Requirements

In submitting such an application, the local partnership shall obtain the agreement of the State involved to comply with the requirements of section 6212(a)(1)(C) or 6213(a)(1)(C) of this title, as appropriate, and comply with the other requirements of section 6212 or 6213 of this title, as appropriate, and of subsections (c) and (d) of this section, that would otherwise apply to a State submitting a request for a waiver. In reviewing such an application, the Secretaries shall comply with the requirements of such section and such subsections that would otherwise apply to the Secretaries with respect to review of such a request.

(c) Waiver criteria

Any such request by the State shall meet the criteria contained in section 6212 or 6213 of this title and shall specify the provisions or regulations referred to in such sections with respect to which the State seeks a waiver.

(d) Support by appropriate State agencies

In requesting such a waiver, the State shall provide evidence of support for the waiver request by the State agencies or officials with jurisdiction over the provisions or regulations that would be waived.

(Pub. L. 103–239, title V, § 501, May 4, 1994, 108 Stat. 597.)

§ 6212. Waiver authority of Secretary of Education

(a) Waiver authority

(1) In general

Except as provided in subsection (c) of this section, the Secretary of Education may waive any requirement under any provision of law referred to in subsection (b) of this section, or of any regulation issued under such provision, for a State that requests such a waiver and has an approved State plan—

(A) if, and only to the extent that, the Secretary of Education determines that such requirement impedes the ability of the State or a local partnership to carry out the purposes of this chapter;

(B) if the State provides the Secretary of Education with documentation of the necessity for the waiver, including information concerning—

(i) the specific requirement that will be waived;

(ii) the specific positive outcomes expected from the waiver and why those outcomes cannot be achieved while complying with the requirement;

(iii) the process that will be used to monitor the progress of the State or local partnership in implementing the waiver; and

(iv) such other information as the Secretary of Education may require;

(C) if the State waives, or agrees to waive, similar requirements of State law; and

(D) if the State—

(i) has provided all local partnerships that carry out programs under this chapter, and local educational agencies participating in such a local partnership, in the State with notice and an opportunity to comment on the proposal of the State to seek a waiver;

(ii) provides, to the extent feasible, to students, parents, advocacy and civil rights groups, and labor and business organizations an opportunity to comment on the proposal of the State to seek a waiver; and

(iii) has submitted the comments of the local partnerships and local educational agencies to the Secretary of Education.

(2) Approval or disapproval

The Secretary of Education shall promptly approve or disapprove any request submitted pursuant to paragraph (1) and shall issue a decision that shall—

(A) include the reasons for approving or disapproving the request, including a response to comments on the proposal; and

(B) in the case of a decision to approve the request, be disseminated by the State seeking the waiver to interested parties, including educators, parents, students, advocacy and civil rights organizations, labor and business organizations, and the public.

(3) Approval criteria

In approving a request under paragraph (2), the Secretary of Education shall consider the amount of State resources that will be used to implement the approved State plan.

(4) Term

Each waiver approved pursuant to this subsection shall be for a period not to exceed 5 years, except that the Secretary of Education may extend such period if the Secretary of Education determines that the waiver has been effective in enabling the State or local partnership to carry out the purposes of this chapter.

(b) Included programs

The provisions subject to the waiver authority of this section are—

(1) title I of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.];

(2) part A of title II of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6601 et seq.];

(3) part A of title V of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7201 et seq.];

(4) part B of title IX of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7821 et seq.];

(5) parts K through N of the Educational Research, Development, Dissemination, and Improvement Act of 1994;[1] and

(6) the Carl D. Perkins Vocational and Applied Technology Education Act [20 U.S.C. 2301 et seq.].

(c) Waivers not authorized

The Secretary of Education may not waive any requirement of any provision referred to in subsection (b) of this section, or of any regulation issued under such provision, relating to—

(1) the basic purposes or goals of such provision;

(2) maintenance of effort;

(3) comparability of services;

(4) the equitable participation of students attending private schools;

(5) student and parental participation and involvement;

(6) the distribution of funds to State or local educational agencies;

(7) the eligibility of an individual for participation in a program under such provision;

(8) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or

(9) prohibitions or restrictions relating to the construction of buildings or facilities.

(d) Termination of waivers

The Secretary of Education shall periodically review the performance of any State, local partnership, or local educational agency, for which the Secretary of Education has granted a waiver under this section and shall terminate the waiv-

[1] See References in Text note below.

er under this section if the Secretary of Education determines that the performance of the State, local partnership, or local educational agency that is affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accordance with subsection (a)(1)(C) of this section.

(Pub. L. 103–239, title V, § 502, May 4, 1994, 108 Stat. 598; Pub. L. 103–382, title III, § 394(j)(2), Oct. 20, 1994, 108 Stat. 4029; Pub. L. 107–110, title X, § 1076(q), Jan. 8, 2002, 115 Stat. 2092.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1)(A), (D)(i), (4), was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (b)(1) to (4), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. Part A of title II of the Act is classified generally to part A (§ 6601 et seq.) of subchapter II of chapter 70 of this title. Part A of title V of the Act is classified generally to part A (§ 7201 et seq.) of subchapter V of chapter 70 of this title. Part B of title IX of the Act is classified generally to part B (§ 7821 et seq.) of subchapter IX of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Educational Research, Development, Dissemination, and Improvement Act of 1994, referred to in subsec. (b)(5), is title IX of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 212, as amended. Parts K to N of the Act were classified generally to parts G (§ 6053 et seq.), H (§ 6054 et seq.), I (§ 6055 et seq.), and J (§ 6056 et seq.), respectively, of subchapter IX of chapter 68 of this title, prior to repeal by Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 stat. 1985. For complete classification of this Act to the Code, see section 6001 of this title and Tables.

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsec. (b)(6), was Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which was classified generally to chapter 44 (§ 2301 et seq.) of this title, prior to being amended generally and renamed the Carl D. Perkins Vocational and Technical Education Act of 1998 by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

AMENDMENTS

2002—Subsec. (b)(5). Pub. L. 107–110 amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''title XIII of the Elementary and Secondary Education Act of 1965; and''.

1994—Subsec. (b)(1) to (6). Pub. L. 103–382 amended pars. (1) to (6) generally. Prior to amendment, pars. (1) to (6) read as follows:

''(1) chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.), including the Even Start programs carried out under part B of such chapter (20 U.S.C. 2741 et seq.);

''(2) part A of chapter 2 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2921 et seq.);

''(3) part A of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2981 et seq.);

''(4) part D of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3121 et seq.);

''(5) title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3171 et seq.); and

''(6) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).''

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 6213. Waiver authority of Secretary of Labor

(a) Waiver authority

(1) In general

Except as provided in subsection (b) of this section, the Secretary of Labor may waive any requirement under any provision of the Job Training Partnership Act (29 U.S.C. 1501 et seq.),[1] or of any regulation issued under such provision, for a State that requests such a waiver and has an approved State plan—

(A) if, and only to the extent that, the Secretary of Labor determines that such requirement impedes the ability of the State or a local partnership to carry out the purposes of this chapter;

(B) if the State provides the Secretary of Labor with documentation of the necessity for the waiver, including information concerning—

(i) the specific requirement that will be waived;

(ii) the specific positive outcomes expected from the waiver and why those outcomes cannot be achieved while complying with the requirement;

(iii) the process that will be used to monitor the progress of the State or local partnership in implementing the waiver; and

(iv) such other information as the Secretary of Labor may require;

(C) if the State waives, or agrees to waive, similar requirements of State law; and

(D) if the State—

(i) has provided all local partnerships that carry out programs under this chapter in the State with notice and an opportunity to comment on the proposal of the State to seek a waiver;

(ii) provides, to the extent feasible, to students, parents, advocacy and civil rights groups, and labor and business organizations an opportunity to comment on the proposal of the State to seek a waiver; and

(iii) has submitted the comments of the local partnerships to the Secretary of Labor.

(2) Approval or disapproval

The Secretary of Labor shall promptly approve or disapprove any request submitted pursuant to paragraph (1) and shall issue a decision that shall—

(A) include the reasons for approving or disapproving the request, including a response to comments on the proposal; and

(B) in the case of a decision to approve the request, be disseminated by the State seeking the waiver to interested parties, includ-

[1] See References in Text note below.

ing educators, parents, students, advocacy and civil rights organizations, labor and business organizations, and the public.

(3) Approval criteria

In approving a request under paragraph (2), the Secretary of Labor shall consider the amount of State resources that will be used to implement the approved State plan.

(4) Term

Each waiver approved pursuant to this subsection shall be for a period not to exceed 5 years, except that the Secretary of Labor may extend such period if the Secretary of Labor determines that the waiver has been effective in enabling the State or local partnership to carry out the purposes of this chapter.

(b) Waivers not authorized

The Secretary of Labor may not waive any requirement under any provision of the Job Training Partnership Act (29 U.S.C. 1501 et seq.),[1] or of any regulation issued under such provision, relating to—

(1) the basic purposes or goals of such provision;

(2) maintenance of effort;

(3) the distribution of funds;

(4) the eligibility of an individual for participation in a program under such provision;

(5) public health or safety, labor standards, civil rights, occupational safety and health, or environmental protection; or

(6) prohibitions or restrictions relating to the construction of buildings or facilities.

(c) Termination of waivers

The Secretary of Labor shall periodically review the performance of any State or local partnership for which the Secretary of Labor has granted a waiver under this section and shall terminate the waiver under this section if the Secretary of Labor determines that the performance of the State or local partnership affected by the waiver has been inadequate to justify a continuation of the waiver, or the State fails to waive similar requirements of State law as required or agreed to in accordance with subsection (a)(1)(C) of this section.

(Pub. L. 103–239, title V, § 503, May 4, 1994, 108 Stat. 600.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsecs. (a)(1) and (b), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor, and was repealed by Pub. L. 105–220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Job Training Partnership Act to the Code, see Tables. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

§ 6214. Combination of Federal funds for high poverty schools

(a) In general

(1) Purposes

The purposes of this section are—

(A) to integrate activities under this chapter with school-to-work activities carried out under other Acts; and

(B) to maximize the effective use of resources.

(2) Combination of funds

To carry out such purposes, a local partnership that receives assistance under subchapter II or III of this chapter may carry out schoolwide school-to-work activities in schools that meet the requirements of subparagraphs (A) and (B) of section 263(g)(1) of the Job Training Partnership Act (29 U.S.C. 1643(g)(1)(A) and (B))[1] with funds obtained by combining—

(A) Federal funds under this chapter; and

(B) other Federal funds made available from among programs under—

(i) the provisions of law listed in paragraphs (2) through (6) of section 6212(b) of this title; and

(ii) the Job Training Partnership Act (29 U.S.C. 1501 et seq.).[1]

(b) Use of funds

A local partnership may use the Federal funds combined under subsection (a) of this section under the requirements of this chapter, except that the provisions relating to the matters specified in paragraphs (1) through (6) and paragraphs (8) and (9) of section 6212(c) of this title, and paragraphs (1) through (3) and paragraphs (5) and (6) of section 6213(b) of this title, that relate to the program through which the funds described in subsection (a)(2)(B) of this section were made available, shall remain in effect with respect to the use of such funds.

(c) Additional information in application

A local partnership seeking to combine funds under subsection (a) of this section shall include in the application of the local partnership under subchapter II or III of this chapter—

(1) a description of the funds the local partnership proposes to combine under the requirements of this chapter;

(2) the activities to be carried out with such funds;

(3) the specific outcomes expected of participants in schoolwide school-to-work activities; and

(4) such other information as the State, or Secretaries, as the case may be, may require.

(d) Provision of information

The local partnership shall, to the extent feasible, provide information on the proposed combination of Federal funds under subsection (a) of this section to educators, parents, students, advocacy and civil rights organizations, labor and business organizations, and the public.

(Pub. L. 103–239, title V, § 504, May 4, 1994, 108 Stat. 601.)

[1] See References in Text note below.

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsec. (a)(2), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor, and was repealed by Pub. L. 105–220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Section 263 of the Act was classified to section 1643 of Title 29. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Job Training Partnership Act to the Code, see Tables. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

§ 6215. Combination of Federal funds by States for school-to-work activities

(a) In general

(1) Purposes

The purposes of this section are—

(A) to integrate activities under this chapter with State school-to-work activities carried out under other Acts; and

(B) to maximize the effective use of resources.

(2) Combination of funds

To carry out such purposes, a State that has an approved State plan may carry out activities necessary to develop and implement a statewide School-to-Work Opportunities system with funds obtained by combining—

(A) Federal funds under this chapter; and

(B) other Federal funds that are made available under—

(i) section 2312(a)(3)[1] of this title;

(ii) section 202(c)(1)(C) or section 262(c)(1)(C) of the Job Training Partnership Act (29 U.S.C. 1602(c)(1)(C) or 1642(c)(1)(C));[1]

(iii) section 202(c)(1)(B) of the Job Training Partnership Act that would otherwise be available for the purposes described in section 202(c)(3) of such Act; or

(iv) section 262(c)(1)(B) of the Job Training Partnership Act that would otherwise be available for the purposes described in section 262(c)(3) of such Act.

(b) Use of funds

A State may use, under the requirements of this chapter, Federal funds that are made available to the State and combined under subsection (a) of this section to carry out school-to-work activities, except that the provisions relating to the matters specified in section 6212(c) of this title, and section 6213(b) of this title, that relate to the program through which the funds described in subsection (a)(2)(B) of this section were made available, shall remain in effect with respect to the use of such funds.

(c) Additional information in application

A State seeking to combine funds under subsection (a) of this section shall include in the application described in section 6143 of this title—

(1) a description of the funds the State proposes to combine under the requirements of this chapter;

(2) the activities to be carried out with such funds;

(3) the specific outcomes expected of participants in school-to-work activities;

(4) formal evidence of support for the request by the State agencies or officials with jurisdiction over the funds that would be combined; and

(5) such other information as the Secretaries may require.

(d) Extension

The authority of a State to combine funds under this section shall not exceed 5 years, except that the Secretaries may extend such period if the Secretaries determine that an extension of such authority would further the purposes of this chapter.

(e) Limitation

Nothing in this section shall be construed to relieve a State of an obligation to conduct the activities required under section 2331(b)[1] of this title.

(Pub. L. 103–239, title V, § 505, May 4, 1994, 108 Stat. 602.)

REFERENCES IN TEXT

Sections 2312 and 2331 of this title, referred to in subsecs. (a)(2)(B)(i) and (e), were omitted in the general amendment of chapter 44 (§ 2301 et seq.) of this title by Pub. L. 105–332, § 1(b), Oct. 31, 1998, 112 Stat. 3076.

Sections 202 and 262 of the Job Training Partnership Act, referred to in subsec. (a)(2)(B)(ii) to (iv), which were classified to sections 1602 and 1642, respectively, of Title 29, Labor, were repealed by Pub. L. 105–220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

SUBCHAPTER VI—GENERAL PROVISIONS

§ 6231. Requirements

The following requirements shall apply to programs under this chapter:

(1) Prohibition on displacement

No student participating in such a program shall displace any currently employed worker (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits).

(2) Prohibition on impairment of contracts

No such program shall impair existing contracts for services or collective bargaining agreements, and no such program that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

[1] See References in Text note below.

(3) Prohibition on replacement

No student participating in such a program shall be employed or fill a job—

(A) when any other individual is on temporary layoff, with the clear possibility of recall, from the same or any substantially equivalent job with the participating employer; or

(B) when the employer has terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the student.

(4) Workplaces

Students participating in such programs shall be provided with adequate and safe equipment and safe and healthful workplaces in conformity with all health and safety requirements of Federal, State, and local law.

(5) Effect on other laws

Nothing in this chapter shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, ethnicity, national origin, gender, age, or disability, or to modify or affect any right to enforcement of this chapter that may exist under other Federal laws, except as expressly provided by this chapter.

(6) Prohibition concerning wages

Funds appropriated under authority of this chapter shall not be expended for wages of students or workplace mentors participating in such programs.

(7) Other requirements

The Secretaries shall establish such other requirements as the Secretaries may determine to be appropriate, in order to ensure that participants in programs under this chapter are afforded adequate supervision by skilled adult workers, or to otherwise further the purposes of this chapter.

(Pub. L. 103–239, title VI, § 601, May 4, 1994, 108 Stat. 603.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

§ 6232. Sanctions

(a) Termination or suspension of assistance

(1) In general

The Secretaries may terminate or suspend any financial assistance under this chapter, in whole or in part, or not make payments under a grant awarded under this chapter, if the Secretaries determine that a recipient has failed to meet any requirements of this chapter, including—

(A) reporting requirements under section 6192(c) of this title;

(B) regulations under this chapter; or

(C) requirements of an approved State plan.

(2) Notice and opportunity for hearing

If the Secretaries terminate or suspend such financial assistance, or do not make such payments under paragraph (1), with respect to a recipient, then the Secretaries shall provide—

(A) prompt notice to such recipient; and

(B) the opportunity for a hearing to such recipient not later than 30 days after the date on which such notice is provided.

(b) Nondelegation

The Secretaries shall not delegate any of the functions or authority specified in this section, other than to an officer whose appointment is required to be made by and with the advice and consent of the Senate.

(Pub. L. 103–239, title VI, § 602, May 4, 1994, 108 Stat. 604.)

§ 6233. State authority

Nothing in this chapter shall be construed to negate or supersede the legal authority, under State law or other applicable law, of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official. Nothing in this chapter shall be construed to interfere with the authority of such agency, entity, or official to enter into a contract under any provision of law.

(Pub. L. 103–239, title VI, § 603, May 4, 1994, 108 Stat. 604.)

§ 6234. Prohibition on Federal mandates, direction, and control

Nothing in this chapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State's, local educational agency's, or school's curriculum, program of instruction, or allocation of State or local resources or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter.

(Pub. L. 103–239, title VI, § 604, May 4, 1994, 108 Stat. 605.)

§ 6235. Authorization of appropriations

(a) In general

There are authorized to be appropriated to the Secretaries to carry out this chapter $300,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 through 1999.

(b) Reservations

From amounts appropriated under subsection (a) of this section for any fiscal year, the Secretaries—

(1) shall reserve not more than ½ of 1 percent of such amounts for such fiscal year to provide grants under sections 6122 and 6142 of this title to the jurisdictions described in section 6122(b) of this title;

(2) shall reserve not more than ½ of 1 percent of such amounts for such fiscal year to provide grants under part C of subchapter II of this chapter to establish and carry out School-to-Work Opportunities programs for Indian

youths that involve Bureau funded schools (as defined in section 2026(3) of title 25);[1]

(3) shall reserve 10 percent of such amounts for such fiscal year to provide grants under section 6172(b) of this title to local partnerships located in high poverty areas, which reserved funds may be used in conjunction with funds available under the Youth Fair Chance Program set forth in part H of title IV of the Job Training Partnership Act (29 U.S.C. 1782 et seq.);[1] and

(4)(A) shall reserve 2.5 percent of such amounts for such fiscal year to carry out section 6194 of this title; and

(B) shall reserve not more than an additional 5 percent of such amounts for such fiscal year to carry out other activities under subchapter IV of this chapter, and activities under sections 6144(d) and 6173(d) of this title.

(c) Availability of funds

Funds appropriated for any fiscal year for programs authorized under this chapter shall remain available until expended.

(Pub. L. 103–239, title VI, §605, May 4, 1994, 108 Stat. 605; Pub. L. 105–362, title VIII, §801(c)(6), Nov. 10, 1998, 112 Stat. 3288.)

REFERENCES IN TEXT

Section 2026(3) of title 25, referred to in subsec. (b)(2), was omitted in the general amendment of chapter 22 (§2001 et seq.) of Title 25, Indians, by Pub. L. 107–110, title X, §1042, Jan. 8, 2002, 115 Stat. 2007. For definition of ''Bureau-funded school'', see section 2021 of Title 25.

The Job Training Partnership Act, referred to in subsec. (b)(3), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was repealed by Pub. L. 105–220, title I, §199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Part H of title IV of the Act was classified generally to part H (§1782 et seq.) of subchapter IV of chapter 19 of Title 29, Labor. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Job Training Partnership Act to the Code, see Tables. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of this title and Tables.

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105–362, which directed substitution of ''(as defined in section 2026(3) of title 25)'' for ''(as defined in section 2019(3) of title 25)'' in section ''605(b)(2) of the School-to-Work Opportunity Act of 1994'', was executed by making the substitution in subsec. (b)(2) of this section, which is section 605 of the School-to-Work Opportunities Act of 1994, to reflect the probable intent of Congress.

SUBCHAPTER VII—TECHNICAL PROVISIONS

§ 6251. Sunset

The authority provided by this chapter shall terminate on October 1, 2001.

(Pub. L. 103–239, title VIII, §802, May 4, 1994, 108 Stat. 608.)

[1] See References in Text note below.

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this Act'', meaning Pub. L. 103–239, May 4, 1994, 108 Stat. 568, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

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CODIFICATION

The Elementary and Secondary Education Act of 1965, comprising this chapter, was originally enacted as Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, and amended by Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1191; Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 783; Pub. L. 90–576, title III, §307, Oct. 16, 1968, 82 Stat. 1097; Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121; Pub. L. 92–318, June 23, 1972, 86 Stat. 235; Pub. L. 93–380, Aug. 21, 1974, 88 Stat. 484; Pub. L. 94–193, §1(c), Dec. 31, 1975, 89 Stat. 1102; Pub. L. 94–273, §§2(12), 3(8), 49(a)–(c), Apr. 21, 1976, 90 Stat. 375, 376, 382; Pub. L. 94–482, Oct. 12, 1976, 90 Stat. 2081; Pub. L. 95–112, Aug. 24, 1977, 91 Stat. 911, and was classified to sections 241a et seq., 242 et seq., 331 et seq., 821 et seq., and 1801 et seq. of this title. The Act was subsequently extensively revised and restated by Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, and amended by Pub. L. 96–46, Aug. 6, 1979, 93 Stat. 338; Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668; Pub. L. 96–374, Oct. 3, 1980, 94 Stat. 1367; Pub. L. 96–470, Oct. 19, 1980, 94 Stat. 2237; Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 357; Pub. L. 98–211, Dec. 8, 1983, 97 Stat. 1412; Pub. L. 98–511, Oct. 19, 1984, 98 Stat. 2366; Pub. L. 98–524, Oct. 19, 1984, 98 Stat. 2435; Pub. L. 99–159, Nov. 22, 1985, 99 Stat. 887, and was classified to section 2701 et seq. of this title. The Act was subsequently extensively revised and restated by Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130, and amended by Pub. L. 100–569, Oct. 31, 1988, 102 Stat. 2862; Pub. L. 100–570, Oct. 31, 1988, 102 Stat. 2865; Pub. L. 100–690, Nov. 18, 1988, 102 Stat. 4181; Pub. L. 101–226, Dec. 12, 1989, 103 Stat. 1928; Pub. L. 101–250, Mar. 6, 1990, 104 Stat. 96; Pub. L. 101–476, Oct. 30, 1990, 104 Stat. 1103; Pub. L. 101–589, Nov. 16, 1990, 104 Stat. 2881; Pub. L. 101–600, Nov. 16, 1990, 104 Stat. 3042; Pub. L. 101–647, Nov. 29, 1990, 104 Stat. 4789; Pub. L. 102–62, June 27, 1991, 105 Stat. 305; Pub. L. 102–73, July 25, 1991, 105 Stat. 333; Pub. L. 102–103, Aug. 17, 1991, 105 Stat. 497; Pub. L. 102–325, July 23, 1992, 106 Stat. 448; Pub. L. 102–359, Aug. 26, 1992, 106 Stat. 962; Pub. L. 102–545, Oct. 27, 1992, 106 Stat. 3586; Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 125; Pub. L. 103–252, May 18, 1994, 108 Stat. 623, and was classified to section 2701 et seq. of this title. The Act was subsequently extensively revised and restated by Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518, and amended by Pub. L. 104–5, Mar. 23, 1995, 109 Stat. 72; Pub. L. 104–106, Feb. 10, 1996, 110 Stat. 186; Pub. L. 104–134, Apr. 26, 1996, 110 Stat. 1321; Pub. L. 104–140, May 2, 1996, 110 Stat. 1327; Pub. L. 104–193, Aug. 22, 1996, 110 Stat. 2105; Pub. L. 104–195, Sept. 16, 1996, 110 Stat. 2379; Pub. L. 104–201, Sept. 23, 1996, 110 Stat. 2422; Pub. L. 104–208, Sept. 30, 1996, 110 Stat. 3009; Pub. L. 105–18, June 12, 1997, 111 Stat. 158; Pub. L. 105–78, Nov. 13, 1997, 111 Stat. 1467; Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936; Pub. L. 105–244, Oct. 7, 1998, 112 Stat. 1581; Pub. L. 105–277, Oct. 21, 1998, 112 Stat. 2681; Pub. L. 105–278, Oct. 22, 1998, 112 Stat. 2682; Pub. L. 105–332, Oct. 31, 1998, 112 Stat. 3076; Pub. L. 106–78, Oct. 22, 1999, 113 Stat. 1135; Pub. L. 106–113, Nov. 29, 1999, 113 Stat. 1501; Pub. L. 106–398, Oct. 30, 2000, 114 Stat. 1654; Pub. L. 106–400, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 106–554, Dec. 21, 2000, 114 Stat. 2763; Pub. L. 107–20, July 24, 2001, 115 Stat. 155, and is classified to section 6301 et seq. of this title. Titles I to VII and IX of the Act are shown, herein, however, as having been added by Pub. L. 107–110 without reference to such intervening amendments because of the extensive amendments, renumbering, and reorganization of these provisions by Pub. L. 107–110.

SUBCHAPTER I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

CODIFICATION

Title I of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title I is shown, herein, as having been added by Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1439, without reference to earlier

amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding this chapter.

§ 6301. Statement of purpose

The purpose of this subchapter is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic achievement standards and state[1] academic assessments. This purpose can be accomplished by—

(1) ensuring that high-quality academic assessments, accountability systems, teacher preparation and training, curriculum, and instructional materials are aligned with challenging State academic standards so that students, teachers, parents, and administrators can measure progress against common expectations for student academic achievement;

(2) meeting the educational needs of low-achieving children in our Nation's highest-poverty schools, limited English proficient children, migratory children, children with disabilities, Indian children, neglected or delinquent children, and young children in need of reading assistance;

(3) closing the achievement gap between high- and low-performing children, especially the achievement gaps between minority and nonminority students, and between disadvantaged children and their more advantaged peers;

(4) holding schools, local educational agencies, and States accountable for improving the academic achievement of all students, and identifying and turning around low-performing schools that have failed to provide a high-quality education to their students, while providing alternatives to students in such schools to enable the students to receive a high-quality education;

(5) distributing and targeting resources sufficiently to make a difference to local educational agencies and schools where needs are greatest;

(6) improving and strengthening accountability, teaching, and learning by using State assessment systems designed to ensure that students are meeting challenging State academic achievement and content standards and increasing achievement overall, but especially for the disadvantaged;

(7) providing greater decisionmaking authority and flexibility to schools and teachers in exchange for greater responsibility for student performance;

(8) providing children an enriched and accelerated educational program, including the use of schoolwide programs or additional services that increase the amount and quality of instructional time;

(9) promoting schoolwide reform and ensuring the access of children to effective, scientifically based instructional strategies and challenging academic content;

(10) significantly elevating the quality of instruction by providing staff in participating schools with substantial opportunities for professional development;

(11) coordinating services under all parts of this subchapter with each other, with other educational services, and, to the extent feasible, with other agencies providing services to youth, children, and families; and

(12) affording parents substantial and meaningful opportunities to participate in the education of their children.

(Pub. L. 89–10, title I, § 1001, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1439.)

[1] So in original. Probably should be capitalized.

PRIOR PROVISIONS

A prior section 6301, Pub. L. 89–10, title I, § 1001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3519, declared policy and stated purpose of this subchapter, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1001 of Pub. L. 89–10 was classified to section 2701 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Another prior section 1001 of Pub. L. 89–10 was renumbered section 9001 and was classified to section 3381 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

EFFECTIVE DATE

Pub. L. 107–110, § 5, Jan. 8, 2002, 115 Stat. 1427, provided that:

''(a) IN GENERAL.—Except as otherwise provided in this Act [see Tables for classification], this Act, and the amendments made by this Act, shall be effective upon the date of enactment of this Act [Jan. 8, 2002].

''(b) NONCOMPETITIVE PROGRAMS.—With respect to noncompetitive programs under which any funds are allotted by the Secretary of Education to recipients on the basis of a formula, this Act, and the amendments made by this Act, shall take effect on July 1, 2002.

''(c) COMPETITIVE PROGRAMS.—With respect to programs that are conducted by the Secretary on a competitive basis, this Act, and the amendments made by this Act, shall take effect with respect to appropriations for use under those programs for fiscal year 2002.

''(d) IMPACT AID.—With respect to title VIII (Impact Aid) [probably means title VIII of Pub. L. 89–10, 20 U.S.C. 7701 et seq.], this Act, and the amendments made by this Act, shall take effect with respect to appropriations for use under that title for fiscal year 2002.''

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–110, § 1, Jan. 8, 2002, 115 Stat. 1425, provided that: ''This title [probably means Pub. L. 107–110, see Tables for classification] may be cited as the 'No Child Left Behind Act of 2001'.''

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1601], Dec. 21, 2000, 114 Stat. 2763, 2763A–328, provided that: ''This title [amending sections 6302, 6311, 6361 to 6368, 6369b, 6394, 6661a, 6661i, and 8801 of this title and sections 2023 and 2026 of Title 25, Indians, and enacting provisions set out as a note under section 6361 of this title] may be cited as the 'Literacy Involves Families Together Act'.''

Pub. L. 106–554, § 1(a)(4) [div. B, title XVII, § 1701], Dec. 21, 2000, 114 Stat. 2763, 2763A–335, provided that: ''This title [enacting part F of subchapter III of this chapter, amending section 9134 of this title and section 254 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, and enacting provisions set out as notes under sections 7001 and 9134 of this title and sections 254, 609, and 902 of Title 47] may be cited as the 'Children's Internet Protection Act'.''

Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1801], Oct. 30, 2000, 114 Stat. 1654, 1654A–368, provided that: ''This title [amending sections 1228, 7701 to 7703, 7705, 7707, 7709 to 7713, and 7714 of this title, repealing section 7706 of this title, and enacting provisions set out as notes

under sections 7701, 7703, and 7711 of this title] may be cited as the 'Impact Aid Reauthorization Act of 2000'.''

SHORT TITLE OF 1998 AMENDMENTS

Pub. L. 105–278, §1, Oct. 22, 1998, 112 Stat. 2682, provided that: ''This Act [enacting sections 8065a to 8065d of this title and amending sections 7331, 7351, 8061 to 8065, 8066, 8067, and 8801 of this title] may be cited as the 'Charter School Expansion Act of 1998'.''

Pub. L. 105–277, div. D, title I, §121, Oct. 21, 1998, 112 Stat. 2681–756, provided that: ''This subtitle [subtitle C (§§121, 122) of title I of Pub. L. 105–277, enacting section 7144 of this title] may be cited as the 'Drug-Free Schools Quality Assurance Act'.''

SHORT TITLE OF 1994 AMENDMENTS

Section 1 of Pub. L. 103–382 provided that: ''This Act [see Tables for classification] may be cited as the 'Improving America's Schools Act of 1994'.''

Pub. L. 103–227, title X, §1031, Mar. 31, 1994, 108 Stat. 270, provided that: ''This part [part B (§§1031, 1032) of title X of Pub. L. 103–227, enacting section 3351 of this title and amending sections 3381 to 3384 and 3386 of this title] may be cited as the 'Gun-Free Schools Act of 1994'.''

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102–545, §1, Oct. 27, 1992, 106 Stat. 3586, provided that: ''This Act [see Tables for classification] may be cited as the 'Ready to Learn Act'.''

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–103, title I, §101, Aug. 17, 1991, 105 Stat. 497, provided that: ''This title [see Tables for classification] may be cited as the 'National Dropout Prevention Act of 1991'.''

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101–600, §1, Nov. 16, 1990, 104 Stat. 3042, provided that: ''This Act [see Tables for classification] may be cited as the 'School Dropout Prevention and Basic Skills Improvement Act of 1990'.''

SHORT TITLE OF 1989 AMENDMENT

Pub. L. 101–226, §1, Dec. 12, 1989, 103 Stat. 1928, provided that: ''This Act [see Tables for classification] may be cited as the 'Drug-Free Schools and Communities Act Amendments of 1989'.''

SHORT TITLE OF 1988 AMENDMENTS

Pub. L. 100–569, title II, §201, Oct. 31, 1988, 102 Stat. 2862, provided that: ''This title [see Tables for classification] may be cited as the 'National Geography Studies Centers Act'.''

Pub. L. 100–297, §1(a), Apr. 28, 1988, 102 Stat. 130, provided that: ''This Act [see Tables for classification] may be cited as the 'Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988'.''

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98–511, §1, Oct. 19, 1984, 98 Stat. 2366, provided that: ''This Act [see Tables for classification] may be cited as the 'Education Amendments of 1984'.''

Pub. L. 98–511, title IV, §401(a), Oct. 19, 1984, 98 Stat. 2389, provided that: ''This title [see Tables for classification] may be cited as the 'Women's Educational Equity Amendments of 1984'.''

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–561, §1, Nov. 1, 1978, 92 Stat. 2143, provided: ''That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1978'.''

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–112, §1, Sept. 24, 1977, 91 Stat. 911, provided: ''That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1977'.''

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–380, §1, Aug. 21, 1974, 88 Stat. 484, provided: ''That this Act [see Tables for classification] may be cited as the 'Education Amendments of 1974'.''

SHORT TITLE OF 1970 AMENDMENT

Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 121 [see Tables for classification], is popularly known as the ''Elementary and Secondary Education Amendments of 1970''.

SHORT TITLE OF 1968 AMENDMENT

Pub. L. 90–247, §1, Jan. 2, 1968, 81 Stat. 783, provided that: ''This Act [see Tables for classification] may be cited as the 'Elementary and Secondary Education Amendments of 1967'.''

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–750, §1, Nov. 3, 1966, 80 Stat. 1191, provided: ''That this Act [see Tables for classification] may be cited as the 'Elementary and Secondary Education Amendments of 1966'.''

SHORT TITLE

Section 1 of Pub. L. 89–10, as added by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3519, as amended by Pub. L. 107–110, §6(1), Jan. 8, 2002, 115 Stat. 1427, provided that: ''This Act [enacting this chapter] may be cited as the 'Elementary and Secondary Education Act of 1965'.''

Pub. L. 89–10, title X, §10971, as added by Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89, which provided that subpart 2 (§§10971–10978) of part J of title X of Pub. L. 89–10, enacting subpart 2 of part J of former subchapter X of this chapter, could be cited as the ''Rural Education Achievement Program'', was repealed by Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986.

Pub. L. 89–10, title X, §10999A, as added by Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–76, which provided that part L (§§10999A–10999L) of title X of Pub. L. 89–10, enacting part L of former subchapter X of this chapter, could be cited as the ''Physical Education for Progress Act'', was repealed by Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986.

CONTINUATION OF AWARDS

Pub. L. 107–110, title II, §202, Jan. 8, 2002, 115 Stat. 1688, provided that: ''Notwithstanding any other provision of this Act [see Tables for classification] or the Elementary and Secondary Education Act of 1965 [20 U.S.C. 6301 et seq.], in the case of—

''(1) a person or entity that, prior to the date of enactment of this Act [Jan. 8, 2002], was awarded funds appropriated under the Department of Education Appropriations Act, 2001 [Pub. L. 106–554, §1(a)(1) [title III], see Tables for classification] for new teacher recruitment initiatives; or

''(2) a person or agency that, prior to the date of enactment of this Act [Jan. 8, 2002], was awarded a grant or contract under part K of title X of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 8331 et seq.),

the Secretary of Education shall continue to provide funds in accordance with the terms of such award until the date on which the award period terminates.''

Pub. L. 107–110, title V, §502, Jan. 8, 2002, 115 Stat. 1873, provided that:

''(a) IN GENERAL.—Notwithstanding any other provision of this Act [see Tables for classification] or the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), in the case of any agency or consortium that was awarded a grant under section 5111 of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 7211) or any person or agency that was awarded a contract or grant under part B, D, or E of title X of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 8031 et seq., 8091 et seq., 8131

et seq.), prior to the date of enactment of this Act [Jan. 8, 2002], the Secretary of Education shall continue to provide funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

''(b) SPECIAL RULE.—Notwithstanding any other provision of this Act, any person or agency that was awarded or entered into a grant, contract, or cooperative agreement under part B of title V of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 7231 et seq.), prior to the date of enactment of this Act [Jan. 8, 2002] shall continue to receive funds in accordance with the terms of such grant, contract, or agreement until the date on which the grant, contract, or agreement period terminates under such terms.''

Pub. L. 107–110, title X, § 1052, Jan. 8, 2002, 115 Stat. 2083, provided that: ''Notwithstanding any other provision of this Act [see Tables for classification] or the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), in the case of a person or entity that was awarded a grant, relating to preparing tomorrow's teachers to use technology, that was made pursuant to section 3122 of the Elementary and Secondary Education Act of 1965 ([formerly] 20 U.S.C. 6832) prior to the date of enactment of this Act [Jan. 8, 2002], the Secretary of Education shall continue to provide funds in accordance with the terms of such award until the date on which the award period terminates.''

TRANSITION PROVISIONS

Pub. L. 107–110, § 4, Jan. 8, 2002, 115 Stat. 1426, provided that:

''(a) MULTI-YEAR AWARDS.—Except as otherwise provided in this Act [see Tables for classification], the recipient of a multi-year award under the Elementary and Secondary Education Act of 1965 [Pub. L. 89–10, 20 U.S.C. 6301 et seq., prior to general amendment by Pub. L. 107–110], as that Act was in effect prior to the date of enactment of this Act [Jan. 8, 2002], shall continue to receive funds in accordance with the terms of that award, except that no additional funds may be awarded after September 30, 2002.

''(b) PLANNING AND TRANSITION.—Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965, as that Act was in effect prior to the date of enactment of this Act, may use funds available to the recipient under that predecessor authority to carry out necessary and reasonable planning and transition activities in order to ensure an orderly implementation of programs authorized by this Act, and the amendments made by this Act.

''(c) ORDERLY TRANSITION.—The Secretary shall take such steps as are necessary to provide for the orderly transition to, and implementation of, programs authorized by this Act, and by the amendments made by this Act, from programs authorized by the Elementary and Secondary Education Act of 1965, as that Act was in effect prior to the date of enactment of this Act.''

Pub. L. 103–382, § 3(b), Oct. 20, 1994, 108 Stat. 3519, provided that: ''Notwithstanding any other provision of law, a recipient of funds under the Elementary and Secondary Education Act of 1965 [Pub. L. 89–10, formerly chapter 47 (§ 2701 et seq.) of this title, prior to general amendment by Pub. L. 103–382, § 101], as such Act was in effect on the day preceding the date of enactment of this Act [Oct. 20, 1994], may use funds available to such recipient under such predecessor authority to carry out necessary and reasonable planning and transition activities in order to ensure a smooth implementation of programs authorized by this Act [see Tables for classification].''

BUDGET COMPLIANCE

Pub. L. 103–382, title V, § 561, Oct. 20, 1994, 108 Stat. 4058, provided that: ''Any authority or requirement to make funds available under this Act [see Tables for classification] shall be effective only to the extent provided in appropriations Acts.''

Pub. L. 100–297, title VI, § 6302, Apr. 28, 1988, 102 Stat. 431, provided that: ''Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974 [2 U.S.C. 651]) which is provided under this Act [see Tables for classification] shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.''

EX. ORD. NO. 13153. ACTIONS TO IMPROVE LOW-PERFORMING SCHOOLS

Ex. Ord. No. 13153, May 3, 2000, 65 F.R. 26475, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Elementary and Secondary Education Act of 1965 (ESEA) [20 U.S.C. 6301 et seq.], the Department of Education Appropriations Act, 2000 (as contained in Public Law 106–113) [Pub. L. 106–113, div. B, § 1000(a)(4) [title III], Nov. 29, 1999, 113 Stat. 1535, 1501A–242, see Tables for classification], and in order to take actions to improve low-performing schools, it is hereby ordered as follows:

SECTION 1. *Policy*. Since 1993, this Administration has sought to raise standards for students and to increase accountability in public education while investing more resources in elementary and secondary schools. While much has been accomplished—there has been progress in math and reading achievement, particularly for low-achieving students and students in our highest poverty schools—much more can be done, especially for low-performing schools.

SEC. 2. *Technical Assistance and Capacity Building*. (a) The Secretary of Education (''Secretary'') shall work with State and local educational agencies (''LEAs'') to develop and implement a comprehensive strategy for providing technical assistance and other assistance to States and LEAs to strengthen their capacity to improve the performance of schools identified as low performing. This comprehensive strategy shall include a number of steps, such as:

(1) providing States, school districts, and schools receiving funds from the school improvement fund established by Public Law 106–113, as well as other districts and schools identified for school improvement or corrective action under Title I of the ESEA [20 U.S.C. 6301 et seq.], with access to the latest research and information on best practices, including research on instruction and educator professional development, and with the opportunity to learn from exemplary schools and exemplary State and local intervention strategies and from each other, in order to improve achievement for all students in the low-performing schools;

(2) determining effective ways of providing low-performing schools with access to resources from other Department of Education programs, such as funds from the Comprehensive School Reform Demonstration Program, the Reading Excellence Act [Pub. L. 105–277, div. A, § 101(f) [title VIII], Oct. 21, 1998, 112 Stat. 2681–337, 2681–391, see Tables for classification], the Eisenhower Professional Development Program, the Class Size Reduction Program, and the 21st Century Community Learning Centers Program, and to make effective use of these funds and Title I funds;

(3) providing States and LEAs with information on effective strategies to improve the quality of the teaching force, including strategies for recruiting and retaining highly qualified teachers in high-poverty schools, and implementing research-based professional development programs aligned with challenging standards;

(4) helping States and school districts build partnerships with technical assistance providers, including, but not limited to, federally funded laboratories and centers, foundations, businesses, community-based organizations, institutions of higher education, reform model providers, and other organizations that can help local schools improve;

(5) identifying previously low-performing schools that have made significant achievement gains, and States and school districts that have been effective in

improving the achievement of all students in low-performing schools, which can serve as models and resources;

(6) providing assistance and information on how to effectively involve parents in the school-improvement process, including effectively involving and informing parents at the beginning of the school year about improvement goals for their school as well as the goals for their own children, and reporting on progress made in achieving these goals;

(7) providing States and LEAs with information on effective approaches to school accountability, including the effectiveness of such strategies as school reconstitution, peer review teams, and financial rewards and incentives;

(8) providing LEAs with information and assistance on the design and implementation of approaches to choice among public schools that create incentives for improvement throughout the local educational agency, especially in the lowest-performing schools, and that maximize the opportunity of students in low-performing schools to attend a higher-performing public school;

(9) exploring the use of well-trained tutors to raise student achievement through initiatives such as ''America Reads,'' ''America Counts,'' and other work-study opportunities to help low-performing schools;

(10) using a full range of strategies for disseminating information about effective practices, including interactive electronic communications;

(11) working with the Department of Interior, Bureau of Indian Affairs (BIA), to provide technical assistance to BIA-funded low-performing schools; and

(12) taking other steps that can help improve the quality of teaching and instruction in low-performing schools.

(b) The Secretary shall, to the extent permitted by law, take whatever steps the Secretary finds necessary and appropriate to redirect the resources and technical assistance capability of the Department of Education (''Department'') to assist States and localities in improving low-performing schools, and to ensure that the dissemination of research to help turn around low-performing schools is a priority of the Department.

SEC. 3. *School Improvement Report*. To monitor the progress of LEAs and schools in turning around failing schools, including those receiving grants from the School Improvement Fund, the Secretary shall prepare an annual School Improvement Report, to be published in September of each year, beginning in 2000. The report shall:

(a) describe trends in the numbers of LEAs and schools identified as needing improvement and subsequent changes in the academic performance of their students;

(b) identify best practices and significant research findings that can be used to help turn around low-performing LEAs and schools; and

(c) document ongoing efforts as a result of this order and other Federal efforts to assist States and local school districts in intervening in low-performing schools, including improving teacher quality. This report shall be publicly accessible.

SEC. 4. *Compliance Monitoring System*. Consistent with the implementation of the School Improvement Fund, the Secretary shall strengthen the Department's monitoring of ESEA requirements for identifying and turning around low-performing schools, as well as any new requirements established for the School Improvement Fund by Public Law 106–113. The Secretary shall give priority to provisions that have the greatest bearing on identifying and turning around low-performing schools, including sections 1116 and 1117 of the ESEA [20 U.S.C. 6316, 6317], and to developing an ongoing, focused, and systematic process for monitoring these provisions. This improved compliance monitoring shall be designed to:

(a) ensure that States and LEAs comply with ESEA requirements;

(b) assist States and LEAs in implementing effective procedures and strategies that reflect the best research available, as well as the experience of successful schools, school districts, and States as they address similar objectives and challenges; and

(c) assist States, LEAs, and schools in making the most effective use of available Federal resources.

SEC. 5. *Consultation*. The Secretary shall, where appropriate, consult with executive agencies, State and local education officials, educators, community-based groups, and others in carrying out this Executive order.

SEC. 6. *Judicial Review*. This order is intended only to improve the internal management of the executive branch and is not intended to, and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

DEFINITIONS

Pub. L. 100–297, title VI, § 6301, Apr. 28, 1988, 102 Stat. 431, provided that: ''Except as otherwise provided, for the purpose of this Act [see Tables for classification] the terms used in this Act have the meanings provided under section 1471 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 [formerly 20 U.S.C. 2891].''

§ 6302. Authorization of appropriations

(a) Local educational agency grants

For the purpose of carrying out part A of this subchapter, there are authorized to be appropriated—

(1) $13,500,000,000 for fiscal year 2002;
(2) $16,000,000,000 for fiscal year 2003;
(3) $18,500,000,000 for fiscal year 2004;
(4) $20,500,000,000 for fiscal year 2005;
(5) $22,750,000,000 for fiscal year 2006; and
(6) $25,000,000,000 for fiscal year 2007.

(b) Reading First

(1) Reading First

For the purpose of carrying out subpart 1 of part B of this subchapter, there are authorized to be appropriated $900,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(2) Early Reading First

For the purpose of carrying out subpart 2 of part B of this subchapter, there are authorized to be appropriated $75,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(3) Even Start

For the purpose of carrying out subpart 3 of part B of this subchapter, there are authorized to be appropriated $260,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(4) Improving literacy through school libraries

For the purpose of carrying out subpart 4 of part B of this subchapter, there are authorized to be appropriated $250,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(c) Education of migratory children

For the purpose of carrying out part C of this subchapter, there are authorized to be appropriated $410,000,000 for fiscal year 2002 and such

sums as may be necessary for each of the 5 succeeding fiscal years.

(d) Prevention and intervention programs for youth who are neglected, delinquent, or at risk

For the purpose of carrying out part D of this subchapter, there are authorized to be appropriated $50,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(e) Federal activities

(1) Sections 6491 and 6492

For the purpose of carrying out sections 6491 and 6492 of this title, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(2) Section 6494

(A) In general

For the purpose of carrying out section 6494 of this title, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and for each of the 5 succeeding fiscal years.

(B) Special rule

Of the funds appropriated pursuant to subparagraph (A), not more than 30 percent may be used for teachers associated with students participating in the programs described in subsections (a)(1), (b)(1), and (c)(1) of this section.

(f) Comprehensive school reform

For the purpose of carrying out part F of this subchapter, there are authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(g) Advanced placement

For the purposes of carrying out part G of this subchapter, there are authorized to be appropriated such sums for fiscal year 2002 and each 5 succeeding fiscal year.

(h) School dropout prevention

For the purpose of carrying out part H of this subchapter, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

(1) up to 10 percent shall be available to carry out subpart 1 of part H of this subchapter for each fiscal year; and

(2) the remainder shall be available to carry out subpart 2 of part H of this subchapter for each fiscal year.

(i) School improvement

For the purpose of carrying out section 6303(g) of this title, there are authorized to be appropriated $500,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title I, §1002, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1440.)

PRIOR PROVISIONS

A prior section 6302, Pub. L. 89–10, title I, §1002, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3522; amended Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1602], Dec. 21, 2000, 114 Stat. 2763, 2763A–328, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1002 of Pub. L. 89–10 was renumbered section 9002 and was classified to section 3382 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6303. School improvement

(a) State reservations

Each State shall reserve 2 percent of the amount the State receives under subpart 2 of part A of this subchapter for fiscal years 2002 and 2003, and 4 percent of the amount received under such subpart for fiscal years 2004 through 2007, to carry out subsection (b) of this section and to carry out the State's responsibilities under sections 6316 and 6317 of this title, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies.

(b) Uses

Of the amount reserved under subsection (a) of this section for any fiscal year, the State educational agency—

(1) shall allocate not less than 95 percent of that amount directly to local educational agencies for schools identified for school improvement, corrective action, and restructuring, for activities under section 6316(b) of this title; or

(2) may, with the approval of the local educational agency, directly provide for these activities or arrange for their provision through other entities such as school support teams or educational service agencies.

(c) Priority

The State educational agency, in allocating funds to local educational agencies under this section, shall give priority to local educational agencies that—

(1) serve the lowest-achieving schools;

(2) demonstrate the greatest need for such funds; and

(3) demonstrate the strongest commitment to ensuring that such funds are used to enable the lowest-achieving schools to meet the progress goals in school improvement plans under section 6316(b)(3)(A)(v) of this title.

(d) Unused funds

If, after consultation with local educational agencies in the State, the State educational agency determines that the amount of funds reserved to carry out subsection (b) of this section is greater than the amount needed to provide the assistance described in that subsection, the State educational agency shall allocate the excess amount to local educational agencies in accordance with—

(1) the relative allocations the State educational agency made to those agencies for that fiscal year under subpart 2 of part A of this subchapter; or

(2) section 6338(c) of this title.

(e) Special rule

Notwithstanding any other provision of this section, the amount of funds reserved by the State educational agency under subsection (a) of

this section in any fiscal year shall not decrease the amount of funds each local educational agency receives under subpart 2[1] below the amount received by such local educational agency under such subpart for the preceding fiscal year.

(f) Reporting

The State educational agency shall make publicly available a list of those schools that have received funds or services pursuant to subsection (b) of this section and the percentage of students from each school from families with incomes below the poverty line.

(g) Assistance for local school improvement

(1) Program authorized

The Secretary shall award grants to States to enable the States to provide subgrants to local educational agencies for the purpose of providing assistance for school improvement consistent with section 6316 of this title.

(2) State allotments

Such grants shall be allotted among States, the Bureau of Indian Affairs, and the outlying areas, in proportion to the funds received by the States, the Bureau of Indian Affairs, and the outlying areas, respectively, for the fiscal year under parts A, C, and D of this subchapter. The Secretary shall expeditiously allot a portion of such funds to States for the purpose of assisting local educational agencies and schools that were in school improvement status on the date preceding January 8, 2002.

(3) Reallocations

If a State does not receive funds under this subsection, the Secretary shall reallocate such funds to other States in the same proportion funds are allocated under paragraph (2).

(4) State applications

Each State educational agency that desires to receive funds under this subsection shall submit an application to the Secretary at such time, and containing such information, as the Secretary shall reasonably require, except that such requirement shall be waived if a State educational agency submitted such information as part of its State plan under this part. Each State application shall describe how the State educational agency will allocate such funds in order to assist the State educational agency and local educational agencies in complying with school improvement, corrective action, and restructuring requirements of section 6316 of this title.

(5) Local educational agency grants

A grant to a local educational agency under this subsection shall be—

(A) of sufficient size and scope to support the activities required under sections 6316 and 6317 of this title, but not less than $50,000 and not more than $500,000 for each participating school;

(B) integrated with other funds awarded by the State under this chapter; and

(C) renewable for two additional 1-year periods if schools are meeting the goals in their school improvement plans developed under section 6316 of this title.

(6) Priority

The State, in awarding such grants, shall give priority to local educational agencies with the lowest-achieving schools that demonstrate—

(A) the greatest need for such funds; and

(B) the strongest commitment to ensuring that such funds are used to provide adequate resources to enable the lowest-achieving schools to meet the goals under school and local educational agency improvement, corrective action, and restructuring plans under section 6316 of this title.

(7) Allocation

A State educational agency that receives a grant under this subsection shall allocate at least 95 percent of the grant funds directly to local educational agencies for schools identified for school improvement, corrective action, or restructuring to carry out activities under section 6316(b) of this title, or may, with the approval of the local educational agency, directly provide for these activities or arrange for their provision through other entities such as school support teams or educational service agencies.

(8) Administrative costs

A State educational agency that receives a grant award under this subsection may reserve not more than 5 percent of such grant funds for administration, evaluation, and technical assistance expenses.

(9) Local awards

Each local educational agency that applies for assistance under this subsection shall describe how it will provide the lowest-achieving schools the resources necessary to meet goals under school and local educational agency improvement, corrective action, and restructuring plans under section 6316 of this title.

(Pub. L. 89–10, title I, §1003, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1442.)

PRIOR PROVISIONS

A prior section 6303, Pub. L. 89–10, title I, §1003, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3522, related to reservation and allocation for school improvement, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1003 of Pub. L. 89–10 was renumbered section 9003 and was classified to section 3383 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6304. State administration

(a) In general

Except as provided in subsection (b) of this section, to carry out administrative duties assigned under parts A, C, and D of this subchapter, each State may reserve the greater of—

(1) 1 percent of the amounts received under such parts; or

(2) $400,000 ($50,000 in the case of each outlying area).

(b) Exception

If the sum of the amounts appropriated for parts A, C, and D of this subchapter is equal to

[1] So in original. Probably should be ''subpart 2 of part A of this subchapter''.

or greater than $14,000,000,000, then the reservation described in subsection (a)(1) of this section shall not exceed 1 percent of the amount the State would receive, if $14,000,000,000 were allocated among the States for parts A, C, and D of this subchapter.

(Pub. L. 89–10, title I, § 1004, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1444.)

PRIOR PROVISIONS

A prior section 1004 of Pub. L. 89–10 was renumbered section 9004 and was classified to section 3384 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

PART A—IMPROVING BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

SUBPART 1—BASIC PROGRAM REQUIREMENTS

§ 6311. State plans

(a) Plans required

(1) In general

For any State desiring to receive a grant under this part, the State educational agency shall submit to the Secretary a plan, developed by the State educational agency, in consultation with local educational agencies, teachers, principals, pupil services personnel, administrators (including administrators of programs described in other parts of this subchapter), other staff, and parents, that satisfies the requirements of this section and that is coordinated with other programs under this chapter, the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], the Carl D. Perkins Vocational and Technical Education Act of 1998 [20 U.S.C. 2301 et seq.], the Head Start Act [42 U.S.C. 9831 et seq.], the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.], and the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11301 et seq.].

(2) Consolidated plan

A State plan submitted under paragraph (1) may be submitted as part of a consolidated plan under section 7842 of this title.

(b) Academic standards, academic assessments, and accountability

(1) Challenging academic standards

(A) In general

Each State plan shall demonstrate that the State has adopted challenging academic content standards and challenging student academic achievement standards that will be used by the State, its local educational agencies, and its schools to carry out this part, except that a State shall not be required to submit such standards to the Secretary.

(B) Same standards

The academic standards required by subparagraph (A) shall be the same academic standards that the State applies to all schools and children in the State.

(C) Subjects

The State shall have such academic standards for all public elementary school and secondary school children, including children served under this part, in subjects determined by the State, but including at least mathematics, reading or language arts, and (beginning in the 2005–2006 school year) science, which shall include the same knowledge, skills, and levels of achievement expected of all children.

(D) Challenging academic standards

Standards under this paragraph shall include—

(i) challenging academic content standards in academic subjects that—

(I) specify what children are expected to know and be able to do;

(II) contain coherent and rigorous content; and

(III) encourage the teaching of advanced skills; and

(ii) challenging student academic achievement standards that—

(I) are aligned with the State's academic content standards;

(II) describe two levels of high achievement (proficient and advanced) that determine how well children are mastering the material in the State academic content standards; and

(III) describe a third level of achievement (basic) to provide complete information about the progress of the lower-achieving children toward mastering the proficient and advanced levels of achievement.

(E) Information

For the subjects in which students will be served under this part, but for which a State is not required by subparagraphs (A), (B), and (C) to develop, and has not otherwise developed, such academic standards, the State plan shall describe a strategy for ensuring that students are taught the same knowledge and skills in such subjects and held to the same expectations as are all children.

(F) Existing standards

Nothing in this part shall prohibit a State from revising, consistent with this section, any standard adopted under this part before or after January 8, 2002.

(2) Accountability

(A) In general

Each State plan shall demonstrate that the State has developed and is implementing a single, statewide State accountability system that will be effective in ensuring that all local educational agencies, public elementary schools, and public secondary schools make adequate yearly progress as defined under this paragraph. Each State accountability system shall—

(i) be based on the academic standards and academic assessments adopted under paragraphs (1) and (3), and other academic indicators consistent with subparagraph (C)(vi) and (vii), and shall take into account the achievement of all public elementary school and secondary school students;

(ii) be the same accountability system the State uses for all public elementary schools and secondary schools or all local educational agencies in the State, except that public elementary schools, secondary schools, and local educational agencies not participating under this part are not subject to the requirements of section 6316 of this title; and

(iii) include sanctions and rewards, such as bonuses and recognition, the State will use to hold local educational agencies and public elementary schools and secondary schools accountable for student achievement and for ensuring that they make adequate yearly progress in accordance with the State's definition under subparagraphs (B) and (C).

(B) Adequate yearly progress

Each State plan shall demonstrate, based on academic assessments described in paragraph (3), and in accordance with this paragraph, what constitutes adequate yearly progress of the State, and of all public elementary schools, secondary schools, and local educational agencies in the State, toward enabling all public elementary school and secondary school students to meet the State's student academic achievement standards, while working toward the goal of narrowing the achievement gaps in the State, local educational agencies, and schools.

(C) Definition

''Adequate yearly progress'' shall be defined by the State in a manner that—

(i) applies the same high standards of academic achievement to all public elementary school and secondary school students in the State;

(ii) is statistically valid and reliable;

(iii) results in continuous and substantial academic improvement for all students;

(iv) measures the progress of public elementary schools, secondary schools and local educational agencies and the State based primarily on the academic assessments described in paragraph (3);

(v) includes separate measurable annual objectives for continuous and substantial improvement for each of the following:

(I) The achievement of all public elementary school and secondary school students.

(II) The achievement of—

(aa) economically disadvantaged students;

(bb) students from major racial and ethnic groups;

(cc) students with disabilities; and

(dd) students with limited English proficiency;

except that disaggregation of data under subclause (II) shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;

(vi) in accordance with subparagraph (D), includes graduation rates for public secondary school students (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years) and at least one other academic indicator, as determined by the State for all public elementary school students; and

(vii) in accordance with subparagraph (D), at the State's discretion, may also include other academic indicators, as determined by the State for all public school students, measured separately for each group described in clause (v), such as achievement on additional State or locally administered assessments, decreases in grade-to-grade retention rates, attendance rates, and changes in the percentages of students completing gifted and talented, advanced placement, and college preparatory courses.

(D) Requirements for other indicators

In carrying out subparagraph (C)(vi) and (vii), the State—

(i) shall ensure that the indicators described in those provisions are valid and reliable, and are consistent with relevant, nationally recognized professional and technical standards, if any; and

(ii) except as provided in subparagraph (I)(i), may not use those indicators to reduce the number of, or change, the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 6316 of this title if those additional indicators were not used, but may use them to identify additional schools for school improvement or in need of corrective action or restructuring.

(E) Starting point

Each State, using data for the 2001–2002 school year, shall establish the starting point for measuring, under subparagraphs (G) and (H), the percentage of students meeting or exceeding the State's proficient level of academic achievement on the State assessments under paragraph (3) and pursuant to the timeline described in subparagraph (F). The starting point shall be, at a minimum, based on the higher of the percentage of students at the proficient level who are in—

(i) the State's lowest achieving group of students described in subparagraph (C)(v)(II); or

(ii) the school at the 20th percentile in the State, based on enrollment, among all schools ranked by the percentage of students at the proficient level.

(F) Timeline

Each State shall establish a timeline for adequate yearly progress. The timeline shall ensure that not later than 12 years after the end of the 2001–2002 school year, all students in each group described in subparagraph

(C)(v) will meet or exceed the State's proficient level of academic achievement on the State assessments under paragraph (3).

(G) Measurable objectives

Each State shall establish statewide annual measurable objectives, pursuant to subparagraph (C)(v), for meeting the requirements of this paragraph, and which—

(i) shall be set separately for the assessments of mathematics and reading or language arts under subsection (a)(3) of this section;

(ii) shall be the same for all schools and local educational agencies in the State;

(iii) shall identify a single minimum percentage of students who are required to meet or exceed the proficient level on the academic assessments that applies separately to each group of students described in subparagraph (C)(v);

(iv) shall ensure that all students will meet or exceed the State's proficient level of academic achievement on the State assessments within the State's timeline under subparagraph (F); and

(v) may be the same for more than 1 year, subject to the requirements of subparagraph (H).

(H) Intermediate goals for annual yearly progress

Each State shall establish intermediate goals for meeting the requirements, including the measurable objectives in subparagraph (G), of this paragraph and that shall—

(i) increase in equal increments over the period covered by the State's timeline under subparagraph (F);

(ii) provide for the first increase to occur in not more than 2 years; and

(iii) provide for each following increase to occur in not more than 3 years.

(I) Annual improvement for schools

Each year, for a school to make adequate yearly progress under this paragraph—

(i) each group of students described in subparagraph (C)(v) must meet or exceed the objectives set by the State under subparagraph (G), except that if any group described in subparagraph (C)(v) does not meet those objectives in any particular year, the school shall be considered to have made adequate yearly progress if the percentage of students in that group who did not meet or exceed the proficient level of academic achievement on the State assessments under paragraph (3) for that year decreased by 10 percent of that percentage from the preceding school year and that group made progress on one or more of the academic indicators described in subparagraph (C)(vi) or (vii); and

(ii) not less than 95 percent of each group of students described in subparagraph (C)(v) who are enrolled in the school are required to take the assessments, consistent with paragraph (3)(C)(xi) and with accommodations, guidelines, and alternative assessments provided in the same manner as those provided under section 612(a)(16)(A) of the Individuals with Disabilities Education Act [20 U.S.C. 1412(a)(16)(A)] and paragraph (3), on which adequate yearly progress is based (except that the 95 percent requirement described in this clause shall not apply in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student).

(J) Uniform averaging procedure

For the purpose of determining whether schools are making adequate yearly progress, the State may establish a uniform procedure for averaging data which includes one or more of the following:

(i) The State may average data from the school year for which the determination is made with data from one or two school years immediately preceding that school year.

(ii) Until the assessments described in paragraph (3) are administered in such manner and time to allow for the implementation of the uniform procedure for averaging data described in clause (i), the State may use the academic assessments that were required under paragraph (3) as that paragraph was in effect on the day preceding January 8, 2002, provided that nothing in this clause shall be construed to undermine or delay the determination of adequate yearly progress, the requirements of section 6316 of this title, or the implementation of assessments under this section.

(iii) The State may use data across grades in a school.

(K) Accountability for charter schools

The accountability provisions under this chapter shall be overseen for charter schools in accordance with State charter school law.

(3) Academic assessments

(A) In general

Each State plan shall demonstrate that the State educational agency, in consultation with local educational agencies, has implemented a set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science that will be used as the primary means of determining the yearly performance of the State and of each local educational agency and school in the State in enabling all children to meet the State's challenging student academic achievement standards, except that no State shall be required to meet the requirements of this part relating to science assessments until the beginning of the 2007–2008 school year.

(B) Use of assessments

Each State educational agency may incorporate the data from the assessments under this paragraph into a State-developed longitudinal data system that links student test scores, length of enrollment, and graduation records over time.

(C) Requirements

Such assessments shall—

(i) be the same academic assessments used to measure the achievement of all children;

(ii) be aligned with the State's challenging academic content and student academic achievement standards, and provide coherent information about student attainment of such standards;

(iii) be used for purposes for which such assessments are valid and reliable, and be consistent with relevant, nationally recognized professional and technical standards;

(iv) be used only if the State educational agency provides to the Secretary evidence from the test publisher or other relevant sources that the assessments used are of adequate technical quality for each purpose required under this chapter and are consistent with the requirements of this section, and such evidence is made public by the Secretary upon request;

(v)(I) except as otherwise provided for grades 3 through 8 under clause vii, measure the proficiency of students in, at a minimum, mathematics and reading or language arts, and be administered not less than once during—

(aa) grades 3 through 5;

(bb) grades 6 through 9; and

(cc) grades 10 through 12;

(II) beginning not later than school year 2007–2008, measure the proficiency of all students in science and be administered not less than one time during—

(aa) grades 3 through 5;

(bb) grades 6 through 9; and

(cc) grades 10 through 12;

(vi) involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding;

(vii) beginning not later than school year 2005–2006, measure the achievement of students against the challenging State academic content and student academic achievement standards in each of grades 3 through 8 in, at a minimum, mathematics, and reading or language arts, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of the academic assessments by that deadline and that the State will complete implementation within the additional 1-year period;

(viii) at the discretion of the State, measure the proficiency of students in academic subjects not described in clauses (v), (vi), (vii) in which the State has adopted challenging academic content and academic achievement standards;

(ix) provide for—

(I) the participation in such assessments of all students;

(II) the reasonable adaptations and accommodations for students with disabilities (as defined under section 602(3) of the Individuals with Disabilities Education Act [20 U.S.C. 1401(3)]) necessary to measure the academic achievement of such students relative to State academic content and State student academic achievement standards; and

(III) the inclusion of limited English proficient students, who shall be assessed in a valid and reliable manner and provided reasonable accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency as determined under paragraph (7);

(x) notwithstanding subclause (III), the academic assessment (using tests written in English) of reading or language arts of any student who has attended school in the United States (not including Puerto Rico) for three or more consecutive school years, except that if the local educational agency determines, on a case-by-case individual basis, that academic assessments in another language or form would likely yield more accurate and reliable information on what such student knows and can do, the local educational agency may make a determination to assess such student in the appropriate language other than English for a period that does not exceed two additional consecutive years, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests (written in English) of reading or language arts;

(xi) include students who have attended schools in a local educational agency for a full academic year but have not attended a single school for a full academic year, except that the performance of students who have attended more than 1 school in the local educational agency in any academic year shall be used only in determining the progress of the local educational agency;

(xii) produce individual student interpretive, descriptive, and diagnostic reports, consistent with clause (iii) that allow parents, teachers, and principals to understand and address the specific academic needs of students, and include information regarding achievement on academic assessments aligned with State academic achievement standards, and that are provided to parents, teachers, and principals, as soon as is practicably possible after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;

(xiii) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English pro-

ficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged, except that, in the case of a local educational agency or a school, such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student;

(xiv) be consistent with widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable information; and

(xv) enable itemized score analyses to be produced and reported, consistent with clause (iii), to local educational agencies and schools, so that parents, teachers, principals, and administrators can interpret and address the specific academic needs of students as indicated by the students' achievement on assessment items.

(D) Deferral

A State may defer the commencement, or suspend the administration, but not cease the development, of the assessments described in this paragraph, that were not required prior to January 8, 2002, for 1 year for each year for which the amount appropriated for grants under section 7301b(a)(2) of this title is less than—

(i) $370,000,000 for fiscal year 2002;

(ii) $380,000,000 for fiscal year 2003;

(iii) $390,000,000 for fiscal year 2004; and

(iv) $400,000,000 for fiscal years 2005 through 2007.

(4) Special rule

Academic assessment measures in addition to those in paragraph (3) that do not meet the requirements of such paragraph may be included in the assessment under paragraph (3) as additional measures, but may not be used in lieu of the academic assessments required under paragraph (3). Such additional assessment measures may not be used to reduce the number of or change, the schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 6316 of this title if such additional indicators were not used, but may be used to identify additional schools for school improvement or in need of corrective action or restructuring except as provided in paragraph (2)(I)(i).

(5) State authority

If a State educational agency provides evidence, which is satisfactory to the Secretary, that neither the State educational agency nor any other State government official, agency, or entity has sufficient authority, under State law, to adopt curriculum content and student academic achievement standards, and academic assessments aligned with such academic standards, which will be applicable to all students enrolled in the State's public elementary schools and secondary schools, then the State educational agency may meet the requirements of this subsection by—

(A) adopting academic standards and academic assessments that meet the requirements of this subsection, on a statewide basis, and limiting their applicability to students served under this part; or

(B) adopting and implementing policies that ensure that each local educational agency in the State that receives grants under this part will adopt curriculum content and student academic achievement standards, and academic assessments aligned with such standards, which—

(i) meet all of the criteria in this subsection and any regulations regarding such standards and assessments that the Secretary may publish; and

(ii) are applicable to all students served by each such local educational agency.

(6) Language assessments

Each State plan shall identify the languages other than English that are present in the participating student population and indicate the languages for which yearly student academic assessments are not available and are needed. The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible academic assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate academic assessment measures in the needed languages, but shall not mandate a specific academic assessment or mode of instruction.

(7) Academic assessments of English language proficiency

Each State plan shall demonstrate that local educational agencies in the State will, beginning not later than school year 2002–2003, provide for an annual assessment of English proficiency (measuring students' oral language, reading, and writing skills in English) of all students with limited English proficiency in the schools served by the State educational agency, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of this paragraph by that deadline and that the State will complete implementation within the additional 1-year period.

(8) Requirement

Each State plan shall describe—

(A) how the State educational agency will assist each local educational agency and school affected by the State plan to develop the capacity to comply with each of the requirements of sections 6312(c)(1)(D), 6314(b), and 6315(c) of this title that is applicable to such agency or school;

(B) how the State educational agency will assist each local educational agency and school affected by the State plan to provide

additional educational assistance to individual students assessed as needing help to achieve the State's challenging academic achievement standards;

(C) the specific steps the State educational agency will take to ensure that both schoolwide programs and targeted assistance schools provide instruction by highly qualified instructional staff as required by sections 6314(b)(1)(C) and 6315(c)(1)(E) of this title, including steps that the State educational agency will take to ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers, and the measures that the State educational agency will use to evaluate and publicly report the progress of the State educational agency with respect to such steps;

(D) an assurance that the State educational agency will assist local educational agencies in developing or identifying high-quality effective curricula aligned with State academic achievement standards and how the State educational agency will disseminate such curricula to each local educational agency and school within the State; and

(E) such other factors the State educational agency determines appropriate to provide students an opportunity to achieve the knowledge and skills described in the challenging academic content standards adopted by the State.

(9) Factors affecting student achievement

Each State plan shall include an assurance that the State educational agency will coordinate and collaborate, to the extent feasible and necessary as determined by the State educational agency, with agencies providing services to children, youth, and families, with respect to local educational agencies within the State that are identified under section 6316 of this title and that request assistance with addressing major factors that have significantly affected the academic achievement of students in the local educational agency or schools served by such agency.

(10) Use of academic assessment results to improve student academic achievement

Each State plan shall describe how the State educational agency will ensure that the results of the State assessments described in paragraph (3)—

(A) will be promptly provided to local educational agencies, schools, and teachers in a manner that is clear and easy to understand, but not later than before the beginning of the next school year; and

(B) be used by those local educational agencies, schools, and teachers to improve the educational achievement of individual students.

(c) Other provisions to support teaching and learning

Each State plan shall contain assurances that—

(1) the State educational agency will meet the requirements of subsection (h)(1) of this section and, beginning with the 2002–2003 school year, will produce the annual State report cards described in such subsection, except that the Secretary may provide the State educational agency 1 additional year if the State educational agency demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of this paragraph by that deadline and that the State will complete implementation within the additional 1-year period;

(2) the State will, beginning in school year 2002–2003, participate in biennial State academic assessments of 4th and 8th grade reading and mathematics under the National Assessment of Educational Progress carried out under section 9622(b)(2) of this title if the Secretary pays the costs of administering such assessments;

(3) the State educational agency, in consultation with the Governor, will include, as a component of the State plan, a plan to carry out the responsibilities of the State under sections 6316 and 6317 of this title, including carrying out the State educational agency's statewide system of technical assistance and support for local educational agencies;

(4) the State educational agency will work with other agencies, including educational service agencies or other local consortia, and institutions to provide technical assistance to local educational agencies and schools, including technical assistance in providing professional development under section 6319 of this title, technical assistance under section 6317 of this title, and technical assistance relating to parental involvement under section 6318 of this title;

(5)(A) where educational service agencies exist, the State educational agency will consider providing professional development and technical assistance through such agencies; and

(B) where educational service agencies do not exist, the State educational agency will consider providing professional development and technical assistance through other cooperative agreements such as through a consortium of local educational agencies;

(6) the State educational agency will notify local educational agencies and the public of the content and student academic achievement standards and academic assessments developed under this section, and of the authority to operate schoolwide programs, and will fulfill the State educational agency's responsibilities regarding local educational agency improvement and school improvement under section 6316 of this title, including such corrective actions as are necessary;

(7) the State educational agency will provide the least restrictive and burdensome regulations for local educational agencies and individual schools participating in a program assisted under this part;

(8) the State educational agency will inform the Secretary and the public of how Federal laws, if at all, hinder the ability of States to hold local educational agencies and schools accountable for student academic achievement;

(9) the State educational agency will encourage schools to consolidate funds from other Federal, State, and local sources for schoolwide reform in schoolwide programs under section 6314 of this title;

(10) the State educational agency will modify or eliminate State fiscal and accounting barriers so that schools can easily consolidate funds from other Federal, State, and local sources for schoolwide programs under section 6314 of this title;

(11) the State educational agency has involved the committee of practitioners established under section 6573(b) of this title in developing the plan and monitoring its implementation;

(12) the State educational agency will inform local educational agencies in the State of the local educational agency's authority to transfer funds under subchapter VI of this chapter, to obtain waivers under part D of subchapter IX of this chapter, and, if the State is an Ed-Flex Partnership State, to obtain waivers under the Education Flexibility Partnership Act of 1999;

(13) the State educational agency will coordinate activities funded under this part with other Federal activities as appropriate; and

(14) the State educational agency will encourage local educational agencies and individual schools participating in a program assisted under this part to offer family literacy services (using funds under this part), if the agency or school determines that a substantial number of students served under this part by the agency or school have parents who do not have a secondary school diploma or its recognized equivalent or who have low levels of literacy.

(d) Parental involvement

Each State plan shall describe how the State educational agency will support the collection and dissemination to local educational agencies and schools of effective parental involvement practices. Such practices shall—

(1) be based on the most current research that meets the highest professional and technical standards, on effective parental involvement that fosters achievement to high standards for all children; and

(2) be geared toward lowering barriers to greater participation by parents in school planning, review, and improvement experienced.

(e) Peer review and Secretarial approval

(1) Secretarial duties

The Secretary shall—

(A) establish a peer-review process to assist in the review of State plans;

(B) appoint individuals to the peer-review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, the needs of low-performing schools, and other educational needs of students;

(C) approve a State plan within 120 days of its submission unless the Secretary determines that the plan does not meet the requirements of this section;

(D) if the Secretary determines that the State plan does not meet the requirements of subsection (a), (b), or (c) of this section, immediately notify the State of such determination and the reasons for such determination;

(E) not decline to approve a State's plan before—

(i) offering the State an opportunity to revise its plan;

(ii) providing technical assistance in order to assist the State to meet the requirements of subsections (a), (b), and (c) of this section; and

(iii) providing a hearing; and

(F) have the authority to disapprove a State plan for not meeting the requirements of this part, but shall not have the authority to require a State, as a condition of approval of the State plan, to include in, or delete from, such plan one or more specific elements of the State's academic content standards or to use specific academic assessment instruments or items.

(2) State revisions

A State plan shall be revised by the State educational agency if it is necessary to satisfy the requirements of this section.

(f) Duration of the plan

(1) In general

Each State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised as necessary by the State educational agency to reflect changes in the State's strategies and programs under this part.

(2) Additional information

If significant changes are made to a State's plan, such as the adoption of new State academic content standards and State student achievement standards, new academic assessments, or a new definition of adequate yearly progress, such information shall be submitted to the Secretary.

(g) Penalties

(1) Failure to meet deadlines enacted in 1994

(A) In general

If a State fails to meet the deadlines established by the Improving America's Schools Act of 1994 (or under any waiver granted by the Secretary or under any compliance agreement with the Secretary) for demonstrating that the State has in place challenging academic content standards and student achievement standards, and a system for measuring and monitoring adequate yearly progress, the Secretary shall withhold 25 percent of the funds that would otherwise be available to the State for State administration and activities under this part in each year until the Secretary determines that the State meets those requirements.

(B) No extension

Notwithstanding any other provision of law, 90 days after January 8, 2002, the Sec-

retary shall not grant any additional waivers of, or enter into any additional compliance agreements to extend, the deadlines described in subparagraph (A) for any State.

(2) Failure to meet requirements enacted in 2001

If a State fails to meet any of the requirements of this section, other than the requirements described in paragraph (1), then the Secretary may withhold funds for State administration under this part until the Secretary determines that the State has fulfilled those requirements.

(h) Reports

(1) Annual State report card

(A) In general

Not later than the beginning of the 2002–2003 school year, unless the State has received a 1-year extension pursuant to subsection (c)(1) of this section, a State that receives assistance under this part shall prepare and disseminate an annual State report card.

(B) Implementation

The State report card shall be—

(i) concise; and

(ii) presented in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

(C) Required information

The State shall include in its annual State report card—

(i) information, in the aggregate, on student achievement at each proficiency level on the State academic assessments described in subsection (b)(3) of this section (disaggregated by race, ethnicity, gender, disability status, migrant status, English proficiency, and status as economically disadvantaged, except that such disaggregation shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student);

(ii) information that provides a comparison between the actual achievement levels of each group of students described in subsection (b)(2)(C)(v) of this section and the State's annual measurable objectives for each such group of students on each of the academic assessments required under this part;

(iii) the percentage of students not tested (disaggregated by the same categories and subject to the same exception described in clause (i));

(iv) the most recent 2-year trend in student achievement in each subject area, and for each grade level, for which assessments under this section are required;

(v) aggregate information on any other indicators used by the State to determine the adequate yearly progress of students in achieving State academic achievement standards;

(vi) graduation rates for secondary school students consistent with subsection (b)(2)(C)(vi) of this section;

(vii) information on the performance of local educational agencies in the State regarding making adequate yearly progress, including the number and names of each school identified for school improvement under section 6316 of this title; and

(viii) the professional qualifications of teachers in the State, the percentage of such teachers teaching with emergency or provisional credentials, and the percentage of classes in the State not taught by highly qualified teachers, in the aggregate and disaggregated by high-poverty compared to low-poverty schools which, for the purpose of this clause, means schools in the top quartile of poverty and the bottom quartile of poverty in the State.

(D) Optional information

The State may include in its annual State report card such other information as the State believes will best provide parents, students, and other members of the public with information regarding the progress of each of the State's public elementary schools and public secondary schools. Such information may include information regarding—

(i) school attendance rates;

(ii) average class size in each grade;

(iii) academic achievement and gains in English proficiency of limited English proficient students;

(iv) the incidence of school violence, drug abuse, alcohol abuse, student suspensions, and student expulsions;

(v) the extent and type of parental involvement in the schools;

(vi) the percentage of students completing advanced placement courses, and the rate of passing of advanced placement tests; and

(vii) a clear and concise description of the State's accountability system, including a description of the criteria by which the State evaluates school performance, and the criteria that the State has established, consistent with subsection (b)(2) of this section, to determine the status of schools regarding school improvement, corrective action, and restructuring.

(2) Annual local educational agency report cards

(A) Report cards

(i) In general

Not later than the beginning of the 2002–2003 school year, a local educational agency that receives assistance under this part shall prepare and disseminate an annual local educational agency report card, except that the State educational agency may provide the local educational agency 1 additional year if the local educational agency demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency, prevented

full implementation of this paragraph by that deadline and that the local educational agency will complete implementation within the additional 1-year period.

(ii) Special rule

If a State educational agency has received an extension pursuant to subsection (c)(1) of this section, then a local educational agency within that State shall not be required to include the information required under paragraph (1)(C) in such report card during such extension.

(B) Minimum requirements

The State educational agency shall ensure that each local educational agency collects appropriate data and includes in the local educational agency's annual report the information described in paragraph (1)(C) as applied to the local educational agency and each school served by the local educational agency, and—

(i) in the case of a local educational agency—

(I) the number and percentage of schools identified for school improvement under section 6316(c) of this title and how long the schools have been so identified; and

(II) information that shows how students served by the local educational agency achieved on the statewide academic assessment compared to students in the State as a whole; and

(ii) in the case of a school—

(I) whether the school has been identified for school improvement; and

(II) information that shows how the school's students achievement on the statewide academic assessments and other indicators of adequate yearly progress compared to students in the local educational agency and the State as a whole.

(C) Other information

A local educational agency may include in its annual local educational agency report card any other appropriate information, whether or not such information is included in the annual State report card.

(D) Data

A local educational agency or school shall only include in its annual local educational agency report card data that are sufficient to yield statistically reliable information, as determined by the State, and that do not reveal personally identifiable information about an individual student.

(E) Public dissemination

The local educational agency shall, not later than the beginning of the 2002–2003 school year, unless the local educational agency has received a 1-year extension pursuant to subparagraph (A), publicly disseminate the information described in this paragraph to all schools in the school district served by the local educational agency and to all parents of students attending those schools in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand, and make the information widely available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies, except that if a local educational agency issues a report card for all students, the local educational agency may include the information under this section as part of such report.

(3) Preexisting report cards

A State educational agency or local educational agency that was providing public report cards on the performance of students, schools, local educational agencies, or the State prior to January 8, 2002, may use those report cards for the purpose of this subsection, so long as any such report card is modified, as may be needed, to contain the information required by this subsection.

(4) Annual State report to the Secretary

Each State educational agency receiving assistance under this part shall report annually to the Secretary, and make widely available within the State—

(A) beginning with school year 2002–2003, information on the State's progress in developing and implementing the academic assessments described in subsection (b)(3) of this section;

(B) beginning not later than school year 2002–2003, information on the achievement of students on the academic assessments required by subsection (b)(3) of this section, including the disaggregated results for the categories of students identified in subsection (b)(2)(C)(v) of this section;

(C) in any year before the State begins to provide the information described in subparagraph (B), information on the results of student academic assessments (including disaggregated results) required under this section;

(D) beginning not later than school year 2002–2003, unless the State has received an extension pursuant to subsection (c)(1) of this section, information on the acquisition of English proficiency by children with limited English proficiency;

(E) the number and names of each school identified for school improvement under section 6316(c) of this title, the reason why each school was so identified, and the measures taken to address the achievement problems of such schools;

(F) the number of students and schools that participated in public school choice and supplemental service programs and activities under this subchapter; and

(G) beginning not later than the 2002–2003 school year, information on the quality of teachers and the percentage of classes being taught by highly qualified teachers in the State, local educational agency, and school.

(5) Report to Congress

The Secretary shall transmit annually to the Committee on Education and the Work-

force of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that provides national and State-level data on the information collected under paragraph (4).

(6) Parents right-to-know

(A) Qualifications

At the beginning of each school year, a local educational agency that receives funds under this part shall notify the parents of each student attending any school receiving funds under this part that the parents may request, and the agency will provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student's classroom teachers, including, at a minimum, the following:

(i) Whether the teacher has met State qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.

(ii) Whether the teacher is teaching under emergency or other provisional status through which State qualification or licensing criteria have been waived.

(iii) The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.

(iv) Whether the child is provided services by paraprofessionals and, if so, their qualifications.

(B) Additional information

In addition to the information that parents may request under subparagraph (A), a school that receives funds under this part shall provide to each individual parent—

(i) information on the level of achievement of the parent's child in each of the State academic assessments as required under this part; and

(ii) timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who is not highly qualified.

(C) Format

The notice and information provided to parents under this paragraph shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

(i) Privacy

Information collected under this section shall be collected and disseminated in a manner that protects the privacy of individuals.

(j) Technical assistance

The Secretary shall provide a State educational agency, at the State educational agency's request, technical assistance in meeting the requirements of this section, including the provision of advice by experts in the development of high-quality academic assessments, the setting of State standards, the development of measures of adequate yearly progress that are valid and reliable, and other relevant areas.

(k) Voluntary partnerships

A State may enter into a voluntary partnership with another State to develop and implement the academic assessments and standards required under this section.

***(l)* Construction**

Nothing in this part shall be construed to prescribe the use of the academic assessments described in this part for student promotion or graduation purposes.

(m) Special rule with respect to Bureau-funded schools

In determining the assessments to be used by each operated or funded by BIA school receiving funds under this part, the following shall apply:

(1) Each such school that is accredited by the State in which it is operating shall use the assessments the State has developed and implemented to meet the requirements of this section, or such other appropriate assessment as approved by the Secretary of the Interior.

(2) Each such school that is accredited by a regional accrediting organization shall adopt an appropriate assessment, in consultation with and with the approval of, the Secretary of the Interior and consistent with assessments adopted by other schools in the same State or region, that meets the requirements of this section.

(3) Each such school that is accredited by a tribal accrediting agency or tribal division of education shall use an assessment developed by such agency or division, except that the Secretary of the Interior shall ensure that such assessment meets the requirements of this section.

(Pub. L. 89–10, title I, § 1111, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1444; amended Pub. L. 107–279, title IV, § 404(d)(1), Nov. 5, 2002, 116 Stat. 1985; Pub. L. 108–446, title III, § 305(g)(1), Dec. 3, 2004, 118 Stat. 2805.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(1), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Carl D. Perkins Vocational and Technical Education Act of 1998, referred to in subsec. (a)(1), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Head Start Act, referred to in subsec. (a)(1), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (a)(1), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§ 9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(1), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (§ 11301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this

Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

The Education Flexibility Partnership Act of 1999, referred to in subsec. (c)(12), is Pub. L. 106–25, Apr. 29, 1999, 113 Stat. 41, as amended, which enacted sections 5891a and 5891b of this title, amended section 1415 of this title, and enacted provisions set out as notes under sections 1415 and 5891a of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 5801 of this title and Tables.

The Improving America's Schools Act of 1994, referred to in subsec. (g)(1)(A), is Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518, as amended. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 6311, Pub. L. 89–10, title I, §1111, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3523; amended Pub. L. 104–134, title I, §101(d) [title VII, §703(b)(1)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–254; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1603], Dec. 21, 2000, 114 Stat. 2763, 2763A–328, related to State plans, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1111 of Pub. L. 89–10 was classified to section 2768 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2004—Subsec. (b)(2)(I)(ii). Pub. L. 108–446 substituted ''section 612(a)(16)(A)'' for ''section 612(a)(17)(A)''.

2002—Subsec. (c)(2). Pub. L. 107–279 substituted ''section 9622(b)(2) of this title'' for ''section 9010(b)(2) of this title''.

§ 6312. Local educational agency plans

(a) Plans required

(1) Subgrants

A local educational agency may receive a subgrant under this part for any fiscal year only if such agency has on file with the State educational agency a plan, approved by the State educational agency, that is coordinated with other programs under this chapter, the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], the Carl D. Perkins Vocational and Technical Education Act of 1998 [20 U.S.C. 2301 et seq.], the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11301 et seq.], and other Acts, as appropriate.

(2) Consolidated application

The plan may be submitted as part of a consolidated application under section 7845 of this title.

(b) Plan provisions

(1) In general

In order to help low-achieving children meet challenging achievement academic standards, each local educational agency plan shall include—

(A) a description of high-quality student academic assessments, if any, that are in addition to the academic assessments described in the State plan under section 6311(b)(3) of this title, that the local educational agency and schools served under this part will use—

(i) to determine the success of children served under this part in meeting the State student academic achievement standards, and to provide information to teachers, parents, and students on the progress being made toward meeting the State student academic achievement standards described in section 6311(b)(1)(D)(ii) of this title;

(ii) to assist in diagnosis, teaching, and learning in the classroom in ways that best enable low-achieving children served under this part to meet State student achievement academic standards and do well in the local curriculum;

(iii) to determine what revisions are needed to projects under this part so that such children meet the State student academic achievement standards; and

(iv) to identify effectively students who may be at risk for reading failure or who are having difficulty reading, through the use of screening, diagnostic, and classroom-based instructional reading assessments, as defined under section 6368 of this title;

(B) at the local educational agency's discretion, a description of any other indicators that will be used in addition to the academic indicators described in section 6311 of this title for the uses described in such section;

(C) a description of how the local educational agency will provide additional educational assistance to individual students assessed as needing help in meeting the State's challenging student academic achievement standards;

(D) a description of the strategy the local educational agency will use to coordinate programs under this part with programs under subchapter II of this chapter to provide professional development for teachers and principals, and, if appropriate, pupil services personnel, administrators, parents and other staff, including local educational agency level staff in accordance with sections 6318 and 6319 of this title;

(E) a description of how the local educational agency will coordinate and integrate services provided under this part with other educational services at the local educational agency or individual school level, such as—

(i) Even Start, Head Start, Reading First, Early Reading First, and other preschool programs, including plans for the transition of participants in such programs to local elementary school programs; and

(ii) services for children with limited English proficiency, children with disabilities, migratory children, neglected or delinquent youth, Indian children served under part A of subchapter VII of this chapter, homeless children, and immigrant children in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;

(F) an assurance that the local educational agency will participate, if selected, in the State National Assessment of Educational

Progress in 4th and 8th grade reading and mathematics carried out under section 9622(b)(2) of this title;

(G) a description of the poverty criteria that will be used to select school attendance areas under section 6313 of this title;

(H) a description of how teachers, in consultation with parents, administrators, and pupil services personnel, in targeted assistance schools under section 6315 of this title, will identify the eligible children most in need of services under this part;

(I) a general description of the nature of the programs to be conducted by such agency's schools under sections 6314 and 6315 of this title and, where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, and for neglected and delinquent children in community day school programs;

(J) a description of how the local educational agency will ensure that migratory children and formerly migratory children who are eligible to receive services under this part are selected to receive such services on the same basis as other children who are selected to receive services under this part;

(K) if appropriate, a description of how the local educational agency will use funds under this part to support preschool programs for children, particularly children participating in Early Reading First, or in a Head Start or Even Start program, which services may be provided directly by the local educational agency or through a subcontract with the local Head Start agency designated by the Secretary of Health and Human Services under section 9836 of title 42, or an agency operating an Even Start program, an Early Reading First program, or another comparable public early childhood development program;

(L) a description of the actions the local educational agency will take to assist its low-achieving schools identified under section 6316 of this title as in need of improvement;

(M) a description of the actions the local educational agency will take to implement public school choice and supplemental services, consistent with the requirements of section 6316 of this title;

(N) a description of how the local educational agency will meet the requirements of section 6319 of this title;

(O) a description of the services the local educational agency will provide homeless children, including services provided with funds reserved under section 6313(c)(3)(A) of this title;

(P) a description of the strategy the local educational agency will use to implement effective parental involvement under section 6318 of this title; and

(Q) where appropriate, a description of how the local educational agency will use funds under this part to support after school (including before school and summer school) and school-year extension programs.

(2) Exception

The academic assessments and indicators described in subparagraphs (A) and (B) of paragraph (1) shall not be used—

(A) in lieu of the academic assessments required under section 6311(b)(3) of this title and other State academic indicators under section 6311(b)(2) of this title; or

(B) to reduce the number of, or change which, schools would otherwise be subject to school improvement, corrective action, or restructuring under section 6316 of this title, if such additional assessments or indicators described in such subparagraphs were not used, but such assessments and indicators may be used to identify additional schools for school improvement or in need of corrective action or restructuring.

(c) Assurances

(1) In general

Each local educational agency plan shall provide assurances that the local educational agency will—

(A) inform eligible schools and parents of schoolwide program authority and the ability of such schools to consolidate funds from Federal, State, and local sources;

(B) provide technical assistance and support to schoolwide programs;

(C) work in consultation with schools as the schools develop the schools' plans pursuant to section 6314 of this title and assist schools as the schools implement such plans or undertake activities pursuant to section 6315 of this title so that each school can make adequate yearly progress toward meeting the State student academic achievement standards;

(D) fulfill such agency's school improvement responsibilities under section 6316 of this title, including taking actions under paragraphs (7) and (8) of section 6316(b) of this title;

(E) provide services to eligible children attending private elementary schools and secondary schools in accordance with section 6320 of this title, and timely and meaningful consultation with private school officials regarding such services;

(F) take into account the experience of model programs for the educationally disadvantaged, and the findings of relevant scientifically based research indicating that services may be most effective if focused on students in the earliest grades at schools that receive funds under this part;

(G) in the case of a local educational agency that chooses to use funds under this part to provide early childhood development services to low-income children below the age of compulsory school attendance, ensure that such services comply with the performance standards established under section 9836a(a) of title 42;

(H) work in consultation with schools as the schools develop and implement their plans or activities under sections 6318 and 6319 of this title;

(I) comply with the requirements of section 6319 of this title regarding the qualifica-

tions of teachers and paraprofessionals and professional development;

(J) inform eligible schools of the local educational agency's authority to obtain waivers on the school's behalf under subchapter IX of this chapter and, if the State is an Ed-Flex Partnership State, to obtain waivers under the Education Flexibility Partnership Act of 1999;

(K) coordinate and collaborate, to the extent feasible and necessary as determined by the local educational agency, with the State educational agency and other agencies providing services to children, youth, and families with respect to a school in school improvement, corrective action, or restructuring under section 6316 of this title if such a school requests assistance from the local educational agency in addressing major factors that have significantly affected student achievement at the school;

(L) ensure, through incentives for voluntary transfers, the provision of professional development, recruitment programs, or other effective strategies, that low-income students and minority students are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers;

(M) use the results of the student academic assessments required under section 6311(b)(3) of this title, and other measures or indicators available to the agency, to review annually the progress of each school served by the agency and receiving funds under this part to determine whether all of the schools are making the progress necessary to ensure that all students will meet the State's proficient level of achievement on the State academic assessments described in section 6311(b)(3) of this title within 12 years from the end of the 2001–2002 school year;

(N) ensure that the results from the academic assessments required under section 6311(b)(3) of this title will be provided to parents and teachers as soon as is practicably possible after the test is taken, in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and

(O) assist each school served by the agency and assisted under this part in developing or identifying examples of high-quality, effective curricula consistent with section 6311(b)(8)(D) of this title.

(2) Special rule

In carrying out subparagraph (G) of paragraph (1), the Secretary—

(A) shall consult with the Secretary of Health and Human Services and shall establish procedures (taking into consideration existing State and local laws, and local teacher contracts) to assist local educational agencies to comply with such subparagraph; and

(B) shall disseminate to local educational agencies the Head Start performance standards as in effect under section 9836a(a) of title 42, and such agencies affected by such subparagraph shall plan for the implementation of such subparagraph (taking into consideration existing State and local laws, and local teacher contracts), including pursuing the availability of other Federal, State, and local funding sources to assist in compliance with such subparagraph.

(3) Inapplicability

Paragraph (1)(G) of this subsection shall not apply to preschool programs using the Even Start model or to Even Start programs that are expanded through the use of funds under this part.

(d) Plan development and duration

(1) Consultation

Each local educational agency plan shall be developed in consultation with teachers, principals, administrators (including administrators of programs described in other parts of this subchapter), and other appropriate school personnel, and with parents of children in schools served under this part.

(2) Duration

Each such plan shall be submitted for the first year for which this part is in effect following January 8, 2002, and shall remain in effect for the duration of the agency's participation under this part.

(3) Review

Each local educational agency shall periodically review and, as necessary, revise its plan.

(e) State approval

(1) In general

Each local educational agency plan shall be filed according to a schedule established by the State educational agency.

(2) Approval

The State educational agency shall approve a local educational agency's plan only if the State educational agency determines that the local educational agency's plan—

(A) enables schools served under this part to substantially help children served under this part meet the academic standards expected of all children described in section 6311(b)(1) of this title; and

(B) meets the requirements of this section.

(3) Review

The State educational agency shall review the local educational agency's plan to determine if such agencies activities are in accordance with sections 6318 and 6319 of this title.

(f) Program responsibility

The local educational agency plan shall reflect the shared responsibility of schools, teachers, and the local educational agency in making decisions regarding activities under sections 6314 and 6315 of this title.

(g) Parental notification

(1) In general

(A) Notice

Each local educational agency using funds under this part to provide a language instruction educational program as determined in part C of subchapter III of this

chapter shall, not later than 30 days after the beginning of the school year, inform a parent or parents of a limited English proficient child identified for participation or participating in, such a program of—

(i) the reasons for the identification of their child as limited English proficient and in need of placement in a language instruction educational program;

(ii) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;

(iii) the methods of instruction used in the program in which their child is, or will be participating, and the methods of instruction used in other available programs, including how such programs differ in content, instructional goals, and the use of English and a native language in instruction;

(iv) how the program in which their child is, or will be participating, will meet the educational strengths and needs of their child;

(v) how such program will specifically help their child learn English, and meet age-appropriate academic achievement standards for grade promotion and graduation;

(vi) the specific exit requirements for the program, including the expected rate of transition from such program into classrooms that are not tailored for limited English proficient children, and the expected rate of graduation from secondary school for such program if funds under this part are used for children in secondary schools;

(vii) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child;

(viii) information pertaining to parental rights that includes written guidance—

(I) detailing—

(aa) the right that parents have to have their child immediately removed from such program upon their request; and

(bb) the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and

(II) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

(B) Separate notification

In addition to providing the information required to be provided under paragraph (1), each eligible entity that is using funds provided under this part to provide a language instruction educational program, and that has failed to make progress on the annual measurable achievement objectives described in section 6842 of this title for any fiscal year for which part A[1] is in effect, shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

(2) Notice

The notice and information provided in paragraph (1) to a parent or parents of a child identified for participation in a language instruction educational program for limited English proficient children shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.

(3) Special rule applicable during the school year

For those children who have not been identified as limited English proficient prior to the beginning of the school year the local educational agency shall notify parents within the first 2 weeks of the child being placed in a language instruction educational program consistent with paragraphs (1) and (2).

(4) Parental participation

Each local educational agency receiving funds under this part shall implement an effective means of outreach to parents of limited English proficient students to inform the parents regarding how the parents can be involved in the education of their children, and be active participants in assisting their children to attain English proficiency, achieve at high levels in core academic subjects, and meet challenging State academic achievement standards and State academic content standards expected of all students, including holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents of students assisted under this part.

(5) Basis for admission or exclusion

A student shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

(Pub. L. 89–10, title I, §1112, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1462; amended Pub. L. 107–279, title IV, §404(d)(2), Nov. 5, 2002, 116 Stat. 1985.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(1), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Carl D. Perkins Vocational and Technical Education Act of 1998, referred to in subsec. (a)(1), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

[1] So in original. Probably should be followed by ''of subchapter III of this chapter''.

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(1), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (§ 11301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

The Education Flexibility Partnership Act of 1999, referred to in subsec. (c)(1)(J), is Pub. L. 106–25, Apr. 29, 1999, 113 Stat. 41, as amended, which enacted sections 5891a and 5891b of this title, amended section 1415 of this title, and enacted provisions set out as notes under sections 1415 and 5891a of this title. For complete classification of this Act to the Code, see Short Title of 1999 Amendment note set out under section 5801 of this title and Tables.

PRIOR PROVISIONS

A prior section 6312, Pub. L. 89–10, title I, § 1112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3529, related to local educational agency plans, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2002—Subsec. (b)(1)(F). Pub. L. 107–279 substituted ''section 9622(b)(2) of this title'' for ''section 9010(b)(2) of this title''.

§ 6313. Eligible school attendance areas

(a) Determination

(1) In general

A local educational agency shall use funds received under this part only in eligible school attendance areas.

(2) Eligible school attendance areas

For the purposes of this part—

(A) the term ''school attendance area'' means, in relation to a particular school, the geographical area in which the children who are normally served by that school reside; and

(B) the term ''eligible school attendance area'' means a school attendance area in which the percentage of children from low-income families is at least as high as the percentage of children from low-income families served by the local educational agency as a whole.

(3) Ranking order

If funds allocated in accordance with subsection (c) of this section are insufficient to serve all eligible school attendance areas, a local educational agency shall—

(A) annually rank, without regard to grade spans, such agency's eligible school attendance areas in which the concentration of children from low-income families exceeds 75 percent from highest to lowest according to the percentage of children from low-income families; and

(B) serve such eligible school attendance areas in rank order.

(4) Remaining funds

If funds remain after serving all eligible school attendance areas under paragraph (3), a local educational agency shall—

(A) annually rank such agency's remaining eligible school attendance areas from highest to lowest either by grade span or for the entire local educational agency according to the percentage of children from low-income families; and

(B) serve such eligible school attendance areas in rank order either within each grade-span grouping or within the local educational agency as a whole.

(5) Measures

The local educational agency shall use the same measure of poverty, which measure shall be the number of children ages 5 through 17 in poverty counted in the most recent census data approved by the Secretary, the number of children eligible for free and reduced priced lunches under the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.], the number of children in families receiving assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], or the number of children eligible to receive medical assistance under the Medicaid program, or a composite of such indicators, with respect to all school attendance areas in the local educational agency—

(A) to identify eligible school attendance areas;

(B) to determine the ranking of each area; and

(C) to determine allocations under subsection (c) of this section.

(6) Exception

This subsection shall not apply to a local educational agency with a total enrollment of less than 1,000 children.

(7) Waiver for desegregation plans

The Secretary may approve a local educational agency's written request for a waiver of the requirements of subsections (a) and (c) of this section, and permit such agency to treat as eligible, and serve, any school that children attend with a State-ordered, court-ordered school desegregation plan or a plan that continues to be implemented in accordance with a State-ordered or court-ordered desegregation plan, if—

(A) the number of economically disadvantaged children enrolled in the school is at least 25 percent of the school's total enrollment; and

(B) the Secretary determines on the basis of a written request from such agency and in accordance with such criteria as the Secretary establishes, that approval of that request would further the purposes of this part.

(b) Local educational agency discretion

(1) In general

Notwithstanding subsection (a)(2) of this section, a local educational agency may—

(A) designate as eligible any school attendance area or school in which at least 35 percent of the children are from low-income families;

(B) use funds received under this part in a school that is not in an eligible school attendance area, if the percentage of children from low-income families enrolled in the school is equal to or greater than the per-

centage of such children in a participating school attendance area of such agency;

(C) designate and serve a school attendance area or school that is not eligible under this section, but that was eligible and that was served in the preceding fiscal year, but only for 1 additional fiscal year; and

(D) elect not to serve an eligible school attendance area or eligible school that has a higher percentage of children from low-income families if—

(i) the school meets the comparability requirements of section 6321(c) of this title;

(ii) the school is receiving supplemental funds from other State or local sources that are spent according to the requirements of section 6314 or 6315 of this title; and

(iii) the funds expended from such other sources equal or exceed the amount that would be provided under this part.

(2) Special rule

Notwithstanding paragraph (1)(D), the number of children attending private elementary schools and secondary schools who are to receive services, and the assistance such children are to receive under this part, shall be determined without regard to whether the public school attendance area in which such children reside is assisted under subparagraph (A).

(c) Allocations

(1) In general

A local educational agency shall allocate funds received under this part to eligible school attendance areas or eligible schools, identified under subsections (a) and (b) of this section, in rank order, on the basis of the total number of children from low-income families in each area or school.

(2) Special rule

(A) In general

Except as provided in subparagraph (B), the per-pupil amount of funds allocated to each school attendance area or school under paragraph (1) shall be at least 125 percent of the per-pupil amount of funds a local educational agency received for that year under the poverty criteria described by the local educational agency in the plan submitted under section 6312 of this title, except that this paragraph shall not apply to a local educational agency that only serves schools in which the percentage of such children is 35 percent or greater.

(B) Exception

A local educational agency may reduce the amount of funds allocated under subparagraph (A) for a school attendance area or school by the amount of any supplemental State and local funds expended in that school attendance area or school for programs that meet the requirements of section 6314 or 6315 of this title.

(3) Reservation

A local educational agency shall reserve such funds as are necessary under this part to provide services comparable to those provided to children in schools funded under this part to serve—

(A) homeless children who do not attend participating schools, including providing educationally related support services to children in shelters and other locations where children may live;

(B) children in local institutions for neglected children; and

(C) if appropriate, children in local institutions for delinquent children, and neglected or delinquent children in community day school programs.

(4) Financial incentives and rewards reservation

A local educational agency may reserve such funds as are necessary from those funds received by the local educational agency under subchapter II of this chapter, and not more than 5 percent of those funds received by the local educational agency under subpart 2 of this part, to provide financial incentives and rewards to teachers who serve in schools eligible under this section and identified for school improvement, corrective action, and restructuring under section 6316(b) of this title for the purpose of attracting and retaining qualified and effective teachers.

(Pub. L. 89–10, title I, §1113, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1469.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (a)(5), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (a)(5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6313, Pub. L. 89–10, title I, §1113, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3532; amended Pub. L. 104–193, title I, §110(j)(1), Aug. 22, 1996, 110 Stat. 2172; Pub. L. 106–78, title VII, §752(b)(10), Oct. 22, 1999, 113 Stat. 1169, related to eligible school attendance areas, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6314. Schoolwide programs

(a) Use of funds for schoolwide programs

(1) In general

A local educational agency may consolidate and use funds under this part, together with other Federal, State, and local funds, in order to upgrade the entire educational program of a school that serves an eligible school attendance area in which not less than 40 percent of the children are from low-income families, or not less than 40 percent of the children enrolled in the school are from such families.

(2) Identification of students not required

(A) In general

No school participating in a schoolwide program shall be required—

(i) to identify particular children under this part as eligible to participate in a schoolwide program; or

(ii) to provide services to such children that are supplementary, as otherwise required by section 6321(b) of this title.

(B) Supplemental funds

A school participating in a schoolwide program shall use funds available to carry out this section only to supplement the amount of funds that would, in the absence of funds under this part, be made available from non-Federal sources for the school, including funds needed to provide services that are required by law for children with disabilities and children with limited English proficiency.

(3) Exemption from statutory and regulatory requirements

(A) Exemption

Except as provided in subsection (b) of this section, the Secretary may, through publication of a notice in the Federal Register, exempt schoolwide programs under this section from statutory or regulatory provisions of any other noncompetitive formula grant program administered by the Secretary (other than formula or discretionary grant programs under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], except as provided in section 613(a)(2)(D) of such Act [20 U.S.C. 1413(a)(2)(D)]), or any discretionary grant program administered by the Secretary, to support schoolwide programs if the intent and purposes of such other programs are met.

(B) Requirements

A school that chooses to use funds from such other programs shall not be relieved of the requirements relating to health, safety, civil rights, student and parental participation and involvement, services to private school children, maintenance of effort, comparability of services, uses of Federal funds to supplement, not supplant non-Federal funds, or the distribution of funds to State educational agencies or local educational agencies that apply to the receipt of funds from such programs.

(C) Records

A school that consolidates and uses funds from different Federal programs under this section shall not be required to maintain separate fiscal accounting records, by program, that identify the specific activities supported by those particular funds as long as the school maintains records that demonstrate that the schoolwide program, considered as a whole, addresses the intent and purposes of each of the Federal programs that were consolidated to support the schoolwide program.

(4) Professional development

Each school receiving funds under this part for any fiscal year shall devote sufficient resources to effectively carry out the activities described in subsection (b)(1)(D) of this section in accordance with section 6319 of this title for such fiscal year, except that a school may enter into a consortium with another school to carry out such activities.

(b) Components of a schoolwide program

(1) In general

A schoolwide program shall include the following components:

(A) A comprehensive needs assessment of the entire school (including taking into account the needs of migratory children as defined in section 6399(2) of this title) that is based on information which includes the achievement of children in relation to the State academic content standards and the State student academic achievement standards described in section 6311(b)(1) of this title.

(B) Schoolwide reform strategies that—

(i) provide opportunities for all children to meet the State's proficient and advanced levels of student academic achievement described in section 6311(b)(1)(D) of this title;

(ii) use effective methods and instructional strategies that are based on scientifically based research that—

(I) strengthen the core academic program in the school;

(II) increase the amount and quality of learning time, such as providing an extended school year and before- and after-school and summer programs and opportunities, and help provide an enriched and accelerated curriculum; and

(III) include strategies for meeting the educational needs of historically underserved populations;

(iii)(I) include strategies to address the needs of all children in the school, but particularly the needs of low-achieving children and those at risk of not meeting the State student academic achievement standards who are members of the target population of any program that is included in the schoolwide program, which may include—

(aa) counseling, pupil services, and mentoring services;

(bb) college and career awareness and preparation, such as college and career guidance, personal finance education, and innovative teaching methods, which may include applied learning and team-teaching strategies; and

(cc) the integration of vocational and technical education programs; and

(II) address how the school will determine if such needs have been met; and

(iv) are consistent with, and are designed to implement, the State and local improvement plans, if any.

(C) Instruction by highly qualified teachers.

(D) In accordance with section 6319 of this title and subsection (a)(4) of this section, high-quality and ongoing professional development for teachers, principals, and paraprofessionals and, if appropriate, pupil serv-

ices personnel, parents, and other staff to enable all children in the school to meet the State's student academic achievement standards.

(E) Strategies to attract high-quality highly qualified teachers to high-need schools.

(F) Strategies to increase parental involvement in accordance with section 6318 of this title, such as family literary services.

(G) Plans for assisting preschool children in the transition from early childhood programs, such as Head Start, Even Start, Early Reading First, or a State-run preschool program, to local elementary school programs.

(H) Measures to include teachers in the decisions regarding the use of academic assessments described in section 6311(b)(3) of this title in order to provide information on, and to improve, the achievement of individual students and the overall instructional program.

(I) Activities to ensure that students who experience difficulty mastering the proficient or advanced levels of academic achievement standards required by section 6311(b)(1) of this title shall be provided with effective, timely additional assistance which shall include measures to ensure that students' difficulties are identified on a timely basis and to provide sufficient information on which to base effective assistance.

(J) Coordination and integration of Federal, State, and local services and programs, including programs supported under this chapter, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, vocational and technical education, and job training.

(2) Plan

(A) In general

Any eligible school that desires to operate a schoolwide program shall first develop (or amend a plan for such a program that was in existence on the day before January 8, 2002), in consultation with the local educational agency and its school support team or other technical assistance provider under section 6317 of this title, a comprehensive plan for reforming the total instructional program in the school that—

(i) describes how the school will implement the components described in paragraph (1);

(ii) describes how the school will use resources under this part and from other sources to implement those components;

(iii) includes a list of State educational agency and local educational agency programs and other Federal programs under subsection (a)(3) of this section that will be consolidated in the schoolwide program; and

(iv) describes how the school will provide individual student academic assessment results in a language the parents can understand, including an interpretation of those results, to the parents of a child who participates in the academic assessments required by section 6311(b)(3) of this title.

(B) Plan development

The comprehensive plan shall be—

(i) developed during a one-year period, unless—

(I) the local educational agency, after considering the recommendation of the technical assistance providers under section 6317 of this title, determines that less time is needed to develop and implement the schoolwide program; or

(II) the school is operating a schoolwide program on the day preceding January 8, 2002, in which case such school may continue to operate such program, but shall develop amendments to its existing plan during the first year of assistance after that date to reflect the provisions of this section;

(ii) developed with the involvement of parents and other members of the community to be served and individuals who will carry out such plan, including teachers, principals, and administrators (including administrators of programs described in other parts of this subchapter), and, if appropriate, pupil services personnel, technical assistance providers, school staff, and, if the plan relates to a secondary school, students from such school;

(iii) in effect for the duration of the school's participation under this part and reviewed and revised, as necessary, by the school;

(iv) available to the local educational agency, parents, and the public, and the information contained in such plan shall be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and

(v) if appropriate, developed in coordination with programs under Reading First, Early Reading First, Even Start, Carl D. Perkins Vocational and Technical Education Act of 1998 [20 U.S.C. 2301 et seq.], and the Head Start Act [42 U.S.C. 9831 et seq.].

(c) Prekindergarten program

A school that is eligible for a schoolwide program under this section may use funds made available under this part to establish or enhance prekindergarten programs for children below the age of 6, such as Even Start programs or Early Reading First programs.

(Pub. L. 89–10, title I, §1114, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1471.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(3)(A), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Carl D. Perkins Vocational and Technical Education Act of 1998, referred to in subsec. (b)(2)(B)(v), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

The Head Start Act, referred to in subsec. (b)(2)(B)(v), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6314, Pub. L. 89–10, title I, § 1114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3534; amended Pub. L. 105–332, § 3(c)(1), Oct. 31, 1998, 112 Stat. 3125, related to schoolwide programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6315. Targeted assistance schools

(a) In general

In all schools selected to receive funds under section 6313(c) of this title that are ineligible for a schoolwide program under section 6314 of this title, or that choose not to operate such a schoolwide program, a local educational agency serving such school may use funds received under this part only for programs that provide services to eligible children under subsection (b) of this section identified as having the greatest need for special assistance.

(b) Eligible children

(1) Eligible population

(A) In general

The eligible population for services under this section is—

(i) children not older than age 21 who are entitled to a free public education through grade 12; and

(ii) children who are not yet at a grade level at which the local educational agency provides a free public education.

(B) Eligible children from eligible population

From the population described in subparagraph (A), eligible children are children identified by the school as failing, or most at risk of failing, to meet the State's challenging student academic achievement standards on the basis of multiple, educationally related, objective criteria established by the local educational agency and supplemented by the school, except that children from preschool through grade 2 shall be selected solely on the basis of such criteria as teacher judgment, interviews with parents, and developmentally appropriate measures.

(2) Children included

(A) In general

Children who are economically disadvantaged, children with disabilities, migrant children or limited English proficient children, are eligible for services under this part on the same basis as other children selected to receive services under this part.

(B) Head Start, Even Start, or Early Reading First children

A child who, at any time in the 2 years preceding the year for which the determination is made, participated in a Head Start, Even Start, or Early Reading First program, or in preschool services under this subchapter, is eligible for services under this part.

(C) Part C children

A child who, at any time in the 2 years preceding the year for which the determination is made, received services under part C of this subchapter is eligible for services under this part.

(D) Neglected or delinquent children

A child in a local institution for neglected or delinquent children and youth or attending a community day program for such children is eligible for services under this part.

(E) Homeless children

A child who is homeless and attending any school served by the local educational agency is eligible for services under this part.

(3) Special rule

Funds received under this part may not be used to provide services that are otherwise required by law to be made available to children described in paragraph (2) but may be used to coordinate or supplement such services.

(c) Components of a targeted assistance school program

(1) In general

To assist targeted assistance schools and local educational agencies to meet their responsibility to provide for all their students served under this part the opportunity to meet the State's challenging student academic achievement standards in subjects as determined by the State, each targeted assistance program under this section shall—

(A) use such program's resources under this part to help participating children meet such State's challenging student academic achievement standards expected for all children;

(B) ensure that planning for students served under this part is incorporated into existing school planning;

(C) use effective methods and instructional strategies that are based on scientifically based research that strengthens the core academic program of the school and that—

(i) give primary consideration to providing extended learning time, such as an extended school year, before- and after-school, and summer programs and opportunities;

(ii) help provide an accelerated, high-quality curriculum, including applied learning; and

(iii) minimize removing children from the regular classroom during regular school hours for instruction provided under this part;

(D) coordinate with and support the regular education program, which may include services to assist preschool children in the transition from early childhood programs such as Head Start, Even Start, Early Reading First or State-run preschool programs to elementary school programs;

(E) provide instruction by highly qualified teachers;

(F) in accordance with subsection (e)(3) of this section and section 6319 of this title, provide opportunities for professional development with resources provided under this part, and, to the extent practicable, from other sources, for teachers, principals, and paraprofessionals, including, if appropriate, pupil services personnel, parents, and other staff, who work with participating children in programs under this section or in the regular education program;

(G) provide strategies to increase parental involvement in accordance with section 6318 of this title, such as family literacy services; and

(H) coordinate and integrate Federal, State, and local services and programs, including programs supported under this chapter, violence prevention programs, nutrition programs, housing programs, Head Start, adult education, vocational and technical education, and job training.

(2) Requirements

Each school conducting a program under this section shall assist participating children selected in accordance with subsection (b) of this section to meet the State's proficient and advanced levels of achievement by—

(A) the coordinating of resources provided under this part with other resources; and

(B) reviewing, on an ongoing basis, the progress of participating children and revising the targeted assistance program, if necessary, to provide additional assistance to enable such children to meet the State's challenging student academic achievement standards, such as an extended school year, before- and after-school, and summer programs and opportunities, training for teachers regarding how to identify students who need additional assistance, and training for teachers regarding how to implement student academic achievement standards in the classroom.

(d) Integration of professional development

To promote the integration of staff supported with funds under this part into the regular school program and overall school planning and improvement efforts, public school personnel who are paid with funds received under this part may—

(1) participate in general professional development and school planning activities; and

(2) assume limited duties that are assigned to similar personnel who are not so paid, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

(e) Special rules

(1) Simultaneous service

Nothing in this section shall be construed to prohibit a school from serving students under this section simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(2) Comprehensive services

If—

(A) health, nutrition, and other social services are not otherwise available to eligible children in a targeted assistance school and such school, if appropriate, has engaged in a comprehensive needs assessment and established a collaborative partnership with local service providers; and

(B) funds are not reasonably available from other public or private sources to provide such services, then a portion of the funds provided under this part may be used as a last resort to provide such services, including—

(i) the provision of basic medical equipment, such as eyeglasses and hearing aids;

(ii) compensation of a coordinator; and

(iii) professional development necessary to assist teachers, pupil services personnel, other staff, and parents in identifying and meeting the comprehensive needs of eligible children.

(3) Professional development

Each school receiving funds under this part for any fiscal year shall devote sufficient resources to carry out effectively the professional development activities described in subparagraph (F) of subsection (c)(1) of this section in accordance with section 6319 of this title for such fiscal year, and a school may enter into a consortium with another school to carry out such activities.

(Pub. L. 89–10, title I, §1115, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1475.)

PRIOR PROVISIONS

A prior section 6315, Pub. L. 89–10, title I, §1115, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3539, related to targeted assistance schools, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6316. Academic assessment and local educational agency and school improvement

(a) Local review

(1) In general

Each local educational agency receiving funds under this part shall—

(A) use the State academic assessments and other indicators described in the State plan to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 6311(b)(2) of this title;

(B) at the local educational agency's discretion, use any academic assessments or any other academic indicators described in the local educational agency's plan under section 6312(b)(1)(A) and (B) of this title to review annually the progress of each school served under this part to determine whether the school is making adequate yearly progress as defined in section 6311(b)(2) of this title, except that the local educational agency may not use such indicators (other than as provided for in section 6311(b)(2)(I) of this title) if the indicators reduce the num-

ber or change the schools that would otherwise be subject to school improvement, corrective action, or restructuring under this section if such additional indicators were not used, but may identify additional schools for school improvement or in need of corrective action or restructuring;

(C) publicize and disseminate the results of the local annual review described in paragraph (1) to parents, teachers, principals, schools, and the community so that the teachers, principals, other staff, and schools can continually refine, in an instructionally useful manner, the program of instruction to help all children served under this part meet the challenging State student academic achievement standards established under section 6311(b)(1) of this title; and

(D) review the effectiveness of the actions and activities the schools are carrying out under this part with respect to parental involvement, professional development, and other activities assisted under this part.

(2) Available results

The State educational agency shall ensure that the results of State academic assessments administered in that school year are available to the local educational agency before the beginning of the next school year.

(b) School improvement

(1) General requirements

(A) Identification

Subject to subparagraph (C), a local educational agency shall identify for school improvement any elementary school or secondary school served under this part that fails, for 2 consecutive years, to make adequate yearly progress as defined in the State's plan under section 6311(b)(2) of this title.

(B) Deadline

The identification described in subparagraph (A) shall take place before the beginning of the school year following such failure to make adequate yearly progress.

(C) Application

Subparagraph (A) shall not apply to a school if almost every student in each group specified in section 6311(b)(2)(C)(v) of this title enrolled in such school is meeting or exceeding the State's proficient level of academic achievement.

(D) Targeted assistance schools

To determine if an elementary school or a secondary school that is conducting a targeted assistance program under section 6315 of this title should be identified for school improvement, corrective action, or restructuring under this section, a local educational agency may choose to review the progress of only the students in the school who are served, or are eligible for services, under this part.

(E) Public school choice

(i) In general

In the case of a school identified for school improvement under this paragraph, the local educational agency shall, not later than the first day of the school year following such identification, provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, which may include a public charter school, that has not been identified for school improvement under this paragraph, unless such an option is prohibited by State law.

(ii) Rule

In providing students the option to transfer to another public school, the local educational agency shall give priority to the lowest achieving children from low-income families, as determined by the local educational agency for purposes of allocating funds to schools under section 6313(c)(1) of this title.

(F) Transfer

Students who use the option to transfer under subparagraph (E) and paragraph (5)(A), (7)(C)(i), or (8)(A)(i) or subsection (c)(10)(C)(vii) of this section shall be enrolled in classes and other activities in the public school to which the students transfer in the same manner as all other children at the public school.

(2) Opportunity to review and present evidence; time limit

(A) Identification

Before identifying an elementary school or a secondary school for school improvement under paragraphs[1] (1) or (5)(A), for corrective action under paragraph (7), or for restructuring under paragraph (8), the local educational agency shall provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.

(B) Evidence

If the principal of a school proposed for identification under paragraph (1), (5)(A), (7), or (8) believes, or a majority of the parents of the students enrolled in such school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

(C) Final determination

Not later than 30 days after a local educational agency provides the school with the opportunity to review such school-level data, the local educational agency shall make public a final determination on the status of the school with respect to the identification.

(3) School plan

(A) Revised plan

After the resolution of a review under paragraph (2), each school identified under

[1] So in original. Probably should be ''paragraph''.

paragraph (1) for school improvement shall, not later than 3 months after being so identified, develop or revise a school plan, in consultation with parents, school staff, the local educational agency serving the school, and outside experts, for approval by such local educational agency. The school plan shall cover a 2-year period and—

(i) incorporate strategies based on scientifically based research that will strengthen the core academic subjects in the school and address the specific academic issues that caused the school to be identified for school improvement, and may include a strategy for the implementation of a comprehensive school reform model that includes each of the components described in part F of this subchapter;

(ii) adopt policies and practices concerning the school's core academic subjects that have the greatest likelihood of ensuring that all groups of students specified in section 6311(b)(2)(C)(v) of this title and enrolled in the school will meet the State's proficient level of achievement on the State academic assessment described in section 6311(b)(3) of this title not later than 12 years after the end of the 2001–2002 school year;

(iii) provide an assurance that the school will spend not less than 10 percent of the funds made available to the school under section 6313 of this title for each fiscal year that the school is in school improvement status, for the purpose of providing to the school's teachers and principal high-quality professional development that—

(I) directly addresses the academic achievement problem that caused the school to be identified for school improvement;

(II) meets the requirements for professional development activities under section 6319 of this title; and

(III) is provided in a manner that affords increased opportunity for participating in that professional development;

(iv) specify how the funds described in clause (iii) will be used to remove the school from school improvement status;

(v) establish specific annual, measurable objectives for continuous and substantial progress by each group of students specified in section 6311(b)(2)(C)(v) of this title and enrolled in the school that will ensure that all such groups of students will, in accordance with adequate yearly progress as defined in section 6311(b)(2) of this title, meet the State's proficient level of achievement on the State academic assessment described in section 6311(b)(3) of this title not later than 12 years after the end of the 2001–2002 school year;

(vi) describe how the school will provide written notice about the identification to parents of each student enrolled in such school, in a format and, to the extent practicable, in a language that the parents can understand;

(vii) specify the responsibilities of the school, the local educational agency, and the State educational agency serving the school under the plan, including the technical assistance to be provided by the local educational agency under paragraph (4) and the local educational agency's responsibilities under section 6321 of this title;

(viii) include strategies to promote effective parental involvement in the school;

(ix) incorporate, as appropriate, activities before school, after school, during the summer, and during any extension of the school year; and

(x) incorporate a teacher mentoring program.

(B) Conditional approval

The local educational agency may condition approval of a school plan under this paragraph on—

(i) inclusion of one or more of the corrective actions specified in paragraph (7)(C)(iv); or

(ii) feedback on the school improvement plan from parents and community leaders.

(C) Plan implementation

Except as provided in subparagraph (D), a school shall implement the school plan (including a revised plan) expeditiously, but not later than the beginning of the next full school year following the identification under paragraph (1).

(D) Plan approved during school year

Notwithstanding subparagraph (C), if a plan is not approved prior to the beginning of a school year, such plan shall be implemented immediately upon approval.

(E) Local educational agency approval

The local educational agency, within 45 days of receiving a school plan, shall—

(i) establish a peer review process to assist with review of the school plan; and

(ii) promptly review the school plan, work with the school as necessary, and approve the school plan if the plan meets the requirements of this paragraph.

(4) Technical assistance

(A) In general

For each school identified for school improvement under paragraph (1), the local educational agency serving the school shall ensure the provision of technical assistance as the school develops and implements the school plan under paragraph (3) throughout the plan's duration.

(B) Specific assistance

Such technical assistance—

(i) shall include assistance in analyzing data from the assessments required under section 6311(b)(3) of this title, and other examples of student work, to identify and address problems in instruction, and problems if any, in implementing the parental involvement requirements described in section 6318 of this title, the professional development requirements described in section 6319 of this title, and the respon-

sibilities of the school and local educational agency under the school plan, and to identify and address solutions to such problems;

(ii) shall include assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for school improvement;

(iii) shall include assistance in analyzing and revising the school's budget so that the school's resources are more effectively allocated to the activities most likely to increase student academic achievement and to remove the school from school improvement status; and

(iv) may be provided—

(I) by the local educational agency, through mechanisms authorized under section 6317 of this title; or

(II) by the State educational agency, an institution of higher education (that is in full compliance with all the reporting provisions of title II of the Higher Education Act of 1965 [20 U.S.C. 1021 et seq.]), a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with experience in helping schools improve academic achievement.

(C) Scientifically based research

Technical assistance provided under this section by a local educational agency or an entity approved by that agency shall be based on scientifically based research.

(5) Failure to make adequate yearly progress after identification

In the case of any school served under this part that fails to make adequate yearly progress, as set out in the State's plan under section 6311(b)(2) of this title, by the end of the first full school year after identification under paragraph (1), the local educational agency serving such school—

(A) shall continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency in accordance with subparagraphs (E) and (F);

(B) shall make supplemental educational services available consistent with subsection (e)(1) of this section; and

(C) shall continue to provide technical assistance.

(6) Notice to parents

A local educational agency shall promptly provide to a parent or parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of each student enrolled in an elementary school or a secondary school identified for school improvement under paragraph (1), for corrective action under paragraph (7), or for restructuring under paragraph (8)—

(A) an explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary schools or secondary schools served by the local educational agency and the State educational agency involved;

(B) the reasons for the identification;

(C) an explanation of what the school identified for school improvement is doing to address the problem of low achievement;

(D) an explanation of what the local educational agency or State educational agency is doing to help the school address the achievement problem;

(E) an explanation of how the parents can become involved in addressing the academic issues that caused the school to be identified for school improvement; and

(F) an explanation of the parents' option to transfer their child to another public school under paragraphs (1)(E), (5)(A), (7)(C)(i), (8)(A)(i), and subsection (c)(10)(C)(vii) of this section (with transportation provided by the agency when required by paragraph (9)) or to obtain supplemental educational services for the child, in accordance with subsection (e) of this section.

(7) Corrective action

(A) In general

In this subsection, the term ''corrective action'' means action, consistent with State law, that—

(i) substantially and directly responds to—

(I) the consistent academic failure of a school that caused the local educational agency to take such action; and

(II) any underlying staffing, curriculum, or other problems in the school; and

(ii) is designed to increase substantially the likelihood that each group of students described in[2] 6311(b)(2)(C) of this title enrolled in the school identified for corrective action will meet or exceed the State's proficient levels of achievement on the State academic assessments described in section 6311(b)(3) of this title.

(B) System

In order to help students served under this part meet challenging State student academic achievement standards, each local educational agency shall implement a system of corrective action in accordance with subparagraphs (C) through (E).

(C) Role of local educational agency

In the case of any school served by a local educational agency under this part that fails to make adequate yearly progress, as defined by the State under section 6311(b)(2) of this title, by the end of the second full school year after the identification under paragraph (1), the local educational agency shall—

(i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);

[2] So in original. Probably should be followed by ''section''.

(ii) continue to provide technical assistance consistent with paragraph (4) while instituting any corrective action under clause (iv);

(iii) continue to make supplemental educational services available, in accordance with subsection (e) of this section, to children who remain in the school; and

(iv) identify the school for corrective action and take at least one of the following corrective actions:

(I) Replace the school staff who are relevant to the failure to make adequate yearly progress.

(II) Institute and fully implement a new curriculum, including providing appropriate professional development for all relevant staff, that is based on scientifically based research and offers substantial promise of improving educational achievement for low-achieving students and enabling the school to make adequate yearly progress.

(III) Significantly decrease management authority at the school level.

(IV) Appoint an outside expert to advise the school on its progress toward making adequate yearly progress, based on its school plan under paragraph (3).

(V) Extend the school year or school day for the school.

(VI) Restructure the internal organizational structure of the school.

(D) Delay

Notwithstanding any other provision of this paragraph, the local educational agency may delay, for a period not to exceed 1 year, implementation of the requirements under paragraph (5), corrective action under this paragraph, or restructuring under paragraph (8) if the school makes adequate yearly progress for 1 year or if its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency or school. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

(E) Publication and dissemination

The local educational agency shall publish and disseminate information regarding any corrective action the local educational agency takes under this paragraph at a school—

(i) to the public and to the parents of each student enrolled in the school subject to corrective action;

(ii) in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand; and

(iii) through such means as the Internet, the media, and public agencies.

(8) Restructuring

(A) Failure to make adequate yearly progress

If, after 1 full school year of corrective action under paragraph (7), a school subject to such corrective action continues to fail to make adequate yearly progress, then the local educational agency shall—

(i) continue to provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, in accordance with paragraph (1)(E) and (F);

(ii) continue to make supplemental educational services available, in accordance with subsection (e) of this section, to children who remain in the school; and

(iii) prepare a plan and make necessary arrangements to carry out subparagraph (B).

(B) Alternative governance

Not later than the beginning of the school year following the year in which the local educational agency implements subparagraph (A), the local educational agency shall implement one of the following alternative governance arrangements for the school consistent with State law:

(i) Reopening the school as a public charter school.

(ii) Replacing all or most of the school staff (which may include the principal) who are relevant to the failure to make adequate yearly progress.

(iii) Entering into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school.

(iv) Turning the operation of the school over to the State educational agency, if permitted under State law and agreed to by the State.

(v) Any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress as defined in the State plan under section 6311(b)(2) of this title. In the case of a rural local educational agency with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools have a School Locale Code of 7 or 8, as determined by the Secretary, the Secretary shall, at such agency's request, provide technical assistance to such agency for the purpose of implementing this clause.

(C) Prompt notice

The local educational agency shall—

(i) provide prompt notice to teachers and parents whenever subparagraph (A) or (B) applies; and

(ii) provide the teachers and parents with an adequate opportunity to—

(I) comment before taking any action under those subparagraphs; and

(II) participate in developing any plan under subparagraph (A)(iii).

(9) Transportation

In any case described in paragraph (1)(E) for schools described in paragraphs (1)(A), (5),

(7)(C)(i), and (8)(A), and subsection (c)(10)(C)(vii) of this section, the local educational agency shall provide, or shall pay for the provision of, transportation for the student to the public school the student attends.

(10) Funds for transportation and supplemental educational services

(A) In general

Unless a lesser amount is needed to comply with paragraph (9) and to satisfy all requests for supplemental educational services under subsection (e) of this section, a local educational agency shall spend an amount equal to 20 percent of its allocation under subpart 2 of this part, from which the agency shall spend—

(i) an amount equal to 5 percent of its allocation under subpart 2 of this part to provide, or pay for, transportation under paragraph (9);

(ii) an amount equal to 5 percent of its allocation under subpart 2 of this part to provide supplemental educational services under subsection (e) of this section; and

(iii) an amount equal to the remaining 10 percent of its allocation under subpart 2 of this part for transportation under paragraph (9), supplemental educational services under subsection (e) of this section, or both, as the agency determines.

(B) Total amount

The total amount described in subparagraph (A)(ii) is the maximum amount the local educational agency shall be required to spend under this part on supplemental educational services described in subsection (e) of this section.

(C) Insufficient funds

If the amount of funds described in subparagraph (A)(ii) or (iii) and available to provide services under this subsection is insufficient to provide supplemental educational services to each child whose parents request the services, the local educational agency shall give priority to providing the services to the lowest-achieving children.

(D) Prohibition

A local educational agency shall not, as a result of the application of this paragraph, reduce by more than 15 percent the total amount made available under section 6313(c) of this title to a school described in paragraph (7)(C) or (8)(A) of subsection (b) of this section.

(11) Cooperative agreement

In any case described in paragraph (1)(E), (5)(A), (7)(C)(i), or (8)(A)(i), or subsection (c)(10)(C)(vii) of this section if all public schools served by the local educational agency to which a child may transfer are identified for school improvement, corrective action or restructuring, the agency shall, to the extent practicable, establish a cooperative agreement with other local educational agencies in the area for a transfer.

(12) Duration

If any school identified for school improvement, corrective action, or restructuring makes adequate yearly progress for two consecutive school years, the local educational agency shall no longer subject the school to the requirements of school improvement, corrective action, or restructuring or identify the school for school improvement for the succeeding school year.

(13) Special rule

A local educational agency shall permit a child who transferred to another school under this subsection to remain in that school until the child has completed the highest grade in that school. The obligation of the local educational agency to provide, or to provide for, transportation for the child ends at the end of a school year if the local educational agency determines that the school from which the child transferred is no longer identified for school improvement or subject to corrective action or restructuring.

(14) State educational agency responsibilities

The State educational agency shall—

(A) make technical assistance under section 6317 of this title available to schools identified for school improvement, corrective action, or restructuring under this subsection consistent with section 6317(a)(2) of this title;

(B) if the State educational agency determines that a local educational agency failed to carry out its responsibilities under this subsection, take such corrective actions as the State educational agency determines to be appropriate and in compliance with State law;

(C) ensure that academic assessment results under this part are provided to schools before any identification of a school may take place under this subsection; and

(D) for local educational agencies or schools identified for improvement under this subsection, notify the Secretary of major factors that were brought to the attention of the State educational agency under section 6311(b)(9) of this title that have significantly affected student academic achievement.

(c) State review and local educational agency improvement

(1) In general

A State shall—

(A) annually review the progress of each local educational agency receiving funds under this part to determine whether schools receiving assistance under this part are making adequate yearly progress as defined in section 6311(b)(2) of this title toward meeting the State's student academic achievement standards and to determine if each local educational agency is carrying out its responsibilities under this section and sections 6317, 6318, and 6319 of this title; and

(B) publicize and disseminate to local educational agencies, teachers and other staff, parents, students, and the community the results of the State review, including statistically sound disaggregated results, as required by section 6311(b)(2) of this title.

(2) Rewards

In the case of a local educational agency that, for 2 consecutive years, has exceeded adequate yearly progress as defined in the State plan under section 6311(b)(2) of this title, the State may make rewards of the kinds described under section 6317 of this title to the agency.

(3) Identification of local educational agency for improvement

A State shall identify for improvement any local educational agency that, for 2 consecutive years, including the period immediately prior to January 8, 2002, failed to make adequate yearly progress as defined in the State's plan under section 6311(b)(2) of this title.

(4) Targeted assistance schools

When reviewing targeted assistance schools served by a local educational agency, a State educational agency may choose to review the progress of only the students in such schools who are served, or are eligible for services, under this part.

(5) Opportunity to review and present evidence

(A) Review

Before identifying a local educational agency for improvement under paragraph (3) or corrective action under paragraph (10), a State educational agency shall provide the local educational agency with an opportunity to review the data, including academic assessment data, on which the proposed identification is based.

(B) Evidence

If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency, which shall consider the evidence before making a final determination not later than 30 days after the State educational agency provides the local educational agency with the opportunity to review such data under subparagraph (A).

(6) Notification to parents

The State educational agency shall promptly provide to the parents (in a format and, to the extent practicable, in a language the parents can understand) of each student enrolled in a school served by a local educational agency identified for improvement, the results of the review under paragraph (1) and, if the agency is identified for improvement, the reasons for that identification and how parents can participate in upgrading the quality of the local educational agency.

(7) Local educational agency revisions

(A) Plan

Each local educational agency identified under paragraph (3) shall, not later than 3 months after being so identified, develop or revise a local educational agency plan, in consultation with parents, school staff, and others. Such plan shall—

(i) incorporate scientifically based research strategies that strengthen the core academic program in schools served by the local educational agency;

(ii) identify actions that have the greatest likelihood of improving the achievement of participating children in meeting the State's student academic achievement standards;

(iii) address the professional development needs of the instructional staff serving the agency by committing to spend not less than 10 percent of the funds received by the local educational agency under subpart 2 of this part for each fiscal year in which the agency is identified for improvement for professional development (including funds reserved for professional development under subsection (b)(3)(A)(iii) of this section), but excluding funds reserved for professional development under section 6319 of this title;

(iv) include specific measurable achievement goals and targets for each of the groups of students identified in the disaggregated data pursuant to section 6311(b)(2)(C)(v) of this title, consistent with adequate yearly progress as defined under section 6311(b)(2) of this title;

(v) address the fundamental teaching and learning needs in the schools of that agency, and the specific academic problems of low-achieving students, including a determination of why the local educational agency's prior plan failed to bring about increased student academic achievement;

(vi) incorporate, as appropriate, activities before school, after school, during the summer, and during an extension of the school year;

(vii) specify the responsibilities of the State educational agency and the local educational agency under the plan, including specifying the technical assistance to be provided by the State educational agency under paragraph (9) and the local educational agency's responsibilities under section 6321 of this title; and

(viii) include strategies to promote effective parental involvement in the school.

(B) Implementation

The local educational agency shall implement the plan (including a revised plan) expeditiously, but not later than the beginning of the next school year after the school year in which the agency was identified for improvement.

(9)[3] State educational agency responsibility

(A) Technical or other assistance

For each local educational agency identified under paragraph (3), the State educational agency shall provide technical or other assistance if requested, as authorized under section 6317 of this title, to better enable the local educational agency to—

(i) develop and implement the local educational agency's plan; and

[3] So in original. No par. (8) has been enacted.

(ii) work with schools needing improvement.

(B) Methods and strategies

Technical assistance provided under this section by the State educational agency or an entity authorized by such agency shall be supported by effective methods and instructional strategies based on scientifically based research. Such technical assistance shall address problems, if any, in implementing the parental involvement activities described in section 6318 of this title and the professional development activities described in section 6319 of this title.

(10) Corrective action

In order to help students served under this part meet challenging State student academic achievement standards, each State shall implement a system of corrective action in accordance with the following:

(A) Definition

As used in this paragraph, the term ''corrective action'' means action, consistent with State law, that—

(i) substantially and directly responds to the consistent academic failure that caused the State to take such action and to any underlying staffing, curricular, or other problems in the agency; and

(ii) is designed to meet the goal of having all students served under this part achieve at the proficient and advanced student academic achievement levels.

(B) General requirements

After providing technical assistance under paragraph (9) and subject to subparagraph (E), the State—

(i) may take corrective action at any time with respect to a local educational agency that has been identified under paragraph (3);

(ii) shall take corrective action with respect to any local educational agency that fails to make adequate yearly progress, as defined by the State, by the end of the second full school year after the identification of the agency under paragraph (3); and

(iii) shall continue to provide technical assistance while instituting any corrective action under clause (i) or (ii).

(C) Certain corrective actions required

In the case of a local educational agency identified for corrective action, the State educational agency shall take at least one of the following corrective actions:

(i) Deferring programmatic funds or reducing administrative funds.

(ii) Instituting and fully implementing a new curriculum that is based on State and local academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for low-achieving students.

(iii) Replacing the local educational agency personnel who are relevant to the failure to make adequate yearly progress.

(iv) Removing particular schools from the jurisdiction of the local educational agency and establishing alternative arrangements for public governance and supervision of such schools.

(v) Appointing, through the State educational agency, a receiver or trustee to administer the affairs of the local educational agency in place of the superintendent and school board.

(vi) Abolishing or restructuring the local educational agency.

(vii) Authorizing students to transfer from a school operated by the local educational agency to a higher-performing public school operated by another local educational agency in accordance with subsections (b)(1)(E) and (F) of this section, and providing to such students transportation (or the costs of transportation) to such schools consistent with subsection (b)(9) of this section, in conjunction with carrying out not less than one additional action described under this subparagraph.

(D) Hearing

Prior to implementing any corrective action under this paragraph, the State educational agency shall provide notice and a hearing to the affected local educational agency, if State law provides for such notice and hearing. The hearing shall take place not later than 45 days following the decision to implement corrective action.

(E) Notice to parents

The State educational agency shall publish, and disseminate to parents and the public, information on any corrective action the State educational agency takes under this paragraph through such means as the Internet, the media, and public agencies.

(F) Delay

Notwithstanding subparagraph (B)(ii), a State educational agency may delay, for a period not to exceed 1 year, implementation of corrective action under this paragraph if the local educational agency makes adequate yearly progress for 1 year or its failure to make adequate yearly progress is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. No such period shall be taken into account in determining the number of consecutive years of failure to make adequate yearly progress.

(11) Special rule

If a local educational agency makes adequate yearly progress for two consecutive school years beginning after the date of identification of the agency under paragraph (3), the State educational agency need no longer identify the local educational agency for improvement or subject the local educational agency to corrective action for the succeeding school year.

(d) Construction

Nothing in this section shall be construed to alter or otherwise affect the rights, remedies,

and procedures afforded school or school district employees under Federal, State, or local laws (including applicable regulations or court orders) or under the terms of collective bargaining agreements, memoranda of understanding, or other agreements between such employees and their employers.

(e) Supplemental educational services

(1) Supplemental educational services

In the case of any school described in paragraph (5), (7), or (8) of subsection (b) of this section, the local educational agency serving such school shall, subject to this subsection, arrange for the provision of supplemental educational services to eligible children in the school from a provider with a demonstrated record of effectiveness, that is selected by the parents and approved for that purpose by the State educational agency in accordance with reasonable criteria, consistent with paragraph (5), that the State educational agency shall adopt.

(2) Local educational agency responsibilities

Each local educational agency subject to this subsection shall—

(A) provide, at a minimum, annual notice to parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of—

(i) the availability of services under this subsection;

(ii) the identity of approved providers of those services that are within the local educational agency or whose services are reasonably available in neighboring local educational agencies; and

(iii) a brief description of the services, qualifications, and demonstrated effectiveness of each such provider;

(B) if requested, assist parents in choosing a provider from the list of approved providers maintained by the State;

(C) apply fair and equitable procedures for serving students if the number of spaces at approved providers is not sufficient to serve all students; and

(D) not disclose to the public the identity of any student who is eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of the student.

(3) Agreement

In the case of the selection of an approved provider by a parent, the local educational agency shall enter into an agreement with such provider. Such agreement shall—

(A) require the local educational agency to develop, in consultation with parents (and the provider chosen by the parents), a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement that, in the case of a student with disabilities, is consistent with the student's individualized education program under section 1414(d) of this title;

(B) describe how the student's parents and the student's teacher or teachers will be regularly informed of the student's progress;

(C) provide for the termination of such agreement if the provider is unable to meet such goals and timetables;

(D) contain provisions with respect to the making of payments to the provider by the local educational agency; and

(E) prohibit the provider from disclosing to the public the identity of any student eligible for, or receiving, supplemental educational services under this subsection without the written permission of the parents of such student.

(4) State educational agency responsibilities

A State educational agency shall—

(A) in consultation with local educational agencies, parents, teachers, and other interested members of the public, promote maximum participation by providers to ensure, to the extent practicable, that parents have as many choices as possible;

(B) develop and apply objective criteria, consistent with paragraph (5), to potential providers that are based on a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the State academic content and student achievement standards adopted under section 6311(b)(1) of this title;

(C) maintain an updated list of approved providers across the State, by school district, from which parents may select;

(D) develop, implement, and publicly report on standards and techniques for monitoring the quality and effectiveness of the services offered by approved providers under this subsection, and for withdrawing approval from providers that fail, for 2 consecutive years, to contribute to increasing the academic proficiency of students served under this subsection as described in subparagraph (B); and

(E) provide annual notice to potential providers of supplemental educational services of the opportunity to provide services under this subsection and of the applicable procedures for obtaining approval from the State educational agency to be an approved provider of those services.

(5) Criteria for providers

In order for a provider to be included on the State list under paragraph (4)(C), a provider shall agree to carry out the following:

(A) Provide parents of children receiving supplemental educational services under this subsection and the appropriate local educational agency with information on the progress of the children in increasing achievement, in a format and, to the extent practicable, a language that such parents can understand.

(B) Ensure that instruction provided and content used by the provider are consistent with the instruction provided and content used by the local educational agency and State, and are aligned with State student academic achievement standards.

(C) Meet all applicable Federal, State, and local health, safety, and civil rights laws.

(D) Ensure that all instruction and content under this subsection are secular, neutral, and nonideological.

(6) Amounts for supplemental educational services

The amount that a local educational agency shall make available for supplemental educational services for each child receiving those services under this subsection shall be the lesser of—

(A) the amount of the agency's allocation under subpart 2 of this part, divided by the number of children from families below the poverty level counted under section 6333(c)(1)(A) of this title; or

(B) the actual costs of the supplemental educational services received by the child.

(7) Funds provided by State educational agency

Each State educational agency may use funds that the agency reserves under this part, and part A of subchapter V of this chapter, to assist local educational agencies that do not have sufficient funds to provide services under this subsection for all eligible students requesting such services.

(8) Duration

The local educational agency shall continue to provide supplemental educational services to a child receiving such services under this subsection until the end of the school year in which such services were first received.

(9) Prohibition

Nothing contained in this subsection shall permit the making of any payment for religious worship or instruction.

(10) Waiver

(A) Requirement

At the request of a local educational agency, a State educational agency may waive, in whole or in part, the requirement of this subsection to provide supplemental educational services if the State educational agency determines that—

(i) none of the providers of those services on the list approved by the State educational agency under paragraph (4)(C) makes those services available in the area served by the local educational agency or within a reasonable distance of that area; and

(ii) the local educational agency provides evidence that it is not able to provide those services.

(B) Notification

The State educational agency shall notify the local educational agency, within 30 days of receiving the local educational agency's request for a waiver under subparagraph (A), whether the request is approved or disapproved and, if disapproved, the reasons for the disapproval, in writing.

(11) Special rule

If State law prohibits a State educational agency from carrying out one or more of its responsibilities under paragraph (4) with respect to those who provide, or seek approval to provide, supplemental educational services, each local educational agency in the State shall carry out those responsibilities with respect to its students who are eligible for those services.

(12) Definitions

In this subsection—

(A) the term ''eligible child'' means a child from a low-income family, as determined by the local educational agency for purposes of allocating funds to schools under section 6313(c)(1) of this title;

(B) the term ''provider'' means a non-profit entity, a for-profit entity, or a local educational agency that—

(i) has a demonstrated record of effectiveness in increasing student academic achievement;

(ii) is capable of providing supplemental educational services that are consistent with the instructional program of the local educational agency and the academic standards described under section 6311 of this title; and

(iii) is financially sound; and

(C) the term ''supplemental educational services'' means tutoring and other supplemental academic enrichment services that are—

(i) in addition to instruction provided during the school day; and

(ii) are of high quality, research-based, and specifically designed to increase the academic achievement of eligible children on the academic assessments required under section 6311 of this title and attain proficiency in meeting the State's academic achievement standards.

(f) Schools and LEAs previously identified for improvement or corrective action

(1) Schools

(A) School improvement

(i) Schools in school-improvement status before January 8, 2002

Any school that was in the first year of school improvement status under this section on the day preceding January 8, 2002 (as this section was in effect on such day) shall be treated by the local educational agency as a school that is in the first year of school improvement status under paragraph (1).

(ii) Schools in school-improvement status for 2 or more years before January 8, 2002

Any school that was in school improvement status under this section for two or more consecutive school years preceding January 8, 2002 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in subsection (b)(5) of this section.

(B) Corrective action

Any school that was in corrective action status under this section on the day preceding January 8, 2002 (as this section was in effect on such day) shall be treated by the local educational agency as a school described in paragraph (7).

(2) LEAs

(A) LEA improvement

A State shall identify for improvement under subsection (c)(3) of this section any local educational agency that was in improvement status under this section as this section was in effect on the day preceding January 8, 2002.

(B) Corrective action

A State shall identify for corrective action under subsection (c)(10) of this section any local educational agency that was in corrective action status under this section as this section was in effect on the day preceding January 8, 2002.

(C) Special rule

For the schools and other local educational agencies described under paragraphs (1) and (2), as required, the State shall ensure that public school choice in accordance with subparagraphs (b)(1)(E) and (F) and supplemental education services in accordance with subsection (e) of this section are provided not later than the first day of the 2002–2003 school year.

(D) Transition

With respect to a determination that a local educational agency has for 2 consecutive years failed to make adequate yearly progress as defined in the State plan under section 6311(b)(2) of this title, such determination shall include in such 2-year period any continuous period of time immediately preceding January 8, 2002, during which the agency has failed to make such progress.

(g) Schools funded by the Bureau of Indian Affairs

(1) Adequate yearly progress for Bureau funded schools

(A) Development of definition

(i) Definition

The Secretary of the Interior, in consultation with the Secretary if the Secretary of[4] Interior requests the consultation, using the process set out in section 2018(b) of title 25, shall define adequate yearly progress, consistent with section 6311(b) of this title, for the schools funded by the Bureau of Indian Affairs on a regional or tribal basis, as appropriate, taking into account the unique circumstances and needs of such schools and the students served by such schools.

(ii) Use of definition

The Secretary of the Interior, consistent with clause (i), may use the definition of adequate yearly progress that the State in which the school that is funded by the Bureau is located uses consistent with section 6311(b) of this title, or in the case of schools that are located in more than one State, the Secretary of the Interior may use whichever State definition of adequate yearly progress that best meets the unique circumstances and needs of such school or schools and the students the schools serve.

(B) Waiver

The tribal governing body or school board of a school funded by the Bureau of Indian Affairs may waive, in part or in whole, the definition of adequate yearly progress established pursuant to paragraph (A) where such definition is determined by such body or school board to be inappropriate. If such definition is waived, the tribal governing body or school board shall, within 60 days thereafter, submit to the Secretary of[4] Interior a proposal for an alternative definition of adequate yearly progress, consistent with section 6311(b) of this title, that takes into account the unique circumstances and needs of such school or schools and the students served. The Secretary of the Interior, in consultation with the Secretary if the Secretary of[4] Interior requests the consultation, shall approve such alternative definition unless the Secretary determines that the definition does not meet the requirements of section 6311(b) of this title, taking into account the unique circumstances and needs of such school or schools and the students served.

(C) Technical assistance

The Secretary of[4] Interior shall, in consultation with the Secretary if the Secretary of[4] Interior requests the consultation, either directly or through a contract, provide technical assistance, upon request, to a tribal governing body or school board of a school funded by the Bureau of Indian Affairs that seeks to develop an alternative definition of adequate yearly progress.

(2) Accountability for BIA schools

For the purposes of this section, schools funded by the Bureau of Indian Affairs shall be considered schools subject to subsection (b) of this section, as specifically provided for in this subsection, except that such schools shall not be subject to subsection (c) of this section, or the requirements to provide public school choice and supplemental educational services under subsections (b) and (e) of this section.

(3) School improvement for Bureau schools

(A) Contract and grant schools

For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of subsection (b) of this section relating to development and implementation of any school improvement plan as described in subsections (b)(1) through (b)(3) of this section, and subsection (b)(5) of this section, other than subsection (b)(1)(E) of this section. The Bureau of Indian Affairs shall be responsible for meeting the requirements of subsection (b)(4) of this section relating to technical assistance.

[4] So in original. Probably should be ''of the''.

(B) Bureau operated schools

For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) of this section relating to development and implementation of any school improvement plan as described in subsections (b)(1) through (b)(5) of this section, other than subsection (b)(1)(E) of this section.

(4) Corrective action and restructuring for Bureau-funded schools

(A) Contract and grant schools

For a school funded by the Bureau of Indian Affairs which is operated under a contract issued by the Secretary of the Interior pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or under a grant issued by the Secretary of the Interior pursuant to the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.), the school board of such school shall be responsible for meeting the requirements of subsection (b) of this section relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8) of this section. Any action taken by such school board under subsection (b)(7) or (b)(8) of this section shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

(B) Bureau operated schools

For schools operated by the Bureau of Indian Affairs, the Bureau shall be responsible for meeting the requirements of subsection (b) of this section relating to corrective action and restructuring as described in subsection (b)(7) and (b)(8) of this section. Any action taken by the Bureau under subsection (b)(7) or (b)(8) of this section shall take into account the unique circumstances and structure of the Bureau of Indian Affairs-funded school system and the laws governing that system.

(5) Annual report

On an annual basis, the Secretary of the Interior shall report to the Secretary of Education and to the appropriate committees of Congress regarding any schools funded by the Bureau of Indian Affairs which have been identified for school improvement. Such report shall include—

(A) the identity of each school;

(B) a statement from each affected school board regarding the factors that lead to such identification; and

(C) an analysis by the Secretary of the Interior, in consultation with the Secretary if the Secretary of[4] Interior requests the consultation, as to whether sufficient resources were available to enable such school to achieve adequate yearly progress.

(h) Other agencies

After receiving the notice described in subsection (b)(14)(D) of this section, the Secretary may notify, to the extent feasible and necessary as determined by the Secretary, other relevant Federal agencies regarding the major factors that were determined by the State educational agency to have significantly affected student academic achievement.

(Pub. L. 89–10, title I, § 1116, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1478.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (b)(4)(B)(iv)(II), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title II of the Act is classified generally to subchapter II (§ 1021 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

This section on the day preceding January 8, 2002 (as this section was in effect on such day), referred to in subsec. (f), means section 1116 of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3542, as amended, which was classified to section 6317 of this title prior to the general amendment of this subchapter by Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1439.

The Indian Self-Determination Act, referred to in subsec. (g)(3)(A), (4)(A), is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Tribally Controlled Schools Act of 1988, referred to in subsec. (g)(3)(A), (4)(A), is part B (§§ 5201–5212) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 385, as amended, which is classified generally to chapter 27 (§ 2501 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 6316, Pub. L. 89–10, title I, § 1115A, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3542, related to school choice, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1116 of Pub. L. 89–10 was classified to section 6317 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6317. School support and recognition

(a) System for support

(1) In general

Each State shall establish a statewide system of intensive and sustained support and improvement for local educational agencies and schools receiving funds under this part, in order to increase the opportunity for all students served by those agencies and schools to meet the State's academic content standards and student academic achievement standards.

(2) Priorities

In carrying out this subsection, a State shall—

(A) first, provide support and assistance to local educational agencies with schools subject to corrective action under section 6316 of this title and assist those schools, in accordance with section 6316(b)(11) of this title, for which a local educational agency has failed to carry out its responsibilities under paragraphs (7) and (8) of section 6316(b) of this title;

(B) second, provide support and assistance to other local educational agencies with schools identified as in need of improvement under section 6316(b) of this title; and

(C) third, provide support and assistance to other local educational agencies and schools participating under this part that need that support and assistance in order to achieve the purpose of this part.

(3) Regional centers

Such a statewide system shall, to the extent practicable, work with and receive support and assistance from regional educational laboratories established under part D of the Education Sciences Reform Act of 2002 [20 U.S.C. 9561 et seq.] and comprehensive centers established under the Educational Technical Assistance Act of 2002 [20 U.S.C. 9601 et seq.] and the comprehensive regional technical assistance centers and the regional educational laboratories under section 6041(h) of this title (as such section existed on the day before November 5, 2002), or other providers of technical assistance.

(4) Statewide system

(A) In order to achieve the purpose described in paragraph (1), the statewide system shall include, at a minimum, the following approaches:

(i) Establishing school support teams in accordance with subparagraph (C) for assignment to, and working in, schools in the State that are described in paragraph (2).

(ii) Providing such support as the State educational agency determines necessary and available in order to ensure the effectiveness of such teams.

(iii) Designating and using distinguished teachers and principals who are chosen from schools served under this part that have been especially successful in improving academic achievement.

(iv) Devising additional approaches to providing the assistance described in paragraph (1), such as providing assistance through institutions of higher education and educational service agencies or other local consortia, and private providers of scientifically based technical assistance.

(B) PRIORITY.—The State educational agency shall give priority to the approach described in clause (i) of subparagraph (A).

(5) School support teams

(A) Composition

Each school support team established under this section shall be composed of persons knowledgeable about scientifically based research and practice on teaching and learning and about successful schoolwide projects, school reform, and improving educational opportunities for low-achieving students, including—

(i) highly qualified or distinguished teachers and principals;

(ii) pupil services personnel;

(iii) parents;

(iv) representatives of institutions of higher education;

(v) representatives of regional educational laboratories or comprehensive regional technical assistance centers;

(vi) representatives of outside consultant groups; or

(vii) other individuals as the State educational agency, in consultation with the local educational agency, may determine appropriate.

(B) Functions

Each school support team assigned to a school under this section shall—

(i) review and analyze all facets of the school's operation, including the design and operation of the instructional program, and assist the school in developing recommendations for improving student performance in that school;

(ii) collaborate with parents and school staff and the local educational agency serving the school in the design, implementation, and monitoring of a plan that, if fully implemented, can reasonably be expected to improve student performance and help the school meet its goals for improvement, including adequate yearly progress under section 6311(b)(2)(B) of this title;

(iii) evaluate, at least semiannually, the effectiveness of school personnel assigned to the school, including identifying outstanding teachers and principals, and make findings and recommendations to the school, the local educational agency, and, where appropriate, the State educational agency; and

(iv) make additional recommendations as the school implements the plan described in clause (ii) to the local educational agency and the State educational agency concerning additional assistance that is needed by the school or the school support team.

(C) Continuation of assistance

After one school year, from the beginning of the activities, such school support team, in consultation with the local educational agency, may recommend that the school support team continue to provide assistance to the school, or that the local educational agency or the State educational agency, as appropriate, take alternative actions with regard to the school.

(b) State recognition

(1) Academic achievement awards program

(A) In general

Each State receiving a grant under this part—

(i) shall establish a program for making academic achievement awards to recognize schools that meet the criteria described in subparagraph (B); and

(ii) as appropriate and as funds are available under subsection (c)(2)(A) of this section, may financially reward schools served under this part that meet the criteria described in clause (ii).

(B) Criteria

The criteria referred to in subparagraph (A) are that a school—

(i) significantly closed the achievement gap between the groups of students described in section 6311(b)(2) of this title; or

(ii) exceeded their adequate yearly progress, consistent with section 6311(b)(2) of this title, for 2 or more consecutive years.

(2) Distinguished schools

Of those schools meeting the criteria described in paragraph (2), each State shall designate as distinguished schools those schools that have made the greatest gains in closing the achievement gap as described in subparagraph (B)(i) or exceeding adequate yearly progress as described in subparagraph (B)(ii). Such distinguished schools may serve as models for and provide support to other schools, especially schools identified for improvement under section 6316 of this title, to assist such schools in meeting the State's academic content standards and student academic achievement standards.

(3) Awards to teachers

A State program under paragraph (1) may also recognize and provide financial awards to teachers teaching in a school described in such paragraph that consistently makes significant gains in academic achievement in the areas in which the teacher provides instruction, or to teachers or principals designated as distinguished under subsection (a)(4)(A)(iii) of this section.

(c) Funding

(1) In general

Each State—

(A) shall use funds reserved under section 6303(a) of this title and may use funds made available under section 6303(g) of this title for the approaches described under subsection (a)(4)(A) of this section; and

(B) shall use State administrative funds authorized under section 6304(a) of this title to establish the statewide system of support described under subsection (a) of this section.

(2) Reservations of funds by State

(A) Awards program

For the purpose of carrying out subsection (b)(1) of this section, each State receiving a grant under this part may reserve, from the amount (if any) by which the funds received by the State under subpart 2 of this part for a fiscal year exceed the amount received by the State under that subpart for the preceding fiscal year, not more than 5 percent of such excess amount.

(B) Teacher awards

For the purpose of carrying out subsection (b)(3) of this section, a State educational agency may reserve such funds as necessary from funds made available under section 6613 of this title.

(3) Use within 3 years

Notwithstanding any other provision of law, the amount reserved under subparagraph (A) by a State for each fiscal year shall remain available to the State until expended for a period not exceeding 3 years receipt of funds.

(4) Special allocation rule for schools in high-poverty areas

(A) In general

Each State shall distribute not less than 75 percent of any amount reserved under paragraph (2)(A) for each fiscal year to schools described in subparagraph (B), or to teachers in those schools consistent with subsection (b)(3) of this section.

(B) School described

A school described in subparagraph (A) is a school whose student population is in the highest quartile of schools statewide in terms of the percentage of children from low income families.

(Pub. L. 89–10, title I, § 1117, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1498; amended Pub. L. 107–279, title IV, § 404(d)(3), Nov. 5, 2002, 116 Stat. 1985; Pub. L. 108–446, title II, § 201(b)(3), Dec. 3, 2004, 118 Stat. 2802.)

REFERENCES IN TEXT

The Education Sciences Reform Act of 2002, referred to in subsec. (a)(3), is title I of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1941, as amended. Part D of the Act is classified generally to part D (§ 9561 et seq.) of subchapter I of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

The Educational Technical Assistance Act of 2002, referred to in subsec. (a)(3), is title II of Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1975, which is classified generally to subchapter II (§ 9601 et seq.) of chapter 76 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9501 of this title and Tables.

Section 6041(h) of this title, referred to in subsec. (a)(3), was repealed by Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985.

PRIOR PROVISIONS

A prior section 6317, Pub. L. 89–10, title I, § 1116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3542; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(b)(2)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, related to assessment and local educational agency and school improvement, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6316 of this title.

A prior section 1117 of Pub. L. 89–10 was classified to section 6318 of this title prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2004—Subsec. (a)(3). Pub. L. 108–446 substituted ''part D'' for ''part E''.

2002—Subsec. (a)(3). Pub. L. 107–279 inserted ''regional educational laboratories established under part E of the Education Sciences Reform Act of 2002 and comprehensive centers established under the Educational Technical Assistance Act of 2002 and'' after ''assistance from'' and ''(as such section existed on the day before November 5, 2002)'' after ''section 6041(h) of this title''.

§ 6318. Parental involvement

(a) Local educational agency policy

(1) In general

A local educational agency may receive funds under this part only if such agency implements programs, activities, and procedures for the involvement of parents in programs as-

sisted under this part consistent with this section. Such programs, activities, and procedures shall be planned and implemented with meaningful consultation with parents of participating children.

(2) Written policy

Each local educational agency that receives funds under this part shall develop jointly with, agree on with, and distribute to, parents of participating children a written parent involvement policy. The policy shall be incorporated into the local educational agency's plan developed under section 6312 of this title, establish the agency's expectations for parent involvement, and describe how the agency will—

(A) involve parents in the joint development of the plan under section 6312 of this title, and the process of school review and improvement under section 6316 of this title;

(B) provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement activities to improve student academic achievement and school performance;

(C) build the schools' and parents' capacity for strong parental involvement as described in subsection (e) of this section;

(D) coordinate and integrate parental involvement strategies under this part with parental involvement strategies under other programs, such as the Head Start program, Reading First program, Early Reading First program, Even Start program, Parents as Teachers program, and Home Instruction Program for Preschool Youngsters, and State-run preschool programs;

(E) conduct, with the involvement of parents, an annual evaluation of the content and effectiveness of the parental involvement policy in improving the academic quality of the schools served under this part, including identifying barriers to greater participation by parents in activities authorized by this section (with particular attention to parents who are economically disadvantaged, are disabled, have limited English proficiency, have limited literacy, or are of any racial or ethnic minority background), and use the findings of such evaluation to design strategies for more effective parental involvement, and to revise, if necessary, the parental involvement policies described in this section; and

(F) involve parents in the activities of the schools served under this part.

(3) Reservation

(A) In general

Each local educational agency shall reserve not less than 1 percent of such agency's allocation under subpart 2 of this part to carry out this section, including promoting family literacy and parenting skills, except that this paragraph shall not apply if 1 percent of such agency's allocation under subpart 2 of this part for the fiscal year for which the determination is made is $5,000 or less.

(B) Parental input

Parents of children receiving services under this part shall be involved in the decisions regarding how funds reserved under subparagraph (A) are allotted for parental involvement activities.

(C) Distribution of funds

Not less than 95 percent of the funds reserved under subparagraph (A) shall be distributed to schools served under this part.

(b) School parental involvement policy

(1) In general

Each school served under this part shall jointly develop with, and distribute to, parents of participating children a written parental involvement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f) of this section. Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and updated periodically to meet the changing needs of parents and the school.

(2) Special rule

If the school has a parental involvement policy that applies to all parents, such school may amend that policy, if necessary, to meet the requirements of this subsection.

(3) Amendment

If the local educational agency involved has a school district-level parental involvement policy that applies to all parents, such agency may amend that policy, if necessary, to meet the requirements of this subsection.

(4) Parental comments

If the plan under section 6312 of this title is not satisfactory to the parents of participating children, the local educational agency shall submit any parent comments with such plan when such local educational agency submits the plan to the State.

(c) Policy involvement

Each school served under this part shall—

(1) convene an annual meeting, at a convenient time, to which all parents of participating children shall be invited and encouraged to attend, to inform parents of their school's participation under this part and to explain the requirements of this part, and the right of the parents to be involved;

(2) offer a flexible number of meetings, such as meetings in the morning or evening, and may provide, with funds provided under this part, transportation, child care, or home visits, as such services relate to parental involvement;

(3) involve parents, in an organized, ongoing, and timely way, in the planning, review, and improvement of programs under this part, including the planning, review, and improvement of the school parental involvement policy and the joint development of the schoolwide program plan under section 6314(b)(2) of this title, except that if a school

has in place a process for involving parents in the joint planning and design of the school's programs, the school may use that process, if such process includes an adequate representation of parents of participating children;

(4) provide parents of participating children—

(A) timely information about programs under this part;

(B) a description and explanation of the curriculum in use at the school, the forms of academic assessment used to measure student progress, and the proficiency levels students are expected to meet; and

(C) if requested by parents, opportunities for regular meetings to formulate suggestions and to participate, as appropriate, in decisions relating to the education of their children, and respond to any such suggestions as soon as practicably possible; and

(5) if the schoolwide program plan under section 6314(b)(2) of this title is not satisfactory to the parents of participating children, submit any parent comments on the plan when the school makes the plan available to the local educational agency.

(d) Shared responsibilities for high student academic achievement

As a component of the school-level parental involvement policy developed under subsection (b) of this section, each school served under this part shall jointly develop with parents for all children served under this part a school-parent compact that outlines how parents, the entire school staff, and students will share the responsibility for improved student academic achievement and the means by which the school and parents will build and develop a partnership to help children achieve the State's high standards. Such compact shall—

(1) describe the school's responsibility to provide high-quality curriculum and instruction in a supportive and effective learning environment that enables the children served under this part to meet the State's student academic achievement standards, and the ways in which each parent will be responsible for supporting their children's learning, such as monitoring attendance, homework completion, and television watching; volunteering in their child's classroom; and participating, as appropriate, in decisions relating to the education of their children and positive use of extracurricular time; and

(2) address the importance of communication between teachers and parents on an ongoing basis through, at a minimum—

(A) parent-teacher conferences in elementary schools, at least annually, during which the compact shall be discussed as the compact relates to the individual child's achievement;

(B) frequent reports to parents on their children's progress; and

(C) reasonable access to staff, opportunities to volunteer and participate in their child's class, and observation of classroom activities.

(e) Building capacity for involvement

To ensure effective involvement of parents and to support a partnership among the school involved, parents, and the community to improve student academic achievement, each school and local educational agency assisted under this part—

(1) shall provide assistance to parents of children served by the school or local educational agency, as appropriate, in understanding such topics as the State's academic content standards and State student academic achievement standards, State and local academic assessments, the requirements of this part, and how to monitor a child's progress and work with educators to improve the achievement of their children;

(2) shall provide materials and training to help parents to work with their children to improve their children's achievement, such as literacy training and using technology, as appropriate, to foster parental involvement;

(3) shall educate teachers, pupil services personnel, principals, and other staff, with the assistance of parents, in the value and utility of contributions of parents, and in how to reach out to, communicate with, and work with parents as equal partners, implement and coordinate parent programs, and build ties between parents and the school;

(4) shall, to the extent feasible and appropriate, coordinate and integrate parent involvement programs and activities with Head Start, Reading First, Early Reading First, Even Start, the Home Instruction Programs for Preschool Youngsters, the Parents as Teachers Program, and public preschool and other programs, and conduct other activities, such as parent resource centers, that encourage and support parents in more fully participating in the education of their children;

(5) shall ensure that information related to school and parent programs, meetings, and other activities is sent to the parents of participating children in a format and, to the extent practicable, in a language the parents can understand;

(6) may involve parents in the development of training for teachers, principals, and other educators to improve the effectiveness of such training;

(7) may provide necessary literacy training from funds received under this part if the local educational agency has exhausted all other reasonably available sources of funding for such training;

(8) may pay reasonable and necessary expenses associated with local parental involvement activities, including transportation and child care costs, to enable parents to participate in school-related meetings and training sessions;

(9) may train parents to enhance the involvement of other parents;

(10) may arrange school meetings at a variety of times, or conduct in-home conferences between teachers or other educators, who work directly with participating children, with parents who are unable to attend such conferences at school, in order to maximize parental involvement and participation;

(11) may adopt and implement model approaches to improving parental involvement;

(12) may establish a districtwide parent advisory council to provide advice on all matters

related to parental involvement in programs supported under this section;

(13) may develop appropriate roles for community-based organizations and businesses in parent involvement activities; and

(14) shall provide such other reasonable support for parental involvement activities under this section as parents may request.

(f) Accessibility

In carrying out the parental involvement requirements of this part, local educational agencies and schools, to the extent practicable, shall provide full opportunities for the participation of parents with limited English proficiency, parents with disabilities, and parents of migratory children, including providing information and school reports required under section 6311 of this title in a format and, to the extent practicable, in a language such parents understand.

(g) Information from parental information and resource centers

In a State where a parental information and resource center is established to provide training, information, and support to parents and individuals who work with local parents, local educational agencies, and schools receiving assistance under this part, each local educational agency or school that receives assistance under this part and is located in the State shall assist parents and parental organizations by informing such parents and organizations of the existence and purpose of such centers.

(h) Review

The State educational agency shall review the local educational agency's parental involvement policies and practices to determine if the policies and practices meet the requirements of this section.

(Pub. L. 89–10, title I, §1118, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1501.)

PRIOR PROVISIONS

A prior section 6318, Pub. L. 89–10, title I, §1117, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3548, related to State assistance for school support and improvement, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6317 of this title.

A prior section 1118 of Pub. L. 89–10 was classified to section 6319 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6319. Qualifications for teachers and paraprofessionals

(a) Teacher qualifications and measurable objectives

(1) In general

Beginning with the first day of the first school year after January 8, 2002, each local educational agency receiving assistance under this part shall ensure that all teachers hired after such day and teaching in a program supported with funds under this part are highly qualified.

(2) State plan

As part of the plan described in section 6311 of this title, each State educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching in core academic subjects within the State are highly qualified not later than the end of the 2005–2006 school year. Such plan shall establish annual measurable objectives for each local educational agency and school that, at a minimum—

(A) shall include an annual increase in the percentage of highly qualified teachers at each local educational agency and school, to ensure that all teachers teaching in core academic subjects in each public elementary school and secondary school are highly qualified not later than the end of the 2005–2006 school year;

(B) shall include an annual increase in the percentage of teachers who are receiving high-quality professional development to enable such teachers to become highly qualified and successful classroom teachers; and

(C) may include such other measures as the State educational agency determines to be appropriate to increase teacher qualifications.

(3) Local plan

As part of the plan described in section 6312 of this title, each local educational agency receiving assistance under this part shall develop a plan to ensure that all teachers teaching within the school district served by the local educational agency are highly qualified not later than the end of the 2005–2006 school year.

(b) Reports

(1) Annual State and local reports

(A) Local reports

Each State educational agency described in subsection (a)(2) of this section shall require each local educational agency receiving funds under this part to publicly report, each year, beginning with the 2002–2003 school year, the annual progress of the local educational agency as a whole and of each of the schools served by the agency, in meeting the measurable objectives described in subsection (a)(2) of this section.

(B) State reports

Each State educational agency receiving assistance under this part shall prepare and submit each year, beginning with the 2002–2003 school year, a report to the Secretary, describing the State educational agency's progress in meeting the measurable objectives described in subsection (a)(2) of this section.

(C) Information from other reports

A State educational agency or local educational agency may submit information from the reports described in section 6311(h) of this title for the purposes of this subsection, if such report is modified, as may be necessary, to contain the information required by this subsection, and may submit such information as a part of the reports required under section 6311(h) of this title.

(2) Annual reports by the Secretary

Each year, beginning with the 2002–2003 school year, the Secretary shall publicly re-

port the annual progress of State educational agencies, local educational agencies, and schools, in meeting the measurable objectives described in subsection (a)(2) of this section.

(c) New paraprofessionals

(1) In general

Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired after January 8, 2002, and working in a program supported with funds under this part shall have—

(A) completed at least 2 years of study at an institution of higher education;

(B) obtained an associate's (or higher) degree; or

(C) met a rigorous standard of quality and can demonstrate, through a formal State or local academic assessment—

(i) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or

(ii) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

(2) Clarification

The receipt of a secondary school diploma (or its recognized equivalent) shall be necessary but not sufficient to satisfy the requirements of paragraph (1)(C).

(d) Existing paraprofessionals

Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals hired before January 8, 2002, and working in a program supported with funds under this part shall, not later than 4 years after January 8, 2002, satisfy the requirements of subsection (c) of this section.

(e) Exceptions for translation and parental involvement activities

Subsections (c) and (d) of this section shall not apply to a paraprofessional—

(1) who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in programs under this part by acting as a translator; or

(2) whose duties consist solely of conducting parental involvement activities consistent with section 6318 of this title.

(f) General requirement for all paraprofessionals

Each local educational agency receiving assistance under this part shall ensure that all paraprofessionals working in a program supported with funds under this part, regardless of the paraprofessionals' hiring date, have earned a secondary school diploma or its recognized equivalent.

(g) Duties of paraprofessionals

(1) In general

Each local educational agency receiving assistance under this part shall ensure that a paraprofessional working in a program supported with funds under this part is not assigned a duty inconsistent with this subsection.

(2) Responsibilities paraprofessionals may be assigned

A paraprofessional described in paragraph (1) may be assigned—

(A) to provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;

(B) to assist with classroom management, such as organizing instructional and other materials;

(C) to provide assistance in a computer laboratory;

(D) to conduct parental involvement activities;

(E) to provide support in a library or media center;

(F) to act as a translator; or

(G) to provide instructional services to students in accordance with paragraph (3).

(3) Additional limitations

A paraprofessional described in paragraph (1)—

(A) may not provide any instructional service to a student unless the paraprofessional is working under the direct supervision of a teacher consistent with this section; and

(B) may assume limited duties that are assigned to similar personnel who are not working in a program supported with funds under this part, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

(h) Use of funds

A local educational agency receiving funds under this part may use such funds to support ongoing training and professional development to assist teachers and paraprofessionals in satisfying the requirements of this section.

(i) Verification of compliance

(1) In general

In verifying compliance with this section, each local educational agency, at a minimum, shall require that the principal of each school operating a program under section 6314 or 6315 of this title attest annually in writing as to whether such school is in compliance with the requirements of this section.

(2) Availability of information

Copies of attestations under paragraph (1)—

(A) shall be maintained at each school operating a program under section 6314 or 6315 of this title and at the main office of the local educational agency; and

(B) shall be available to any member of the general public on request.

(j) Combinations of funds

Funds provided under this part that are used for professional development purposes may be combined with funds provided under subchapter II of this chapter, other Acts, and other sources.

(k) Special rule

Except as provided in subsection (*l*) of this section, no State educational agency shall require

a school or a local educational agency to expend a specific amount of funds for professional development activities under this part, except that this paragraph shall not apply with respect to requirements under section 6316(c)(3) of this title.

(*l*) Minimum expenditures

Each local educational agency that receives funds under this part shall use not less than 5 percent, or more than 10 percent, of such funds for each of fiscal years 2002 and 2003, and not less than 5 percent of the funds for each subsequent fiscal year, for professional development activities to ensure that teachers who are not highly qualified become highly qualified not later than the end of the 2005–2006 school year.

(Pub. L. 89–10, title I, §1119, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1505.)

PRIOR PROVISIONS

A prior section 6319, Pub. L. 89–10, title I, §1118, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3550, related to parental involvement, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6318 of this title.

A prior section 1119 of Pub. L. 107–110 was classified to section 6320 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6320. Participation of children enrolled in private schools

(a) General requirement

(1) In general

To the extent consistent with the number of eligible children identified under section 6315(b) of this title in the school district served by a local educational agency who are enrolled in private elementary schools and secondary schools, a local educational agency shall, after timely and meaningful consultation with appropriate private school officials, provide such children, on an equitable basis, special educational services or other benefits under this part (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) that address their needs, and shall ensure that teachers and families of the children participate, on an equitable basis, in services and activities developed pursuant to sections 6318 and 6319 of this title.

(2) Secular, neutral, nonideological

Such educational services or other benefits, including materials and equipment, shall be secular, neutral, and nonideological.

(3) Equity

Educational services and other benefits for such private school children shall be equitable in comparison to services and other benefits for public school children participating under this part, and shall be provided in a timely manner.

(4) Expenditures

Expenditures for educational services and other benefits to eligible private school children shall be equal to the proportion of funds allocated to participating school attendance areas based on the number of children from low-income families who attend private schools, which the local educational agency may determine each year or every 2 years.

(5) Provision of services

The local educational agency may provide services under this section directly or through contracts with public and private agencies, organizations, and institutions.

(b) Consultation

(1) In general

To ensure timely and meaningful consultation, a local educational agency shall consult with appropriate private school officials during the design and development of such agency's programs under this part, on issues such as—

(A) how the children's needs will be identified;

(B) what services will be offered;

(C) how, where, and by whom the services will be provided;

(D) how the services will be academically assessed and how the results of that assessment will be used to improve those services;

(E) the size and scope of the equitable services to be provided to the eligible private school children, and the proportion of funds that is allocated under subsection (a)(4) of this section for such services;

(F) the method or sources of data that are used under subsection (c) of this section and section 6313(c)(1) of this title to determine the number of children from low-income families in participating school attendance areas who attend private schools;

(G) how and when the agency will make decisions about the delivery of services to such children, including a thorough consideration and analysis of the views of the private school officials on the provision of services through a contract with potential third-party providers; and

(H) how, if the agency disagrees with the views of the private school officials on the provision of services through a contract, the local educational agency will provide in writing to such private school officials an analysis of the reasons why the local educational agency has chosen not to use a contractor.

(2) Timing

Such consultation shall include meetings of agency and private school officials and shall occur before the local educational agency makes any decision that affects the opportunities of eligible private school children to participate in programs under this part. Such meetings shall continue throughout implementation and assessment of services provided under this section.

(3) Discussion

Such consultation shall include a discussion of service delivery mechanisms a local educational agency can use to provide equitable services to eligible private school children.

(4) Documentation

Each local educational agency shall maintain in the agency's records and provide to the

State educational agency involved a written affirmation signed by officials of each participating private school that the consultation required by this section has occurred. If such officials do not provide such affirmation within a reasonable period of time, the local educational agency shall forward the documentation that such consultation has taken place to the State educational agency.

(5) Compliance

(A) In general

A private school official shall have the right to complain to the State educational agency that the local educational agency did not engage in consultation that was meaningful and timely, or did not give due consideration to the views of the private school official.

(B) Procedure

If the private school official wishes to complain, the official shall provide the basis of the noncompliance with this section by the local educational agency to the State educational agency, and the local educational agency shall forward the appropriate documentation to the State educational agency.

(c) Allocation for equitable service to private school students

(1) Calculation

A local educational agency shall have the final authority, consistent with this section, to calculate the number of children, ages 5 through 17, who are from low-income families and attend private schools by—

(A) using the same measure of low income used to count public school children;

(B) using the results of a survey that, to the extent possible, protects the identity of families of private school students, and allowing such survey results to be extrapolated if complete actual data are unavailable;

(C) applying the low-income percentage of each participating public school attendance area, determined pursuant to this section, to the number of private school children who reside in that school attendance area; or

(D) using an equated measure of low income correlated with the measure of low income used to count public school children.

(2) Complaint process

Any dispute regarding low-income data for private school students shall be subject to the complaint process authorized in section 7883 of this title.[1]

(d) Public control of funds

(1) In general

The control of funds provided under this part, and title to materials, equipment, and property purchased with such funds, shall be in a public agency, and a public agency shall administer such funds, materials, equipment, and property.

[1] See References in Text note below.

(2) Provision of services

(A) Provider

The provision of services under this section shall be provided—

(i) by employees of a public agency; or

(ii) through contract by such public agency with an individual, association, agency, or organization.

(B) Requirement

In the provision of such services, such employee, individual, association, agency, or organization shall be independent of such private school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency.

(e) Standards for a bypass

If a local educational agency is prohibited by law from providing for the participation in programs on an equitable basis of eligible children enrolled in private elementary schools and secondary schools, or if the Secretary determines that a local educational agency has substantially failed or is unwilling, to provide for such participation, as required by this section, the Secretary shall—

(1) waive the requirements of this section for such local educational agency;

(2) arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section and sections 7883 and 7884 of this title; and

(3) in making the determination under this subsection, consider one or more factors, including the quality, size, scope, and location of the program and the opportunity of eligible children to participate.

(Pub. L. 89–10, title I, § 1120, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1508.)

REFERENCES IN TEXT

Section 7883, referred to in subsec. (c)(2), was in the original ''section 9505'', and was translated as reading ''section 9503'', meaning section 9503 of Pub. L. 89–10, to reflect the probable intent of Congress, because provisions authorizing complaint process are contained in section 9503.

PRIOR PROVISIONS

A prior section 6320, Pub. L. 89–10, title I, § 1119, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3555, related to professional development, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1120 of Pub. L. 89–10 was classified to section 6321 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6321. Fiscal requirements

(a) Maintenance of effort

A local educational agency may receive funds under this part for any fiscal year only if the State educational agency involved finds that the local educational agency has maintained the agency's fiscal effort in accordance with section 7901 of this title.

(b) Federal funds to supplement, not supplant, non-Federal funds

(1) In general

A State educational agency or local educational agency shall use Federal funds re-

ceived under this part only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.

(2) Special rule

No local educational agency shall be required to provide services under this part through a particular instructional method or in a particular instructional setting in order to demonstrate such agency's compliance with paragraph (1).

(c) Comparability of services

(1) In general

(A) Comparable services

Except as provided in paragraphs (4) and (5), a local educational agency may receive funds under this part only if State and local funds will be used in schools served under this part to provide services that, taken as a whole, are at least comparable to services in schools that are not receiving funds under this part.

(B) Substantially comparable services

If the local educational agency is serving all of such agency's schools under this part, such agency may receive funds under this part only if such agency will use State and local funds to provide services that, taken as a whole, are substantially comparable in each school.

(C) Basis

A local educational agency may meet the requirements of subparagraphs (A) and (B) on a grade-span by grade-span basis or a school-by-school basis.

(2) Written assurance

(A) Equivalence

A local educational agency shall be considered to have met the requirements of paragraph (1) if such agency has filed with the State educational agency a written assurance that such agency has established and implemented—

(i) a local educational agency-wide salary schedule;

(ii) a policy to ensure equivalence among schools in teachers, administrators, and other staff; and

(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

(B) Determinations

For the purpose of this subsection, in the determination of expenditures per pupil from State and local funds, or instructional salaries per pupil from State and local funds, staff salary differentials for years of employment shall not be included in such determinations.

(C) Exclusions

A local educational agency need not include unpredictable changes in student enrollment or personnel assignments that occur after the beginning of a school year in determining comparability of services under this subsection.

(3) Procedures and records

Each local educational agency assisted under this part shall—

(A) develop procedures for compliance with this subsection; and

(B) maintain records that are updated biennially documenting such agency's compliance with this subsection.

(4) Inapplicability

This subsection shall not apply to a local educational agency that does not have more than one building for each grade span.

(5) Compliance

For the purpose of determining compliance with paragraph (1), a local educational agency may exclude State and local funds expended for—

(A) language instruction educational programs; and

(B) the excess costs of providing services to children with disabilities as determined by the local educational agency.

(d) Exclusion of funds

For the purpose of complying with subsections (b) and (c) of this section, a State educational agency or local educational agency may exclude supplemental State or local funds expended in any school attendance area or school for programs that meet the intent and purposes of this part.

(Pub. L. 89–10, title I, §1120A, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1511.)

PRIOR PROVISIONS

A prior section 6321, Pub. L. 89–10, title I, §1120, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3557, related to participation of children enrolled in private schools, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6320 of this title.

A prior section 1120A of Pub. L. 89–10 was classified to section 6322 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6322. Coordination requirements

(a) In general

Each local educational agency receiving assistance under this part shall carry out the activities described in subsection (b) of this section with Head Start agencies and, if feasible, other entities carrying out early childhood development programs such as the Early Reading First program.

(b) Activities

The activities referred to in subsection (a) of this section are activities that increase coordination between the local educational agency and a Head Start agency and, if feasible, other entities carrying out early childhood development programs, such as the Early Reading First program, serving children who will attend the schools of the local educational agency, including—

(1) developing and implementing a systematic procedure for receiving records regarding

such children, transferred with parental consent from a Head Start program or, where applicable, another early childhood development program such as the Early Reading First program;

(2) establishing channels of communication between school staff and their counterparts (including teachers, social workers, and health staff) in such Head Start agencies or other entities carrying out early childhood development programs such as the Early Reading First program, as appropriate, to facilitate coordination of programs;

(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start teachers or, if appropriate, teachers from other early childhood development programs such as the Early Reading First program, to discuss the developmental and other needs of individual children;

(4) organizing and participating in joint transition-related training of school staff, Head Start program staff, Early Reading First program staff, and, where appropriate, other early childhood development program staff; and

(5) linking the educational services provided by such local educational agency with the services provided by local Head Start agencies and entities carrying out Early Reading First programs.

(c) Coordination of regulations

The Secretary shall work with the Secretary of Health and Human Services to coordinate regulations promulgated under this part with regulations promulgated under the Head Start Act [42 U.S.C. 9831 et seq.].

(Pub. L. 89–10, title I, § 1120B, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1512.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (c), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6322, Pub. L. 89–10, title I, § 1120A, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3559; amended Pub. L. 104–134, title I, § 101(b) [title II, § 2754], Apr. 26, 1996, 110 Stat. 1321–77, 1321–150; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, related to fiscal requirements, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6321 of this title.

A prior section 6323, Pub. L. 89–10, title I, § 1120B, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3560, related to coordination requirements, prior to its omission in the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 2—ALLOCATIONS

§ 6331. Grants for the outlying areas and the Secretary of the Interior

(a) Reservation of funds

From the amount appropriated for payments to States for any fiscal year under section[1] 6302(a) and 6337(f) of this title, the Secretary shall reserve a total of 1 percent to provide assistance to—

(1) the outlying areas in the amount determined in accordance with subsection (b) of this section; and

(2) the Secretary of the Interior in the amount necessary to make payments pursuant to subsection (d) of this section.

(b) Assistance to outlying areas

(1) Funds reserved

From the amount made available for any fiscal year under subsection (a) of this section, the Secretary shall award grants to local educational agencies in the outlying areas.

(2) Competitive grants

Until each appropriate outlying area enters into an agreement for extension of United States educational assistance under the Compact of Free Association after January 8, 2002, the Secretary shall carry out the competition described in paragraph (3), except that the amount reserved to carry out such competition shall not exceed $5,000,000.

(3) Limitation for competitive grants

(A) Competitive grants

The Secretary shall use funds described in paragraph (2) to award grants to the outlying areas and freely associated States to carry out the purposes of this part.

(B) Award basis

The Secretary shall award grants under subparagraph (A) on a competitive basis, taking into consideration the recommendations of the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(C) Uses

Except as provided in subparagraph (D), grant funds awarded under this paragraph may be used only—

(i) for programs described in this chapter, including teacher training, curriculum development, instructional materials, or general school improvement and reform; and

(ii) to provide direct educational services that assist all students with meeting challenging State academic content standards.

(D) Administrative costs

The Secretary may provide not more than 5 percent of the amount reserved for grants under this paragraph to pay the administrative costs of the Pacific Region Educational Laboratory under subparagraph (B).

(4) Special rule

The provisions of Public Law 95–134, permitting the consolidation of grants by the outlying areas, shall not apply to funds provided to the freely associated States under this section.

(c) Definitions

For the purpose of subsections (a) and (b) of this section—

(1) the term ''freely associated states'' means the Republic of the Marshall Islands,

[1] So in original. Probably should be ''sections''.

the Federated States of Micronesia, and the Republic of Palau; and

(2) the term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(d) Allotment to the Secretary of the Interior

(1) In general

The amount allotted for payments to the Secretary of the Interior under subsection (a)(2) of this section for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of—

(A) Indian children on reservations served by elementary schools and secondary schools for Indian children operated or supported by the Department of the Interior; and

(B) out-of-State Indian children in elementary schools and secondary schools in local educational agencies under special contracts with the Department of the Interior.

(2) Payments

From the amount allotted for payments to the Secretary of the Interior under subsection (a)(2) of this section, the Secretary of the Interior shall make payments to local educational agencies, on such terms as the Secretary determines will best carry out the purposes of this part, with respect to out-of-State Indian children described in paragraph (1). The amount of such payment may not exceed, for each such child, the greater of—

(A) 40 percent of the average per-pupil expenditure in the State in which the agency is located; or

(B) 48 percent of such expenditure in the United States.

(Pub. L. 89–10, title I, §1121, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1513.)

REFERENCES IN TEXT

Public Law 95–134, referred to in subsec. (b)(4), is Pub. L. 95–134, Oct. 15, 1977, 91 Stat. 1159, as amended. Provisions relating to consolidation of grants are contained in section 501 of Pub. L. 95–134 which is classified to section 1469a of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 6331, Pub. L. 89–10, title I, §1121, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3561, related to grants for outlying areas and the Secretary of the Interior, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6332. Allocations to States

(a) Allocation formula

Of the amount appropriated under section 6302(a) of this title to carry out this part for each of fiscal years 2002–2007 (referred to in this subsection as the current fiscal year)—

(1) an amount equal to the amount made available to carry out section 6333 of this title for fiscal year 2001 shall be allocated in accordance with section 6333 of this title;

(2) an amount equal to the amount made available to carry out section 6334 of this title for fiscal year 2001 shall be allocated in accordance with section 6334 of this title; and

(3) an amount equal to 100 percent of the amount, if any, by which the amount made available to carry out sections 6333, 6334, and 6335 of this title for the current fiscal year for which the determination is made exceeds the amount available to carry out sections 6333 and 6334 of this title for fiscal year 2001 shall be allocated in accordance with section 6335 of this title.

(b) Adjustments where necessitated by appropriations

(1) In general

If the sums available under this subpart for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under sections 6333, 6334, and 6335 of this title for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to subsections (c) and (d) of this section.

(2) Additional funds

If additional funds become available for making payments under sections 6333, 6334, and 6335 of this title for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

(c) Hold-harmless amounts

(1) Amounts for sections 6333, 6334, and 6335

For each fiscal year, the amount made available to each local educational agency under each of sections 6333, 6334, and 6335 of this title shall be—

(A) not less than 95 percent of the amount made available for the preceding fiscal year if the number of children counted for grants under section 6333 of this title is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency;

(B) not less than 90 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and

(C) not less than 85 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is below 15 percent.

(2) Payments

If sufficient funds are appropriated, the amounts described in paragraph (1) shall be paid to all local educational agencies that received grants under section 6334 of this title for the preceding fiscal year, regardless of whether the local educational agency meets the minimum eligibility criteria for that fiscal year described in section 6334(a)(1)(A) of this title except that a local educational agency that does not meet such minimum eligibility criteria for 4 consecutive years shall no longer be eligible to receive a hold harmless amount referred to in paragraph (1).

(3) Applicability

Notwithstanding any other provision of law, the Secretary shall not take into consider-

ation the hold-harmless provisions of this subsection for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

(4) Population data

For any fiscal year for which the Secretary calculates grants on the basis of population data for counties, the Secretary shall apply the hold-harmless percentages in paragraphs (1) and (2) to counties and, if the Secretary's allocation for a county is not sufficient to meet the hold-harmless requirements of this subsection for every local educational agency within that county, the State educational agency shall reallocate funds proportionately from all other local educational agencies in the State that are receiving funds in excess of the hold-harmless amounts specified in this subsection.

(d) Ratable reductions

(1) In general

If the sums made available under this subpart for any fiscal year are insufficient to pay the full amounts that local educational agencies in all States are eligible to receive under subsection (c) of this section for such year, the Secretary shall ratably reduce such amounts for such year.

(2) Additional funds

If additional funds become available for making payments under subsection (c) of this section for such fiscal year, amounts that were reduced under paragraph (1) shall be increased on the same basis as such amounts were reduced.

(e) Definition

For the purpose of this section and sections 6333, 6334, 6335, and 6337 of this title, the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title I, § 1122, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1515.)

PRIOR PROVISIONS

A prior section 6332, Pub. L. 89–10, title I, § 1122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3562, related to allocations to States, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6333. Basic grants to local educational agencies

(a) Amount of grants

(1) Grants for local educational agencies and Puerto Rico

Except as provided in paragraph (4) and in section 6338 of this title, the grant that a local educational agency is eligible to receive under this section for a fiscal year is the amount determined by multiplying—

(A) the number of children counted under subsection (c) of this section; and

(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

(2) Calculation of grants

(A) Allocations to local educational agencies

The Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) of this section for local educational agencies, unless the Secretary and the Secretary of Commerce determine that some or all of those data are unreliable or that their use would be otherwise inappropriate, in which case—

(i) the two Secretaries shall publicly disclose the reasons for their determination in detail; and

(ii) paragraph (3) shall apply.

(B) Allocations to large and small local educational agencies

(i) For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section for each local educational agency.

(ii) The amount of a grant under this section for each large local educational agency shall be the amount determined under clause (i).

(iii) For small local educational agencies, the State educational agency may either—

(I) distribute grants under this section in amounts determined by the Secretary under clause (i); or

(II) use an alternative method approved by the Secretary to distribute the portion of the State's total grants under this section that is based on those small agencies.

(iv) An alternative method under clause (iii)(II) shall be based on population data that the State educational agency determines best reflect the current distribution of children in poor families among the State's small local educational agencies that meet the eligibility criteria of subsection (b) of this section.

(v) If a small local educational agency is dissatisfied with the determination of its grant by the State educational agency under clause (iii)(II), it may appeal that determination to the Secretary, who shall respond not later than 45 days after receipt of such appeal.

(vi) As used in this subparagraph—

(I) the term ''large local educational agency'' means a local educational agency serving an area with a total population of 20,000 or more; and

(II) the term ''small local educational agency'' means a local educational agency serving an area with a total population of less than 20,000.

(3) Allocations to counties

(A) Calculation

For any fiscal year to which this paragraph applies, the Secretary shall calculate grants under this section on the basis of the number of children counted under subsection (c) of this section for counties, and State educational agencies shall suballocate county amounts to local educational agencies, in

accordance with regulations issued by the Secretary.

(B) Direct allocations

In any State in which a large number of local educational agencies overlap county boundaries, or for which the State believes it has data that would better target funds than allocating them by county, the State educational agency may apply to the Secretary for authority to make the allocations under this subpart for a particular fiscal year directly to local educational agencies without regard to counties.

(C) Allocations to local educational agencies

If the Secretary approves the State educational agency's application under subparagraph (B), the State educational agency shall provide the Secretary an assurance that such allocations shall be made—

(i) using precisely the same factors for determining a grant as are used under this subpart; or

(ii) using data that the State educational agency submits to the Secretary for approval that more accurately target poverty.

(D) Appeal

The State educational agency shall provide the Secretary an assurance that it will establish a procedure through which a local educational agency that is dissatisfied with its determinations under subparagraph (B) may appeal directly to the Secretary for a final determination.

(4) Puerto Rico

(A) In general

For each fiscal year, the grant that the Commonwealth of Puerto Rico shall be eligible to receive under this section shall be the amount determined by multiplying the number of children counted under subsection (c) of this section for the Commonwealth of Puerto Rico by the product of—

(i) subject to subparagraph (B), the percentage that the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

(ii) 32 percent of the average per-pupil expenditure in the United States.

(B) Minimum percentage

The percentage in subparagraph (A)(i) shall not be less than—

(i) for fiscal year 2002, 77.5 percent;

(ii) for fiscal year 2003, 80.0 percent;

(iii) for fiscal year 2004, 82.5 percent;

(iv) for fiscal year 2005, 85.0 percent;

(v) for fiscal year 2006, 92.5 percent; and

(vi) for fiscal year 2007 and succeeding fiscal years, 100.0 percent.

(C) Limitation

If the application of subparagraph (B) would result in any of the 50 States or the District of Columbia receiving less under this subpart than it received under this subpart for the preceding fiscal year, the percentage in subparagraph (A) shall be the greater of—

(i) the percentage in subparagraph (A)(i);

(ii) the percentage specified in subparagraph (B) for the preceding fiscal year; or

(iii) the percentage used for the preceding fiscal year.

(b) Minimum number of children to qualify

A local educational agency is eligible for a basic grant under this section for any fiscal year only if the number of children counted under subsection (c) of this section for that agency is both—

(1) 10 or more; and

(2) more than 2 percent of the total school-age population in the agency's jurisdiction.

(c) Children to be counted

(1) Categories of children

The number of children to be counted for purposes of this section is the aggregate of—

(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2);

(B) the number of children (determined under paragraph (4) for either the preceding year as described in that paragraph, or for the second preceding year, as the Secretary finds appropriate) aged 5 to 17, inclusive, in the school district of such agency in institutions for neglected and delinquent children (other than such institutions operated by the United States), but not counted pursuant to subpart 1 of part D of this subchapter for the purposes of a grant to a State agency, or being supported in foster homes with public funds; and

(C) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (4).

(2) Determination of number of children

For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data, described in paragraph (3), available from the Department of Commerce. The District of Columbia and the Commonwealth of Puerto Rico shall be treated as individual local educational agencies. If a local educational agency contains two or more counties in their entirety, then each county will be treated as if such county were a separate local educational agency for purposes of calculating grants under this part. The total of grants for such counties shall be allocated to such a local educational agency, which local educational agency shall distribute to schools in each county within such agency a share of the local educational agency's total grant that is no less than the county's share of the population counts used to calculate the local educational agency's grant.

(3) Population updates

(A) In general

In fiscal year 2002 and each subsequent fiscal year, the Secretary shall use updated data on the number of children, aged 5 to 17,

inclusive, from families below the poverty level for counties or local educational agencies, published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that the use of the updated population data would be inappropriate or unreliable. If appropriate and reliable data are not available annually, the Secretary shall use data which are updated every 2 years.

(B) Inappropriate or unreliable data

If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in subparagraph (A) are inappropriate or unreliable, the Secretary and the Secretary of Commerce shall publicly disclose their reasons.

(C) Criteria of poverty

In determining the families that are below the poverty level, the Secretary shall use the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, as the criteria have been updated by increases in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics.

(4) Other children to be counted

(A) For the purpose of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]; and in making such determinations, the Secretary shall use the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of four in such form as those criteria have been updated by increases in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics.

(B) The Secretary shall determine the number of such children and the number of children aged 5 through 17 living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination.

(C) Except for the data on children living in institutions for neglected or delinquent children, the Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

(D) For the purpose of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

(5) Estimate

When requested by the Secretary, the Secretary of Commerce shall make a special updated estimate of the number of children of such ages who are from families below the poverty level (as determined under paragraph (1)(A)) in each school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information.

(d) State minimum

Notwithstanding section 6332 of this title, the aggregate amount allotted for all local educational agencies within a State may not be less than the lesser of—

(1) 0.25 percent of the total amount allocated to States under this section for fiscal year 2001, plus 0.35 percent of the total amount allocated to States under this section in excess of the amount allocated for fiscal year 2001; or

(2) the average of—

(A) the amount calculated in paragraph (1), above; and

(B) the number of children in such State counted under subsection (c) of this section in the fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.

(Pub. L. 89–10, title I, § 1124, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1516.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(4)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6333, Pub. L. 89–10, title I, § 1124, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3564; amended Pub. L. 104–193, title I, § 110(j)(2), Aug. 22, 1996, 110 Stat. 2172, related to basic grants to local educational agencies, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6334. Concentration grants to local educational agencies

(a) Eligibility for and amount of grants

(1) In general

(A) Except as otherwise provided in this paragraph, each local educational agency which is eligible for a grant under section 6333 of this title for any fiscal year is eligible for an additional grant under this section for that fiscal year if the number of children counted under section 6333(c) of this title in the agency exceeds either—

(i) 6,500; or

(ii) 15 percent of the total number of children aged 5 through 17 in the agency.

(B) Notwithstanding section 6332 of this title, no State shall receive less than the lesser of—

(i) 0.25 percent of the total amount allocated to States under this section for fiscal year 2001, plus 0.35 percent of the total amount allocated to States under this section in excess of the amount allocated for fiscal year 2001; or

(ii) the average of—

(I) the amount calculated under clause (i); and

(II) the greater of—

(aa) $340,000; or

(bb) the number of children in such State counted for purposes of this section in that fiscal year multiplied by 150 percent of the national average per-pupil payment made with funds available under this section for that year.

(2) Determination

For each county or local educational agency eligible to receive an additional grant under this section for any fiscal year, the Secretary shall determine the product of—

(A) the number of children counted under section 6333(c) of this title for that fiscal year; and

(B) the amount in section 6333(a)(1)(B) of this title for each State except the Commonwealth of Puerto Rico, and the amount in section 6333(a)(4) of this title for the Commonwealth of Puerto Rico.

(3) Amount

The amount of the additional grant for which an eligible local educational agency or county is eligible under this section for any fiscal year shall be an amount which bears the same ratio to the amount available to carry out this section for that fiscal year as the product determined under paragraph (2) for such local educational agency for that fiscal year bears to the sum of such products for all local educational agencies in the United States for that fiscal year.

(4) Local allocations

(A) Grant amounts under this section shall be determined in accordance with section 6333(a)(2), (3), and (4) of this title.

(B) For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, a State may reserve not more than 2 percent of its allocation under this section to make grants to local educational agencies that meet the criteria of paragraph (1)(A)(i) or (ii) and are in ineligible counties that do not meet these criteria.

(b) Small States

In any State for which on January 8, 2002, the number of children counted under section 6333(c) of this title is less than 0.25 percent of the number of those children counted for all States, the State educational agency shall allocate funds under this section among the local educational agencies in the State either—

(1) in accordance with paragraphs (2) and (4) of subsection (a) of this section; or

(2) based on their respective concentrations and numbers of children counted under section 6333(c) of this title, except that only those local educational agencies with concentrations or numbers of children counted under section 6333(c) of this title that exceed the statewide average percentage of such children or the statewide average number of such children shall receive any funds on the basis of this paragraph.

(Pub. L. 89–10, title I, §1124A, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1521.)

PRIOR PROVISIONS

A prior section 6334, Pub. L. 89–10, title I, §1124A, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3569, related to concentration grants to local educational agencies, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6335. Targeted grants to local educational agencies

(a) Eligibility of local educational agencies

(1) In general

A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if—

(A) the number of children in the local educational agency counted under section 6333(c) of this title, before application of the weighted child count described in subsection (c) of this section, is at least 10; and

(B) if the number of children counted for grants under section 6333(c) of this title, before application of the weighted child count described in subsection (c) of this section, is at least 5 percent of the total number of children aged 5 to 17 years, inclusive, in the school district of the local educational agency.

(2) Special rule

For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

(b) Grants for local educational agencies, the District of Columbia, and the Commonwealth of Puerto Rico

(1) In general

The amount of the grant that a local educational agency in a State (other than the Commonwealth of Puerto Rico) is eligible to receive under this section for any fiscal year shall be the product of—

(A) the weighted child count determined under subsection (c) of this section; and

(B) the amount determined under section 6333(a)(1)(B) of this title.

(2) Puerto Rico

For each fiscal year, the amount of the grant the Commonwealth of Puerto Rico is eligible to receive under this section shall be equal to the number of children counted under subsection (c) of this section for the Common-

wealth of Puerto Rico, multiplied by the amount determined in section 6333(a)(4) of this title for the Commonwealth of Puerto Rico.

(c) Weighted child count

(1) Weights for allocations to counties

(A) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under subparagraphs (B) and (C).

(B) By percentage of children

The amount referred to in subparagraph (A) is determined by adding—

(i) the number of children determined under section 6333(c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.75;

(iii) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;

(iv) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

(v) the number of such children who constitute more than 29.20 percent of such population, multiplied by 4.0.

(C) By number of children

The amount referred to in subparagraph (A) is determined by adding—

(i) the number of children determined under section 6333(c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

(iii) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

(iv) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

(v) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

(D) Puerto Rico

Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 6333(c) of this title multiplied by 1.82.

(2) Weights for allocations to local educational agencies

(A) In general

For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under subparagraphs (B) and (C).

(B) By percentage of children

The amount referred to in subparagraph (A) is determined by adding—

(i) the number of children determined under section 6333(c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.75;

(iii) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 2.5;

(iv) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 3.25; and

(v) the number of such children who constitute more than 38.24 percent of such population, multiplied by 4.0.

(C) By number of children

The amount referred to in subparagraph (A) is determined by adding—

(i) the number of children determined under section 6333(c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(ii) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;

(iii) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.0;

(iv) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 2.5; and

(v) the number of such children in excess of 35,514 in such population, multiplied by 3.0.

(D) Puerto Rico

Notwithstanding subparagraph (A), the weighting factor for the Commonwealth of Puerto Rico under this paragraph shall not be greater than the total number of children counted under section 6333(c) of this title multiplied by 1.82.

(d) Calculation of grant amounts

Grant amounts under this section shall be calculated in the same manner as grant amounts are calculated under section 6333(a)(2) and (3) of this title.

(e) State minimum

Notwithstanding any other provision of this section or section 6332 of this title, from the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

(1) 0.35 percent of the total amount available to carry out this section; or

(2) the average of—

(A) 0.35 percent of the total amount available to carry out this section; and

(B) 150 percent of the national average grant under this section per child described in section 6333(c) of this title, without application of a weighting factor, multiplied by the State's total number of children described in section 6333(c) of this title, without application of a weighting factor.

(Pub. L. 89–10, title I, § 1125, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1522.)

PRIOR PROVISIONS

A prior section 6335, Pub. L. 89–10, title I, § 1125, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3571, related to targeted grants to local educational agencies, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6336. Adequacy of funding of targeted grants to local educational agencies in fiscal years after fiscal year 2001

(a) Findings

Congress makes the following findings:

(1) The current Basic Grant Formula for the distribution of funds under this part often does not provide funds for the economically disadvantaged students for which such funds are targeted.

(2) Any school district in which more than 2 percent of the students live below the poverty level qualifies for funding under the Basic Grant Formula. As a result, 9 out of every 10 school districts in the country receive some form of aid under the Formula.

(3) Fifty-eight percent of all schools receive at least some funding under this part, including many suburban schools with predominantly well-off students.

(4) One out of every 5 schools with concentrations of poor students between 50 and 75 percent receive no funding at all under this part.

(5) In passing the Improving America's Schools Act in 1994, Congress declared that grants under this part would more sharply target high poverty schools by using the Targeted Grant Formula, but annual appropriation Acts have prevented the use of that Formula.

(6) The advantage of the Targeted Grant Formula over other funding formulas under this part is that the Targeted Grant Formula provides increased grants per poor child as the percentage of economically disadvantaged children in a school district increases.

(7) Studies have found that the poverty of a child's family is much more likely to be associated with educational disadvantage if the family lives in an area with large concentrations of poor families.

(8) States with large populations of high poverty students would receive significantly more funding if more funds under this part were allocated through the Targeted Grant Formula.

(9) Congress has an obligation to allocate funds under this part so that such funds will positively affect the largest number of economically disadvantaged students.

(b) Limitation on allocation of subchapter I funds contingent on adequate funding of targeted grants

Pursuant to section 6332 of this title, the total amount allocated in any fiscal year after fiscal year 2001 for programs and activities under this part shall not exceed the amount allocated in fiscal year 2001 for such programs and activities unless the amount available for targeted grants to local educational agencies under section 6335 of this title in the applicable fiscal year meets the requirements of section 6332(a) of this title.

(Pub. L. 89–10, title I, § 1125AA, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1525.)

REFERENCES IN TEXT

The Improving America's Schools Act of 1994, referred to in subsec. (a)(5), is Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 3518, as amended. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 6336, Pub. L. 89–10, title I, § 1125A, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3575, related to education finance incentive program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6337 of this title.

§ 6337. Education finance incentive grant program

(a) Grants

From funds appropriated under subsection (f) of this section the Secretary is authorized to make grants to States, from allotments under subsection (b) of this section, to carry out the programs and activities of this part.

(b) Distribution based upon fiscal effort and equity

(1) In general

(A) In general

Except as provided in subparagraph (B), funds appropriated pursuant to subsection (f) of this section shall be allotted to each State based upon the number of children counted under section 6333(c) of this title in such State multiplied by the product of—

(i) the amount in section 6333(a)(1)(B) of this title for all States other than the Commonwealth of Puerto Rico, except that the amount determined under that subparagraph shall not be less that 34 percent or more than 46 percent of the average per pupil expenditure in the United States, and the amount in section 6333(a)(4) of this title for the Commonwealth of Puerto Rico, except that the amount in section 6333(a)(4)(A)(ii) of this title shall be 34 percent of the average per pupil expenditure in the United States; multiplied by

(ii) such State's effort factor described in paragraph (2); multiplied by

(iii) 1.30 minus such State's equity factor described in paragraph (3).

(B) State minimum

Notwithstanding any other provision of this section or section 6332 of this title, from

the total amount available for any fiscal year to carry out this section, each State shall be allotted at least the lesser of—

(i) 0.35 percent of total appropriations; or

(ii) the average of—

(I) 0.35 percent of the total amount available to carry out this section; and

(II) 150 percent of the national average grant under this section per child described in section 6333(c) of this title, without application of a weighting factor, multiplied by the State's total number of children described in section 6333(c) of this title, without application of a weighting factor.

(2) Effort factor

(A) In general

Except as provided in subparagraph (B), the effort factor for a State shall be determined in accordance with the succeeding sentence, except that such factor shall not be less than 0.95 nor greater than 1.05. The effort factor determined under this sentence shall be a fraction the numerator of which is the product of the 3-year average per-pupil expenditure in the State multiplied by the 3-year average per capita income in the United States and the denominator of which is the product of the 3-year average per capita income in such State multiplied by the 3-year average per-pupil expenditure in the United States.

(B) Commonwealth of Puerto Rico

The effort factor for the Commonwealth of Puerto Rico shall be equal to the lowest effort factor calculated under subparagraph (A) for any State.

(3) Equity factor

(A) Determination

(i) In general

Except as provided in subparagraph (B), the Secretary shall determine the equity factor under this section for each State in accordance with clause (ii).

(ii) Computation

(I) In general

For each State, the Secretary shall compute a weighted coefficient of variation for the per-pupil expenditures of local educational agencies in accordance with subclauses (II), (III), and (IV).

(II) Variation

In computing coefficients of variation, the Secretary shall weigh the variation between per-pupil expenditures in each local educational agency and the average per-pupil expenditures in the State according to the number of pupils served by the local educational agency.

(III) Number of pupils

In determining the number of pupils under this paragraph served by each local educational agency and in each State, the Secretary shall multiply the number of children counted under section 6333(c) of this title by a factor of 1.4.

(IV) Enrollment requirement

In computing coefficients of variation, the Secretary shall include only those local educational agencies with an enrollment of more than 200 students.

(B) Special rule

The equity factor for a State that meets the disparity standard described in section 222.162 of title 34, Code of Federal Regulations (as such section was in effect on the day preceding January 8, 2002) or a State with only one local educational agency shall be not greater than 0.10.

(c) Use of funds; eligibility of local educational agencies

All funds awarded to each State under this section shall be allocated to local educational agencies under the following provisions. Within local educational agencies, funds allocated under this section shall be distributed to schools on a basis consistent with section 6313 of this title, and may only be used to carry out activities under this part. A local educational agency in a State is eligible to receive a targeted grant under this section for any fiscal year if—

(A) the number of children in the local educational agency counted under section 6333(c) of this title, before application of the weighted child count described in paragraph (3), is at least 10; and

(B) if the number of children counted for grants under section 6333(c) of this title, before application of the weighted child count described in paragraph (3), is at least 5 percent of the total number of children aged 5 to 17 years, inclusive, in the school district of the local educational agency.

For any fiscal year for which the Secretary allocates funds under this section on the basis of counties, funds made available as a result of applying this subsection shall be reallocated by the State educational agency to other eligible local educational agencies in the State in proportion to the distribution of other funds under this section.

(d) Allocation of funds to eligible local educational agencies

Funds received by States under this section shall be allocated within States to eligible local educational agencies on the basis of weighted child counts calculated in accordance with paragraph (1), (2), or (3), as appropriate for each State.

(1) States with an equity factor less than .10

In States with an equity factor less than .10, the weighted child counts referred to in subsection (d) of this section shall be calculated as follows:

(A) Weights for allocations to counties

(i) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause ''(i)[1] is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.75;

(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 2.5;

(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 3.25; and

(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 4.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding

(I) the number of children determined under section 6333(c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.0;

(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 2.5; and

(V) the number of such children in excess of 93,811 in such population, multiplied by 3.0.

(B) Weights for allocations to local educational agencies

(i) In general

For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.75;

(III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 2.5;

(IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 3.25; and

(V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 4.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.0;

(IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 2.5; and

(V) the number of such children in excess of 35,514 in such population, multiplied by 3.0.

(2) States with an equity factor greater than or equal to .10 and less than .20

In States with an equity factor greater than or equal to .10 and less than .20, the weighted child counts referred to in subsection (d) of this section shall be calculated as follows:

(A) Weights for allocations to counties

(i) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 1.5;

(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 3.0;

(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 4.5; and

[1] So in original. The opening quotation marks probably should not appear.

(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 6.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 2.25;

(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 3.375; and

(V) the number of such children in excess of 93,811 in such population, multiplied by 4.5.

(B) Weights for allocations to local educational agencies

(i) In general

For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 1.5;

(III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 3.0;

(IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 4.5; and

(V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 6.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 1.5;

(III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 2.25;

(IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 3.375; and

(V) the number of such children in excess of 35,514 in such population, multiplied by 4.5.

(3) States with an equity factor greater than or equal to .20

In States with an equity factor greater than or equal to .20, the weighted child counts referred to in subsection (d) of this section shall be calculated as follows:

(A) Weights for allocations to counties

(i) In general

For each fiscal year for which the Secretary uses county population data to calculate grants, the weighted child count used to determine a county's allocation under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that county who constitute not more than 15.00 percent, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.00 percent, but not more than 19.00 percent, of such population, multiplied by 2.0;

(III) the number of such children who constitute more than 19.00 percent, but not more than 24.20 percent, of such population, multiplied by 4.0;

(IV) the number of such children who constitute more than 24.20 percent, but not more than 29.20 percent, of such population, multiplied by 6.0; and

(V) the number of such children who constitute more than 29.20 percent of such population, multiplied by 8.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 2,311, inclusive, of the county's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 2,312 and 7,913, inclusive, in such population, multiplied by 2.0;

(III) the number of such children between 7,914 and 23,917, inclusive, in such population, multiplied by 3.0;

(IV) the number of such children between 23,918 and 93,810, inclusive, in such population, multiplied by 4.5; and

(V) the number of such children in excess of 93,811 in such population, multiplied by 6.0.

(B) Weights for allocations to local educational agencies

(i) In general

For each fiscal year for which the Secretary uses local educational agency data, the weighted child count used to determine a local educational agency's grant under this section is the larger of the two amounts determined under clauses (ii) and (iii).

(ii) By percentage of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title for that local educational agency who constitute not more than 15.58 percent, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children who constitute more than 15.58 percent, but not more than 22.11 percent, of such population, multiplied by 2.0;

(III) the number of such children who constitute more than 22.11 percent, but not more than 30.16 percent, of such population, multiplied by 4.0;

(IV) the number of such children who constitute more than 30.16 percent, but not more than 38.24 percent, of such population, multiplied by 6.0; and

(V) the number of such children who constitute more than 38.24 percent of such population, multiplied by 8.0.

(iii) By number of children

The amount referred to in clause (i) is determined by adding—

(I) the number of children determined under section 6333(c) of this title who constitute not more than 691, inclusive, of the agency's total population aged 5 to 17, inclusive, multiplied by 1.0;

(II) the number of such children between 692 and 2,262, inclusive, in such population, multiplied by 2.0;

(III) the number of such children between 2,263 and 7,851, inclusive, in such population, multiplied by 3.0;

(IV) the number of such children between 7,852 and 35,514, inclusive, in such population, multiplied by 4.5; and

(V) the number of such children in excess of 35,514 in such population, multiplied by 6.0.

(e) Maintenance of effort

(1) In general

Except as provided in paragraph (2), a State is entitled to receive its full allotment of funds under this section for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(2) Reduction of funds

The Secretary shall reduce the amount of funds awarded to any State under this section in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

(3) Waivers

The Secretary may waive, for 1 fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and for each of the 5 succeeding fiscal years.

(g) Adjustments where necessitated by appropriations

(1) In general

If the sums available under this section for any fiscal year are insufficient to pay the full amounts that all local educational agencies in States are eligible to receive under this section for such year, the Secretary shall ratably reduce the allocations to such local educational agencies, subject to paragraphs (2) and (3).

(2) Additional funds

If additional funds become available for making payments under this section for such fiscal year, allocations that were reduced under paragraph (1) shall be increased on the same basis as they were reduced.

(3) Hold-harmless amounts

For each fiscal year, if sufficient funds are available, the amount made available to each local educational agency under this section shall be

(A) not less than 95 percent of the amount made available for the preceding fiscal year if the number of children counted for grants under section 6333 of this title is not less than 30 percent of the total number of children aged 5 to 17 years, inclusive, in the local educational agency;

(B) not less than 90 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is between 15 percent and 30 percent; and

(C) not less than 85 percent of the amount made available for the preceding fiscal year if the percentage described in subparagraph (A) is below 15 percent.

(4) Applicability

Notwithstanding any other provision of law, the Secretary shall not take into consideration the hold-harmless provisions of this sub-

section for any fiscal year for purposes of calculating State or local allocations for the fiscal year under any program administered by the Secretary other than a program authorized under this part.

(Pub. L. 89–10, title I, § 1125A, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1525.)

PRIOR PROVISIONS

A prior section 6337, Pub. L. 89–10, title I, § 1126, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3577, related to special allocation procedures, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6338 of this title.

A prior section 1125A of Pub. L. 89–10 was classified to section 6336 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6338. Special allocation procedures

(a) Allocations for neglected children

(1) In general

If a State educational agency determines that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children who are living in institutions for neglected children as described in section 6333(c)(1)(B) of this title, the State educational agency shall, if such agency assumes responsibility for the special educational needs of such children, receive the portion of such local educational agency's allocation under sections 6333, 6334, 6335, and 6337 of this title that is attributable to such children.

(2) Special rule

If the State educational agency does not assume such responsibility, any other State or local public agency that does assume such responsibility shall receive that portion of the local educational agency's allocation.

(b) Allocations among local educational agencies

The State educational agency may allocate the amounts of grants under sections 6333, 6334, 6335, and 6337 of this title among the affected local educational agencies—

(1) if two or more local educational agencies serve, in whole or in part, the same geographical area;

(2) if a local educational agency provides free public education for children who reside in the school district of another local educational agency; or

(3) to reflect the merger, creation, or change of boundaries of one or more local educational agencies.

(c) Reallocation

If a State educational agency determines that the amount of a grant a local educational agency would receive under sections 6333, 6334, 6335, and 6337 of this title is more than such local educational agency will use, the State educational agency shall make the excess amount available to other local educational agencies in the State that need additional funds in accordance with criteria established by the State educational agency.

(Pub. L. 89–10, title I, § 1126, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1534.)

PRIOR PROVISIONS

A prior section 6338, Pub. L. 89–10, title I, § 1127, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3577, related to carryover and waiver, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6339 of this title.

A prior section 1126 of Pub. L. 89–10 was classified to section 6337 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6339. Carryover and waiver

(a) Limitation on carryover

Notwithstanding section 1225(b) of this title or any other provision of law, not more than 15 percent of the funds allocated to a local educational agency for any fiscal year under this subpart (but not including funds received through any reallocation under this subpart) may remain available for obligation by such agency for one additional fiscal year.

(b) Waiver

A State educational agency may, once every 3 years, waive the percentage limitation in subsection (a) of this section if—

(1) the agency determines that the request of a local educational agency is reasonable and necessary; or

(2) supplemental appropriations for this subpart become available.

(c) Exclusion

The percentage limitation under subsection (a) of this section shall not apply to any local educational agency that receives less than $50,000 under this subpart for any fiscal year.

(Pub. L. 89–10, title I, § 1127, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1534.)

PRIOR PROVISIONS

A prior section 1127 of Pub. L. 89–10 was classified to section 6338 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

PART B—STUDENT READING SKILLS IMPROVEMENT GRANTS

SUBPART 1—READING FIRST

§ 6361. Purposes

The purposes of this subpart are as follows:

(1) To provide assistance to State educational agencies and local educational agencies in establishing reading programs for students in kindergarten through grade 3 that are based on scientifically based reading research, to ensure that every student can read at grade level or above not later than the end of grade 3.

(2) To provide assistance to State educational agencies and local educational agencies in preparing teachers, including special education teachers, through professional development and other support, so the teachers can identify specific reading barriers facing their students and so the teachers have the tools to effectively help their students learn to read.

(3) To provide assistance to State educational agencies and local educational agencies in selecting or administering screening, diagnostic, and classroom-based instructional reading assessments.

(4) To provide assistance to State educational agencies and local educational agencies in selecting or developing effective instructional materials (including classroom-based materials to assist teachers in implementing the essential components of reading instruction), programs, learning systems, and strategies to implement methods that have been proven to prevent or remediate reading failure within a State.

(5) To strengthen coordination among schools, early literacy programs, and family literacy programs to improve reading achievement for all children.

(Pub. L. 89–10, title I, §1201, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1535.)

PRIOR PROVISIONS

A prior section 6361, Pub. L. 89–10, title I, §1201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3578; amended Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–328, stated purpose of Even Start family literacy program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381 of this title.

A prior section 1201 of Pub. L. 89–10 was classified to section 2781 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6362. Formula grants to State educational agencies

(a) In general

(1) Authorization to make grants

In the case of each State educational agency that in accordance with section 6363 of this title submits to the Secretary an application for a 6-year period, the Secretary, from amounts appropriated under section 6302(b)(1) of this title and subject to the application's approval, shall make a grant to the State educational agency for the uses specified in subsections (c) and (d) of this section. For each fiscal year, the funds provided under the grant shall equal the allotment determined for the State educational agency under subsection (b) of this section.

(2) Duration of grants

Subject to subsection (e)(3) of this section, a grant under this section shall be awarded for a period of not more than 6 years.

(b) Determination of amount of allotments

(1) Reservations from appropriations

From the total amount made available to carry out this subpart for a fiscal year, the Secretary—

(A) shall reserve one-half of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among these outlying areas on the basis of their relative need, as determined by the Secretary in accordance with the purposes of this subpart;

(B) shall reserve one-half of 1 percent for the Secretary of the Interior for programs under this subpart in schools operated or funded by the Bureau of Indian Affairs;

(C) may reserve not more than 2½ percent or $25,000,000, whichever is less, to carry out section 6365 of this title (relating to external evaluation) and section 6366 of this title (relating to national activities);

(D) shall reserve $5,000,000 to carry out sections 6367 and 6374 of this title (relating to information dissemination); and

(E) for any fiscal year, beginning with fiscal year 2004, for which the amount appropriated to carry out this subpart exceeds the amount appropriated for fiscal year 2003, shall reserve, to carry out section 6364 of this title, the lesser of—

(i) $90,000,000; or

(ii) 10 percent of such excess amount.

(2) State allotments

In accordance with paragraph (3), the Secretary shall allot among each of the States the total amount made available to carry out this subpart for any fiscal year and not reserved under paragraph (1).

(3) Determination of State allotment amounts

(A) In general

Subject to subparagraph (B), the Secretary shall allot the amount made available under paragraph (2) for a fiscal year among the States in proportion to the number of children, aged 5 to 17, who reside within the State and are from families with incomes below the poverty line for the most recent fiscal year for which satisfactory data are available, compared to the number of such individuals who reside in all such States for that fiscal year.

(B) Exceptions

(i) Minimum grant amount

Subject to clause (ii), no State receiving an allotment under subparagraph (A) may receive less than one-fourth of 1 percent of the total amount allotted under such subparagraph.

(ii) Puerto Rico

The percentage of the amount allotted under subparagraph (A) that is allotted to the Commonwealth of Puerto Rico for a fiscal year may not exceed the percentage that was received by the Commonwealth of Puerto Rico of the funds allocated to all States under subpart 2 of part A of this subchapter for the preceding fiscal year.

(4) Distribution of subgrants

The Secretary may make a grant to a State educational agency only if the State educational agency agrees to expend at least 80 percent of the amount of the funds provided under the grant for the purpose of making, in accordance with subsection (c) of this section, competitive subgrants to eligible local educational agencies.

(5) Reallotment

If a State educational agency described in paragraph (2) does not apply for an allotment under this section for any fiscal year, or if the State educational agency's application is not approved, the Secretary shall reallot such amount to the remaining State educational agencies in accordance with paragraph (3).

(6) Definition of State

For purposes of this subsection, the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) Subgrants to local educational agencies

(1) Authorization to make subgrants

In accordance with paragraph (2), a State educational agency that receives a grant under this section shall make competitive subgrants to eligible local educational agencies.

(2) Allocation

(A) Minimum subgrant amount

In making subgrants under paragraph (1), a State educational agency shall allocate to each eligible local educational agency that receives such a subgrant, at a minimum, an amount that bears the same relation to the funds made available under subsection (b)(4) of this section as the amount the eligible local educational agency received under part A of this subchapter for the preceding fiscal year bears to the amount all the local educational agencies in the State received under part A of this subchapter for the preceding fiscal year.

(B) Priority

In making subgrants under paragraph (1), a State educational agency shall give priority to eligible local educational agencies in which at least—

(i) 15 percent of the children served by the eligible local educational agency are from families with incomes below the poverty line; or

(ii) 6,500 children served by the eligible local educational agency are from families with incomes below the poverty line.

(3) Notice

A State educational agency receiving a grant under this section shall provide notice to all eligible local educational agencies in the State of the availability of competitive subgrants under this subsection and of the requirements for applying for the subgrants.

(4) Local application

To be eligible to receive a subgrant under this subsection, an eligible local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(5) State requirement

In distributing subgrant funds to eligible local educational agencies under this subsection, a State educational agency shall—

(A) provide funds in sufficient size and scope to enable the eligible local educational agencies to improve reading instruction; and

(B) provide the funds in amounts related to the number or percentage of students in kindergarten through grade 3 who are reading below grade level.

(6) Limitation to certain schools

In distributing subgrant funds under this subsection, an eligible local educational agency shall provide funds only to schools that both—

(A) are among the schools served by that eligible local educational agency with the highest percentages or numbers of students in kindergarten through grade 3 reading below grade level, based on the most currently available data; and

(B)(i) are identified for school improvement under section 6316(b) of this title; or

(ii) have the highest percentages or numbers of children counted under section 6333(c) of this title.

(7) Local uses of funds

(A) Required uses

Subject to paragraph (8), an eligible local educational agency that receives a subgrant under this subsection shall use the funds provided under the subgrant to carry out the following activities:

(i) Selecting and administering screening, diagnostic, and classroom-based instructional reading assessments.

(ii) Selecting and implementing a learning system or program of reading instruction based on scientifically based reading research that—

(I) includes the essential components of reading instruction; and

(II) provides such instruction to the children in kindergarten through grade 3 in the schools served by the eligible local educational agency, including children who—

(aa) may have reading difficulties;

(bb) are at risk of being referred to special education based on these difficulties;

(cc) have been evaluated under section 614 of the Individuals with Disabilities Education Act [20 U.S.C. 1414] but, in accordance with section 614(b)(5) of that Act [20 U.S.C. 1414(b)(5)], have not been identified as being a child with a disability (as defined in section 602 of that Act [20 U.S.C. 1401]);

(dd) are being served under such Act [20 U.S.C. 1400 et seq.] primarily due to being identified as being a child with a specific learning disability (as defined in section 602 of that Act [20 U.S.C. 1401]) related to reading;

(ee) are deficient in the essential components of reading skills, as listed in subparagraphs (A) through (E) of section 6368(3) of this title; or

(ff) are identified as having limited English proficiency.

(iii) Procuring and implementing instructional materials, including education technology such as software and other digital curricula, that are based on scientifically based reading research.

(iv) Providing professional development for teachers of kindergarten through grade 3, and special education teachers of kindergarten through grade 12, that—

(I) will prepare these teachers in all of the essential components of reading instruction;

(II) shall include—

(aa) information on instructional materials, programs, strategies, and approaches based on scientifically based reading research, including early intervention, classroom reading materials, and remedial programs and approaches; and

(bb) instruction in the use of screening, diagnostic, and classroom-based instructional reading assessments and other procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading;

(III) shall be provided by eligible professional development providers; and

(IV) will assist teachers in becoming highly qualified in reading instruction in accordance with the requirements of section 6319 of this title.

(v) Collecting and summarizing data—

(I) to document the effectiveness of activities carried out under this subpart in individual schools and in the local educational agency as a whole; and

(II) to stimulate and accelerate improvement by identifying the schools that produce significant gains in reading achievement.

(vi) Reporting data for all students and categories of students described in section 6311(b)(2)(C)(v)(II) of this title.

(vii) Promoting reading and library programs that provide access to engaging reading material, including coordination with programs funded through grants received under subpart 4 of this part, where applicable.

(B) Additional uses

Subject to paragraph (8), an eligible local educational agency that receives a subgrant under this subsection may use the funds provided under the subgrant to carry out the following activities:

(i) Humanities-based family literacy programs (which may be referred to as ''Prime Time Family Reading Time'') that bond families around the acts of reading and using public libraries.

(ii) Providing training in the essential components of reading instruction to a parent or other individual who volunteers to be a student's reading tutor, to enable such parent or individual to support instructional practices that are based on scientifically based reading research and are being used by the student's teacher.

(iii) Assisting parents, through the use of materials and reading programs, strategies, and approaches (including family literacy services) that are based on scientifically based reading research, to encourage reading and support their child's reading development.

(8) Local planning and administration

An eligible local educational agency that receives a subgrant under this subsection may use not more than 3.5 percent of the funds provided under the subgrant for planning and administration.

(d) State uses of funds

(1) In general

A State educational agency that receives a grant under this section may expend not more than a total of 20 percent of the grant funds to carry out the activities described in paragraphs (3), (4), and (5).

(2) Priority

A State educational agency shall give priority to carrying out the activities described in paragraphs (3), (4), and (5) for schools described in subsection (c)(6) of this section.

(3) Professional inservice and preservice development and review

A State educational agency may expend not more than 65 percent of the amount of the funds made available under paragraph (1)—

(A) to develop and implement a program of professional development for teachers, including special education teachers, of kindergarten through grade 3 that—

(i) will prepare these teachers in all the essential components of reading instruction;

(ii) shall include—

(I) information on instructional materials, programs, strategies, and approaches based on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches; and

(II) instruction in the use of screening, diagnostic, and classroom-based instructional reading assessments and other scientifically based procedures that effectively identify students who may be at risk for reading failure or who are having difficulty reading; and

(iii) shall be provided by eligible professional development providers;

(B) to strengthen and enhance preservice courses for students preparing, at all public institutions of higher education in the State, to teach kindergarten through grade 3 by—

(i) reviewing such courses to determine whether the courses' content is consistent with the findings of the most current scientifically based reading research, including findings on the essential components of reading instruction;

(ii) following up such reviews with recommendations to ensure that such institutions offer courses that meet the highest standards; and

(iii) preparing a report on the results of such reviews, submitting the report to the reading and literacy partnership for the State established under section 6363(d) of this title, and making the report available for public review by means of the Internet; and

(C) to make recommendations on how the State licensure and certification standards in the area of reading might be improved.

(4) Technical assistance for local educational agencies and schools

A State educational agency may expend not more than 25 percent of the amount of the funds made available under paragraph (1) for one or more of the following:

(A) Assisting local educational agencies in accomplishing the tasks required to design and implement a program under this subpart, including—

(i) selecting and implementing a program or programs of reading instruction based on scientifically based reading research;

(ii) selecting screening, diagnostic, and classroom-based instructional reading assessments; and

(iii) identifying eligible professional development providers to help prepare reading teachers to teach students using the programs and assessments described in clauses (i) and (ii).

(B) Providing expanded opportunities to students in kindergarten through grade 3 who are served by eligible local educational agencies for receiving reading assistance from alternative providers that includes—

(i) screening, diagnostic, and classroom-based instructional reading assessments; and

(ii) as need is indicated by the assessments under clause (i), instruction based on scientifically based reading research that includes the essential components of reading instruction.

(5) Planning, administration, and reporting

(A) Expenditure of funds

A State educational agency may expend not more than 10 percent of the amount of funds made available under paragraph (1) for the activities described in this paragraph.

(B) Planning and administration

A State educational agency that receives a grant under this section may expend funds made available under subparagraph (A) for planning and administration relating to the State uses of funds authorized under this subpart, including the following:

(i) Administering the distribution of competitive subgrants to eligible local educational agencies under subsection (c) of this section and section 6364(d) of this title.

(ii) Assessing and evaluating, on a regular basis, eligible local educational agency activities assisted under this subpart, with respect to whether they have been effective in increasing the number of children in grades 1, 2, and 3 served under this subpart who can read at or above grade level.

(C) Annual reporting

(i) In general

A State educational agency that receives a grant under this section shall expend funds made available under subparagraph (A) to provide the Secretary annually with a report on the implementation of this subpart.

(ii) Information included

Each report under this subparagraph shall include information on the following:

(I) Evidence that the State educational agency is fulfilling its obligations under this subpart.

(II) Specific identification of those schools and local educational agencies that report the largest gains in reading achievement.

(III) The progress the State educational agency and local educational agencies within the State are making in reducing the number of students served under this subpart in grades 1, 2, and 3 who are reading below grade level, as demonstrated by such information as teacher reports and school evaluations of mastery of the essential components of reading instruction.

(IV) Evidence on whether the State educational agency and local educational agencies within the State have significantly increased the number of students reading at grade level or above, significantly increased the percentages of students described in section 6311(b)(2)(C)(v)(II) of this title who are reading at grade level or above, and successfully implemented this subpart.

(iii) Privacy protection

Data in the report shall be reported in a manner that protects the privacy of individuals.

(iv) Contract

To the extent practicable, a State educational agency shall enter into a contract with an entity that conducts scientifically based reading research, under which contract the entity will assist the State educational agency in producing the reports required to be submitted under this subparagraph.

(e) Review

(1) Progress report

(A) Submission

Not later than 60 days after the termination of the third year of the grant period, each State educational agency receiving a grant under this section shall submit a progress report to the Secretary.

(B) Information included

The progress report shall include information on the progress the State educational agency and local educational agencies within the State are making in reducing the number of students served under this subpart in grades 1, 2, and 3 who are reading below grade level (as demonstrated by such information as teacher reports and school evaluations of mastery of the essential components of reading instruction). The report shall also include evidence from the State educational agency and local educational agencies within the State that the State educational agency and the local educational agencies have significantly in-

creased the number of students reading at grade level or above, significantly increased the percentages of students described in section 6311(b)(2)(C)(v)(II) of this title who are reading at grade level or above, and successfully implemented this subpart.

(2) Peer review

The progress report described in paragraph (1) shall be reviewed by the peer review panel convened under section 6363(c)(2) of this title.

(3) Consequences of insufficient progress

After submission of the progress report described in paragraph (1), if the Secretary determines that the State educational agency is not making significant progress in meeting the purposes of this subpart, the Secretary may withhold from the State educational agency, in whole or in part, further payments under this section in accordance with section 1234d of this title or take such other action authorized by law as the Secretary determines necessary, including providing technical assistance upon request of the State educational agency.

(f) Funds not used for State level activities

Any portion of funds described in subsection (d)(1) of this section that a State educational agency does not expend in accordance with subsection (d)(1) of this section shall be expended for the purpose of making subgrants in accordance with subsection (c) of this section.

(g) Supplement, not supplant

A State or local educational agency shall use funds received under this subpart only to supplement the level of non-Federal funds that, in the absence of funds under this subpart, would be expended for activities authorized under this subpart, and not to supplant those non-Federal funds.

(Pub. L. 89–10, title I, §1202, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1535; amended Pub. L. 108–7, div. G, title III, §305, Feb. 20, 2003, 117 Stat. 333.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c)(7)(A)(ii)(II), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 6362, Pub. L. 89–10, title I, §1202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3578; amended Pub. L. 105–220, title II, §251(b)(2)(A), Aug. 7, 1998, 112 Stat. 1079; Pub. L. 105–277, div. A, §101(f) [title VIII, §§201, 202], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407, 2681–408; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §§1604(c)–(e), 1606(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–329, 2763A–330, 2763A–334, authorized Even Start program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381a of this title.

A prior section 1202 of Pub. L. 89–10 was classified to section 2782 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2003—Subsec. (g). Pub. L. 108–7 added subsec. (g).

§ 6363. State formula grant applications

(a) Applications

(1) In general

A State educational agency that desires to receive a grant under section 6362 of this title shall submit an application to the Secretary at such time and in such form as the Secretary may require. The application shall contain the information described in subsection (b) of this section.

(2) Special application provisions

For those State educational agencies that have received a grant under part C of title II (as such part was in effect on the day before January 8, 2002), the Secretary shall establish a modified set of requirements for an application under this section that takes into account the information already submitted and approved under that program and minimizes the duplication of effort on the part of such State educational agencies.

(b) Contents

An application under this section shall contain the following:

(1) An assurance that the Governor of the State, in consultation with the State educational agency, has established a reading and literacy partnership described in subsection (d) of this section, and a description of how such partnership—

(A) coordinated the development of the application; and

(B) will assist in the oversight and evaluation of the State educational agency's activities under this subpart.

(2) A description, if applicable, of the State's strategy to expand, continue, or modify activities authorized under part C of title II (as such part was in effect on the day before January 8, 2002).

(3) An assurance that the State educational agency, and any local educational agencies receiving a subgrant from that State educational agency under section 6362 of this title, will, if requested, participate in the external evaluation under section 6365 of this title.

(4) A State educational agency plan containing a description of the following:

(A) How the State educational agency will assist local educational agencies in identifying screening, diagnostic, and classroom-based instructional reading assessments.

(B) How the State educational agency will assist local educational agencies in identifying instructional materials, programs, strategies, and approaches, based on scientifically based reading research, including early intervention and reading remediation materials, programs, and approaches.

(C) How the State educational agency will ensure that professional development activities related to reading instruction and provided under section 6362 of this title are—

(i) coordinated with other Federal, State, and local level funds, and used effectively to improve instructional practices for reading; and

(ii) based on scientifically based reading research.

(D) How the activities assisted under section 6362 of this title will address the needs of teachers and other instructional staff in implementing the essential components of reading instruction.

(E) How subgrants made by the State educational agency under section 6362 of this title will meet the requirements of section 6362 of this title, including how the State educational agency will ensure that eligible local educational agencies receiving subgrants under section 6362 of this title will use practices based on scientifically based reading research.

(F) How the State educational agency will, to the extent practicable, make grants to eligible local educational agencies in both rural and urban areas.

(G) How the State educational agency will build on, and promote coordination among literacy programs in the State (including federally funded programs such as programs under the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.], the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], and subpart 2 of this part), to increase the effectiveness of the programs in improving reading for adults and children and to avoid duplication of the efforts of the program.

(H) How the State educational agency will assess and evaluate, on a regular basis, eligible local educational agency activities assisted under section 6362 of this title, with respect to whether the activities have been effective in achieving the purposes of section 6362 of this title.

(I) Any other information that the Secretary may reasonably require.

(c) Approval of applications

(1) In general

The Secretary shall approve an application of a State educational agency under this section only if such application meets the requirements of this section.

(2) Peer review

(A) In general

The Secretary, in consultation with the National Institute for Literacy, shall convene a panel to evaluate applications under this section. At a minimum, the panel shall include—

(i) three individuals selected by the Secretary;

(ii) three individuals selected by the National Institute for Literacy;

(iii) three individuals selected by the National Research Council of the National Academy of Sciences; and

(iv) three individuals selected by the National Institute of Child Health and Human Development.

(B) Experts

The panel shall include—

(i) experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under this section;

(ii) experts who provide professional development to individuals who teach reading to children and adults based on scientifically based reading research;

(iii) experts who provide professional development to other instructional staff based on scientifically based reading research; and

(iv) an individual who has expertise in screening, diagnostic, and classroom-based instructional reading assessments.

(C) Recommendations

The panel shall recommend grant applications from State educational agencies under this section to the Secretary for funding or for disapproval.

(d) Reading and literacy partnerships

(1) In general

For a State educational agency to receive a grant under section 6362 of this title, the Governor of the State, in consultation with the State educational agency, shall establish a reading and literacy partnership.

(2) Required participants

The reading and literacy partnership shall include the following participants:

(A) The Governor of the State.

(B) The chief State school officer.

(C) The chairman and the ranking member of each committee of the State legislature that is responsible for education policy.

(D) A representative, selected jointly by the Governor and the chief State school officer, of at least one eligible local educational agency.

(E) A representative, selected jointly by the Governor and the chief State school officer, of a community-based organization working with children to improve their reading skills, particularly a community-based organization using tutors and scientifically based reading research.

(F) State directors of appropriate Federal or State programs with a strong reading component, selected jointly by the Governor and the chief State school officer.

(G) A parent of a public or private school student or a parent who educates the parent's child in the parent's home, selected jointly by the Governor and the chief State school officer.

(H) A teacher, who may be a special education teacher, who successfully teaches reading, and another instructional staff member, selected jointly by the Governor and the chief State school officer.

(I) A family literacy service provider selected jointly by the Governor and the chief State school officer.

(3) Optional participants

The reading and literacy partnership may include additional participants, who shall be selected jointly by the Governor and the chief State school officer, and who may include a representative of—

(A) an institution of higher education operating a program of teacher preparation in

the State that is based on scientifically based reading research;

(B) a local educational agency;

(C) a private nonprofit or for-profit eligible professional development provider providing instruction based on scientifically based reading research;

(D) an adult education provider;

(E) a volunteer organization that is involved in reading programs; or

(F) a school library or a public library that offers reading or literacy programs for children or families.

(4) Preexisting partnership

If, before January 8, 2002, a State educational agency established a consortium, partnership, or any other similar body that was considered a reading and literacy partnership for purposes of part C of title II of this Act (as such part was in effect on January 8, 2002), that consortium, partnership, or body may be considered a reading and literacy partnership for purposes of this subsection consistent with the provisions of this subpart.

(Pub. L. 89–10, title I, §1203, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1543.)

REFERENCES IN TEXT

Part C of title II (as such part was in effect on the day before January 8, 2002), referred to in subsecs. (a)(2), (b)(2), and (d)(4), means part C of title II of Pub. L. 89–10, as added by Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–391, as amended, which was classified generally to part C (§6661 et seq.) of subchapter II of this chapter prior to the general amendment of subchapter II by Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1620.

The Adult Education and Family Literacy Act, referred to in subsec. (b)(4)(G), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (b)(4)(G), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 6363, Pub. L. 89–10, title I, §1203, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3579; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §204(b)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–409; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(f), (g)], Dec. 21, 2000, 114 Stat. 2763, 2763A–330, related to State Even Start programs, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381b of this title.

A prior section 1203 of Pub. L. 89–10 was classified to section 2783 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6364. Targeted assistance grants

(a) Eligibility criteria for awarding targeted assistance grants to States

Beginning with fiscal year 2004, from funds appropriated under section 6362(b)(1)(E) of this title, the Secretary shall make grants, on a competitive basis, to those State educational agencies that—

(1) for each of 2 consecutive years, demonstrate that an increasing percentage of third graders in each of the groups described in section 6311(b)(2)(C)(v)(II) of this title in the schools served by the local educational agencies receiving funds under section 6362 of this title are reaching the proficient level in reading; and

(2) for each of the same such consecutive 2 years, demonstrate that schools receiving funds under section 6362 of this title are improving the reading skills of students in grades 1, 2, and 3 based on screening, diagnostic, and classroom-based instructional reading assessments.

(b) Continuation of performance awards

For any State educational agency that receives a competitive grant under this section, the Secretary shall make an award for each of the succeeding years that the State educational agency demonstrates it is continuing to meet the criteria described in subsection (a) of this section.

(c) Distribution of targeted assistance grants

(1) In general

The Secretary shall make a grant to each State educational agency with an application approved under this section in an amount that bears the same relation to the amount made available to carry out this section for a fiscal year as the number of children counted under section 6333(c) of this title for the State bears to the number of such children so counted for all States with applications approved for that year.

(2) Peer review

The peer review panel convened under section 6363(c)(2) of this title shall review the applications submitted under this subsection. The panel shall recommend such applications to the Secretary for funding or for disapproval.

(3) Application contents

A State educational agency that desires to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall include the following:

(A) Evidence that the State educational agency has carried out its obligations under section 6363 of this title.

(B) Evidence that the State educational agency has met the criteria described in subsection (a) of this section.

(C) The amount of funds requested by the State educational agency and a description of the criteria the State educational agency intends to use in distributing subgrants to eligible local educational agencies under this section to continue or expand activities under subsection (d)(5) of this section.

(D) Evidence that the State educational agency has increased significantly the percentage of students reading at grade level or above.

(E) Any additional evidence that demonstrates success in the implementation of this section.

(d) Subgrants to eligible local educational agencies

(1) In general

The Secretary may make a grant to a State educational agency under this section only if the State educational agency agrees to expend 100 percent of the amount of the funds provided under the grant for the purpose of making competitive subgrants in accordance with this subsection to eligible local educational agencies.

(2) Notice

A State educational agency receiving a grant under this section shall provide notice to all local educational agencies in the State of the availability of competitive subgrants under this subsection and of the requirements for applying for the subgrants.

(3) Application

To be eligible to receive a subgrant under this subsection, an eligible local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(4) Distribution

(A) In general

A State educational agency shall distribute subgrants under this section through a competitive process based on relative need of eligible local educational agencies and the evidence described in this paragraph.

(B) Evidence used in all years

For all fiscal years, a State educational agency shall distribute subgrants under this section based on evidence that an eligible local educational agency—

(i) satisfies the requirements of section 6362(c)(4) of this title;

(ii) will carry out its obligations under this subpart;

(iii) will work with other local educational agencies in the State that have not received a subgrant under this subsection to assist such nonreceiving agencies in increasing the reading achievement of students; and

(iv) is meeting the criteria described in subsection (a) of this section.

(5) Local uses of funds

An eligible local educational agency that receives a subgrant under this subsection—

(A) shall use the funds provided under the subgrant to carry out the activities described in section 6362(c)(7)(A) of this title; and

(B) may use such funds to carry out the activities described in section 6362(c)(7)(B) of this title.

(Pub. L. 89–10, title I, §1204, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1546.)

PRIOR PROVISIONS

A prior section 6364, Pub. L. 89–10, title I, §1204, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3580; amended Pub. L. 104–134, title I, §101(b) [title II, §2755(a)], Apr. 26, 1996, 110 Stat. 1321–77, 1321–151; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 106–113, div. B, §1000(a)(4) [title III, §306(a)], Nov. 29, 1999, 113 Stat. 1535, 1501A–260; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(h)], Dec. 21, 2000, 114 Stat. 2763, 2763A–330, related to uses of funds in carrying out an Even Start program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381c of this title.

§ 6365. External evaluation

(a) In general

From funds reserved under section 6362(b)(1)(C) of this title, the Secretary shall contract with an independent organization outside of the Department for a 5-year, rigorous, scientifically valid, quantitative evaluation of this subpart.

(b) Process

The evaluation under subsection (a) of this section shall be conducted by an organization that is capable of designing and carrying out an independent evaluation that identifies the effects of specific activities carried out by State educational agencies and local educational agencies under this subpart on improving reading instruction. Such evaluation shall take into account factors influencing student performance that are not controlled by teachers or education administrators.

(c) Analysis

The evaluation under subsection (a) of this section shall include the following:

(1) An analysis of the relationship between each of the essential components of reading instruction and overall reading proficiency.

(2) An analysis of whether assessment tools used by State educational agencies and local educational agencies measure the essential components of reading.

(3) An analysis of how State reading standards correlate with the essential components of reading instruction.

(4) An analysis of whether the receipt of a targeted assistance grant under section 6364 of this title results in an increase in the number of children who read proficiently.

(5) A measurement of the extent to which specific instructional materials improve reading proficiency.

(6) A measurement of the extent to which specific screening, diagnostic, and classroom-based instructional reading assessments assist teachers in identifying specific reading deficiencies.

(7) A measurement of the extent to which professional development programs implemented by State educational agencies using funds received under this subpart improve reading instruction.

(8) A measurement of how well students preparing to enter the teaching profession are prepared to teach the essential components of reading instruction.

(9) An analysis of changes in students' interest in reading and time spent reading outside of school.

(10) Any other analysis or measurement pertinent to this subpart that is determined to be appropriate by the Secretary.

(d) Program improvement

The findings of the evaluation conducted under this section shall be provided to State educational agencies and local educational agencies on a periodic basis for use in program improvement.

(Pub. L. 89–10, title I, §1205, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1548.)

PRIOR PROVISIONS

A prior section 6365, Pub. L. 89–10, title I, §1205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3580; amended Pub. L. 104–134, title I, §101(b) [title II, §2755(b)], Apr. 26, 1996, 110 Stat. 1321–77, 1321–151; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–220, title II, §251(b)(2)(B), Aug. 7, 1998, 112 Stat. 1079; Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(18)(A), (f)(13)(A)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, 2681–431; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(i)], Dec. 21, 2000, 114 Stat. 2763, 2763A–331, related to Even Start program elements, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381d of this title.

§ 6366. National activities

From funds reserved under section 6362(b)(1)(C) of this title, the Secretary—

(1) may provide technical assistance in achieving the purposes of this subpart to State educational agencies, local educational agencies, and schools requesting such assistance;

(2) shall, at a minimum, evaluate the impact of services provided to children under this subpart with respect to their referral to, and eligibility for, special education services under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.] (based on their difficulties learning to read); and

(3) shall carry out the external evaluation as described in section 6365 of this title.

(Pub. L. 89–10, title I, §1206, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1548.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in par. (2), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 6366, Pub. L. 89–10, title I, §1206, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3581; amended Pub. L. 105–220, title II, §251(b)(2)(C), Aug. 7, 1998, 112 Stat. 1079; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(j)], Dec. 21, 2000, 114 Stat. 2763, 2763A–332, related to eligible participants in an Even Start program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381e of this title.

§ 6367. Information dissemination

(a) In general

From funds reserved under section 6362(b)(1)(D) of this title, the National Institute for Literacy, in collaboration with the Secretary of Education, the Secretary of Health and Human Services, and the Director of the National Institute for Child Health and Human Development shall—

(1) disseminate information on scientifically based reading research pertaining to children, youth, and adults;

(2) identify and disseminate information about schools, local educational agencies, and State educational agencies that have effectively developed and implemented classroom reading programs that meet the requirements of this subpart, including those State educational agencies, local educational agencies, and schools that have been identified as effective through the evaluation and peer review provisions of this subpart; and

(3) support the continued identification and dissemination of information on reading programs that contain the essential components of reading instruction as supported by scientifically based reading research, that can lead to improved reading outcomes for children, youth, and adults.

(b) Dissemination and coordination

At a minimum, the National Institute for Literacy shall disseminate the information described in subsection (a) of this section to—

(1) recipients of Federal financial assistance under this subchapter, subchapter III of this chapter, the Head Start Act [42 U.S.C. 9831 et seq.], the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], and the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.]; and

(2) each Bureau funded school (as defined in section 2021 of title 25).

(c) Use of existing networks

In carrying out this section, the National Institute for Literacy shall, to the extent practicable, use existing information and dissemination networks developed and maintained through other public and private entities including through the Department and the National Center for Family Literacy.

(d) National Institute for Literacy

For purposes of funds reserved under section 6362(b)(1)(D) of this title to carry out this section, the National Institute for Literacy shall administer such funds in accordance with section 9252(b) of this title (relating to the establishment and administration of the National Institute for Literacy).

(Pub. L. 89–10, title I, §1207, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1549.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (b)(1), is subchapter B (§§635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (b)(1), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (b)(1), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

PRIOR PROVISIONS

A prior section 6367, Pub. L. 89–10, title I, § 1207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3582; amended Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1604(k)], Dec. 21, 2000, 114 Stat. 2763, 2763A–332, related to applications for Even Start subgrants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381f of this title.

§ 6368. Definitions

In this subpart:

(1) Eligible local educational agency

The term ''eligible local educational agency'' means a local educational agency that—

(A) is among the local educational agencies in the State with the highest numbers or percentages of students in kindergarten through grade 3 reading below grade level, based on the most currently available data; and

(B) has—

(i) jurisdiction over a geographic area that includes an area designated as an empowerment zone, or an enterprise community, under part I of subchapter U of chapter 1 of title 26;

(ii) jurisdiction over a significant number or percentage of schools that are identified for school improvement under section 6316(b) of this title; or

(iii) the highest numbers or percentages of children who are counted under section 6333(c) of this title, in comparison to other local educational agencies in the State.

(2) Eligible professional development provider

The term ''eligible professional development provider'' means a provider of professional development in reading instruction to teachers, including special education teachers, that is based on scientifically based reading research.

(3) Essential components of reading instruction

The term ''essential components of reading instruction'' means explicit and systematic instruction in—

(A) phonemic awareness;

(B) phonics;

(C) vocabulary development;

(D) reading fluency, including oral reading skills; and

(E) reading comprehension strategies.

(4) Instructional staff

The term ''instructional staff''—

(A) means individuals who have responsibility for teaching children to read; and

(B) includes principals, teachers, supervisors of instruction, librarians, library school media specialists, teachers of academic subjects other than reading, and other individuals who have responsibility for assisting children to learn to read.

(5) Reading

The term ''reading'' means a complex system of deriving meaning from print that requires all of the following:

(A) The skills and knowledge to understand how phonemes, or speech sounds, are connected to print.

(B) The ability to decode unfamiliar words.

(C) The ability to read fluently.

(D) Sufficient background information and vocabulary to foster reading comprehension.

(E) The development of appropriate active strategies to construct meaning from print.

(F) The development and maintenance of a motivation to read.

(6) Scientifically based reading research

The term ''scientifically based reading research'' means research that—

(A) applies rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

(B) includes research that—

(i) employs systematic, empirical methods that draw on observation or experiment;

(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

(7) Screening, diagnostic, and classroom-based instructional reading assessments

(A) In general

The term ''screening, diagnostic, and classroom-based instructional reading assessments'' means—

(i) screening reading assessments;

(ii) diagnostic reading assessments; and

(iii) classroom-based instructional reading assessments.

(B) Screening reading assessment

The term ''screening reading assessment'' means an assessment that is—

(i) valid, reliable, and based on scientifically based reading research; and

(ii) a brief procedure designed as a first step in identifying children who may be at high risk for delayed development or academic failure and in need of further diagnosis of their need for special services or additional reading instruction.

(C) Diagnostic reading assessment

The term ''diagnostic reading assessment'' means an assessment that is—

(i) valid, reliable, and based on scientifically based reading research; and

(ii) used for the purpose of—

(I) identifying a child's specific areas of strengths and weaknesses so that the child has learned to read by the end of grade 3;

(II) determining any difficulties that a child may have in learning to read and the potential cause of such difficulties; and

(III) helping to determine possible reading intervention strategies and related special needs.

(D) Classroom-based instructional reading assessment

The term ''classroom-based instructional reading assessment'' means an assessment that—

(i) evaluates children's learning based on systematic observations by teachers of children performing academic tasks that are part of their daily classroom experience; and

(ii) is used to improve instruction in reading, including classroom instruction.

(Pub. L. 89–10, title I, §1208, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1549.)

PRIOR PROVISIONS

A prior section 6368, Pub. L. 89–10, title I, §1208, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3583; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §204(c)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–409; Pub. L. 106–113, div. B, §1000(a)(4) [title III, §306(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A–260; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(*l*)], Dec. 21, 2000, 114 Stat. 2763, 2763A–332, related to award of Even Start subgrants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6381g of this title.

Prior sections 6369, 6369a, 6369b, and 6370 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6369, Pub. L. 89–10, title I, §1209, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3584; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §203], Oct. 21, 1998, 112 Stat. 2681–337, 2681–408, related to evaluation of Even Start programs. See section 6381h of this title.

Section 6369a, Pub. L. 89–10, title I, §1210, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §204(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–409, related to indicators of Even Start program quality. See section 6381i of this title.

Section 6369b, Pub. L. 89–10, title I, §1211, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §205], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410; amended Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1604(m)], Dec. 21, 2000, 114 Stat. 2763, 2763A–333, authorized research. See section 6381j of this title.

Section 6370, Pub. L. 89–10, title I, §1212, formerly §1210, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3584; renumbered §1212, Pub. L. 105–277, div. A, §101(f) [title VIII, §204(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–409, related to construction of provisions. See section 6381k of this title.

SUBPART 2—EARLY READING FIRST

§ 6371. Purposes; definitions

(a) Purposes

The purposes of this subpart are as follows:

(1) To support local efforts to enhance the early language, literacy, and prereading development of preschool age children, particularly those from low-income families, through strategies and professional development that are based on scientifically based reading research.

(2) To provide preschool age children with cognitive learning opportunities in high-quality language and literature-rich environments, so that the children can attain the fundamental knowledge and skills necessary for optimal reading development in kindergarten and beyond.

(3) To demonstrate language and literacy activities based on scientifically based reading research that supports the age-appropriate development of—

(A) recognition, leading to automatic recognition, of letters of the alphabet;

(B) knowledge of letter sounds, the blending of sounds, and the use of increasingly complex vocabulary;

(C) an understanding that written language is composed of phonemes and letters each representing one or more speech sounds that in combination make up syllables, words, and sentences;

(D) spoken language, including vocabulary and oral comprehension abilities; and

(E) knowledge of the purposes and conventions of print.

(4) To use screening assessments to effectively identify preschool age children who may be at risk for reading failure.

(5) To integrate such scientific reading research-based instructional materials and literacy activities with existing programs of preschools, child care agencies and programs, Head Start centers, and family literacy services.

(b) Definitions

For purposes of this subpart:

(1) Eligible applicant

The term ''eligible applicant'' means—

(A) one or more local educational agencies that are eligible to receive a subgrant under subpart 1 of this part;

(B) one or more public or private organizations or agencies, acting on behalf of one or more programs that serve preschool age children (such as a program at a Head Start center, a child care program, or a family literacy program), which organizations or agencies shall be located in a community served by a local educational agency described in subparagraph (A); or

(C) one or more local educational agencies described in subparagraph (A) in collaboration with one or more organizations or agencies described in subparagraph (B).

(2) Scientifically based reading research

The term ''scientifically based reading research'' has the same meaning given to that term in section 6368 of this title.

(3) Screening reading assessment

The term ''screening reading assessment'' has the same meaning given to that term in section 6368 of this title.

(Pub. L. 89–10, title I, §1221, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1552.)

PRIOR PROVISIONS

A prior section 1221 of Pub. L. 89–10 was classified to section 2791 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6372. Local Early Reading First grants

(a) Program authorized

From amounts appropriated under section 6302(b)(2) of this title, the Secretary shall award grants, on a competitive basis, for periods of not more than 6 years, to eligible applicants to en-

able the eligible applicants to carry out the authorized activities described in subsection (d) of this section.

(b) Applications

An eligible applicant that desires to receive a grant under this section shall submit an application to the Secretary, which shall include a description of—

(1) the programs to be served by the proposed project, including demographic and socioeconomic information on the preschool age children enrolled in the programs;

(2) how the proposed project will enhance the school readiness of preschool age children in high-quality oral language and literature-rich environments;

(3) how the proposed project will prepare and provide ongoing assistance to staff in the programs, through professional development and other support, to provide high-quality language, literacy, and prereading activities using scientifically based reading research, for preschool age children;

(4) how the proposed project will provide services and use instructional materials that are based on scientifically based reading research on early language acquisition, prereading activities, and the development of spoken vocabulary skills;

(5) how the proposed project will help staff in the programs to meet more effectively the diverse needs of preschool age children in the community, including such children with limited English proficiency, disabilities, or other special needs;

(6) how the proposed project will integrate such instructional materials and literacy activities with existing preschool programs and family literacy services;

(7) how the proposed project will help children, particularly children experiencing difficulty with spoken language, prereading, and early reading skills, to make the transition from preschool to formal classroom instruction in school;

(8) if the eligible applicant has received a subgrant under subpart 1 of this part, how the activities conducted under this subpart will be coordinated with the eligible applicant's activities under subpart 1 of this part at the kindergarten through grade 3 level;

(9) how the proposed project will evaluate the success of the activities supported under this subpart in enhancing the early language, literacy, and prereading development of preschool age children served by the project; and

(10) such other information as the Secretary may require.

(c) Approval of local applications

The Secretary shall select applicants for funding under this subpart based on the quality of the applications and the recommendations of a peer review panel convened under section 6363(c)(2) of this title, that includes, at a minimum, three individuals, selected from the entities described in clauses (ii), (iii), and (iv) of section 6363(c)(2)(A) of this title, who are experts in early reading development and early childhood development.

(d) Authorized activities

An eligible applicant that receives a grant under this subpart shall use the funds provided under the grant to carry out the following activities:

(1) Providing preschool age children with high-quality oral language and literature-rich environments in which to acquire language and prereading skills.

(2) Providing professional development that is based on scientifically based reading research knowledge of early language and reading development for the staff of the eligible applicant and that will assist in developing the preschool age children's—

(A) recognition, leading to automatic recognition, of letters of the alphabet, knowledge of letters, sounds, blending of letter sounds, and increasingly complex vocabulary;

(B) understanding that written language is composed of phonemes and letters each representing one or more speech sounds that in combination make up syllables, words, and sentences;

(C) spoken language, including vocabulary and oral comprehension abilities; and

(D) knowledge of the purposes and conventions of print.

(3) Identifying and providing activities and instructional materials that are based on scientifically based reading research for use in developing the skills and abilities described in paragraph (2).

(4) Acquiring, providing training for, and implementing screening reading assessments or other appropriate measures that are based on scientifically based reading research to determine whether preschool age children are developing the skills described in this subsection.

(5) Integrating such instructional materials, activities, tools, and measures into the programs offered by the eligible applicant.

(e) Award amounts

The Secretary may establish a maximum award amount, or ranges of award amounts, for grants under this subpart.

(Pub. L. 89–10, title I, § 1222, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1553.)

PRIOR PROVISIONS

A prior section 1222 of Pub. L. 89–10 was classified to section 2792 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6373. Federal administration

The Secretary shall consult with the Secretary of Health and Human Services to coordinate the activities under this subpart with preschool age programs administered by the Department of Health and Human Services.

(Pub. L. 89–10, title I, § 1223, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1554.)

PRIOR PROVISIONS

A prior section 1223 of Pub. L. 89–10 was classified to section 2793 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6374. Information dissemination

From the funds the National Institute for Literacy receives under section 6362(b)(1)(D) of this title, the National Institute for Literacy, in consultation with the Secretary, shall disseminate information regarding projects assisted under this subpart that have proven effective.

(Pub. L. 89–10, title I, § 1224, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1554.)

PRIOR PROVISIONS

A prior section 1224 of Pub. L. 89–10 was classified to section 2794 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6375. Reporting requirements

Each eligible applicant receiving a grant under this subpart shall report annually to the Secretary regarding the eligible applicant's progress in addressing the purposes of this subpart. Such report shall include, at a minimum, a description of—

(1) the research-based instruction, materials, and activities being used in the programs funded under the grant;

(2) the types of programs funded under the grant and the ages of children served by such programs;

(3) the qualifications of the program staff who provide early literacy instruction under such programs and the type of ongoing professional development provided to such staff; and

(4) the results of the evaluation described in section 6372(b)(9) of this title.

(Pub. L. 89–10, title I, § 1225, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1554.)

PRIOR PROVISIONS

A prior section 1225 of Pub. L. 89–10 was classified to section 2795 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6376. Evaluation

(a) In general

From the total amount made available under section 6302(b)(2) of this title for the period beginning October 1, 2002, and ending September 30, 2006, the Secretary shall reserve not more than $3,000,000 to conduct an independent evaluation of the effectiveness of this subpart.

(b) Reports

(1) Interim report

Not later than October 1, 2004, the Secretary shall submit an interim report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(2) Final report

Not later than September 30, 2006, the Secretary shall submit a final report to the committees described in paragraph (1).

(c) Contents

The reports submitted under subsection (b) of this section shall include information on the following:

(1) How the grant recipients under this subpart are improving the prereading skills of preschool children.

(2) The effectiveness of the professional development program assisted under this subpart.

(3) How early childhood teachers are being prepared with scientifically based reading research on early reading development.

(4) What activities and instructional practices are most effective.

(5) How prereading instructional materials and literacy activities based on scientifically based reading research are being integrated into preschools, child care agencies and programs, programs carried out under the Head Start Act [42 U.S.C. 9831 et seq.], and family literacy programs.

(6) Any recommendations on strengthening or modifying this subpart.

(Pub. L. 89–10, title I, § 1226, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1555.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (c)(5), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 1226 of Pub. L. 89–10 was classified to section 2796 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 3—WILLIAM F. GOODLING EVEN START FAMILY LITERACY PROGRAMS

§ 6381. Statement of purpose

It is the purpose of this subpart to help break the cycle of poverty and illiteracy by—

(1) improving the educational opportunities of the Nation's low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program, to be referred to as ''Even Start''; and

(2) establishing a program that shall—

(A) be implemented through cooperative projects that build on high-quality existing community resources to create a new range of services;

(B) promote the academic achievement of children and adults;

(C) assist children and adults from low-income families to achieve to challenging State content standards and challenging State student achievement standards; and

(D) use instructional programs based on scientifically based reading research and addressing the prevention of reading difficulties for children and adults, to the extent such research is available.

(Pub. L. 89–10, title I, § 1231, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1555.)

§ 6381a. Program authorized

(a) Reservation for migrant programs, outlying areas, and Indian tribes

(1) In general

For each fiscal year, the Secretary shall reserve 5 percent of the amount appropriated

under section 6302(b)(3) of this title (or, if such appropriated amount exceeds $200,000,000, 6 percent of such amount) for programs, under such terms and conditions as the Secretary shall establish, that are consistent with the purpose of this subpart, and according to their relative needs, for—

(A) children of migratory workers;

(B) the outlying areas; and

(C) Indian tribes and tribal organizations.

(2) Special rule

After December 21, 2000, the Secretary shall award a grant, on a competitive basis, of sufficient size and for a period of sufficient duration to demonstrate the effectiveness of a family literacy program in a prison that houses women and their preschool age children and that has the capability of developing a program of high quality.

(3) Coordination of programs for American Indians

The Secretary shall ensure that programs under paragraph (1)(C) are coordinated with family literacy programs operated by the Bureau of Indian Affairs in order to avoid duplication and to encourage the dissemination of information on high-quality family literacy programs serving American Indians.

(b) Reservation for Federal activities

(1) Evaluation, technical assistance, program improvement, and replication activities

Subject to paragraph (2), from amounts appropriated under section 6302(b)(3) of this title, the Secretary may reserve not more than 3 percent of such amounts for purposes of—

(A) carrying out the evaluation required by section 6381h of this title; and

(B) providing, through grants or contracts with eligible organizations, technical assistance, program improvement, and replication activities.

(2) Research

In any fiscal year, if the amount appropriated under section 6302(b)(3) of this title for such year—

(A) is equal to or less than the amount appropriated for the preceding fiscal year, the Secretary may reserve from such amount only the amount necessary to continue multi-year activities carried out pursuant to section 6381j(b) of this title that began during or prior to the fiscal year preceding the fiscal year for which the determination is made; or

(B) exceeds the amount appropriated for the preceding fiscal year, then the Secretary shall reserve from such excess amount $2,000,000 or 50 percent, whichever is less, to carry out section 6381j(b) of this title.

(c) Reservation for grants

(1) Grants authorized

(A) In general

For any fiscal year for which at least one State educational agency applies and submits an application that meets the requirements and goals of this subsection and for which the amount appropriated under section 6302(b)(3) of this title exceeds the amount appropriated under that section for the preceding fiscal year, the Secretary shall reserve, from the amount of the excess remaining after the application of subsection (b)(2) of this section, the amount of the remainder or $1,000,000, whichever is less, to award grants, on a competitive basis, to State educational agencies to enable them to plan and implement statewide family literacy initiatives to coordinate and, where appropriate, integrate existing Federal, State, and local literacy resources consistent with the purposes of this subpart.

(B) Coordination and integration

The coordination and integration described in subparagraph (A) shall include coordination and integration of funds available under the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.], the Head Start Act [42 U.S.C. 9831 et seq.], this subpart, part A of this subchapter, and part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.].

(C) Restriction

No State educational agency may receive more than one grant under this subsection.

(2) Consortia

(A) Establishment

To receive a grant under this subsection, a State educational agency shall establish a consortium of State-level programs under the following provisions of laws:

(i) This subchapter (other than part D).

(ii) The Head Start Act [42 U.S.C. 9831 et seq.].

(iii) The Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.].

(iv) All other State-funded preschool programs and programs providing literacy services to adults.

(B) Plan

To receive a grant under this subsection, the consortium established by a State educational agency shall create a plan to use a portion of the State educational agency's resources, derived from the programs referred to in subparagraph (A), to strengthen and expand family literacy services in the State.

(C) Coordination with subpart 1

The consortium shall coordinate its activities under this paragraph with the activities of the reading and literacy partnership for the State educational agency established under section 6363(d) of this title, if the State educational agency receives a grant under section 6362 of this title.

(3) Reading instruction

Statewide family literacy initiatives implemented under this subsection shall base reading instruction on scientifically based reading research.

(4) Technical assistance

The Secretary shall provide, directly or through a grant or contract with an organization with experience in the development and

operation of successful family literacy services, technical assistance to State educational agencies receiving a grant under this subsection.

(5) Matching requirement

The Secretary shall not make a grant to a State educational agency under this subsection unless the State educational agency agrees that, with respect to the costs to be incurred by the eligible consortium in carrying out the activities for which the grant was awarded, the State educational agency will make available non-Federal contributions in an amount equal to not less than the Federal funds provided under the grant.

(d) State educational agency allocation

(1) In general

From amounts appropriated under section 6302(b)(3) of this title and not reserved under subsection (a), (b), or (c) of this section, the Secretary shall make grants to State educational agencies from allocations under paragraph (2).

(2) Allocations

Except as provided in paragraph (3), from the total amount available under paragraph (1) for allocation to State educational agencies in any fiscal year, each State educational agency shall be eligible to receive a grant under paragraph (1) in an amount that bears the same ratio to the total amount as the amount allocated under part A of this subchapter to that State educational agency bears to the total amount allocated under that part to all State educational agencies.

(3) Minimum

No State educational agency shall receive a grant under paragraph (1) in any fiscal year in an amount that is less than $250,000, or one-half of 1 percent of the amount appropriated under section 6302(b)(3) of this title and not reserved under subsections (a), (b), and (c) of this section for such year, whichever is greater.

(e) Definitions

For the purpose of this subpart—

(1) the term ''eligible entity'' means a partnership composed of—

(A) a local educational agency; and

(B) a nonprofit community-based organization, a public agency other than a local educational agency, an institution of higher education, or a public or private nonprofit organization other than a local educational agency, of demonstrated quality;

(2) the term ''eligible organization'' means any public or private nonprofit organization with a record of providing effective services to family literacy providers, such as the National Center for Family Literacy, Parents as Teachers, Inc., the Home Instruction Program for Preschool Youngsters, and the Home and School Institute, Inc.;

(3) the terms ''Indian tribe'' and ''tribal organization'' have the meanings given those terms in section 450b of title 25;

(4) the term ''scientifically based reading research'' has the meaning given that term in section 6368 of this title; and

(5) the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title I, §1232, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1556.)

REFERENCES IN TEXT

The Adult Education and Family Literacy Act, referred to in subsec. (c)(1)(B), (2)(A)(iii), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Head Start Act, referred to in subsec. (c)(1)(B), (2)(A)(ii), is subchapter B (§§635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (c)(1)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

§6381b. State educational agency programs

(a) State educational agency level activities

Each State educational agency that receives a grant under section 6381a(d)(1) of this title may use not more than a total of 6 percent of the grant funds for the costs of—

(1) administration, which amount shall not exceed half of the total;

(2) providing, through one or more subgrants or contracts, technical assistance for program improvement and replication, to eligible entities that receive subgrants under subsection (b) of this section; and

(3) carrying out sections 6381i and 6381c(c) of this title.

(b) Subgrants for local programs

(1) In general

Each State educational agency shall use the grant funds received under section 6381a(d)(1) of this title and not reserved under subsection (a) of this section to award subgrants to eligible entities to carry out Even Start programs.

(2) Minimum subgrant amounts

(A) In general

Except as provided in subparagraphs (B) and (C), no State educational agency shall award a subgrant under paragraph (1) in an amount less than $75,000.

(B) Subgrantees in ninth and succeeding years

No State educational agency shall award a subgrant under paragraph (1) in an amount less than $52,500 to an eligible entity for a fiscal year to carry out an Even Start program that is receiving assistance under this subpart or its predecessor authority for the ninth (or any subsequent) fiscal year.

(C) Exception for single subgrant

A State educational agency may award one subgrant in each fiscal year of sufficient

size, scope, and quality to be effective in an amount less than $75,000 if, after awarding subgrants under paragraph (1) for that fiscal year in accordance with subparagraphs (A) and (B), less than $75,000 is available to the State educational agency to award those subgrants.

(Pub. L. 89–10, title I, § 1233, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1558.)

§ 6381c. Uses of funds

(a) In general

In carrying out an Even Start program under this subpart, a recipient of funds under this subpart shall use those funds to pay the Federal share of the cost of providing intensive family literacy services that involve parents and children, from birth through age 7, in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

(b) Federal share limitation

(1) In general

(A) Federal share

Except as provided in paragraph (2), the Federal share under this subpart may not exceed—

(i) 90 percent of the total cost of the program in the first year that the program receives assistance under this subpart or its predecessor authority;

(ii) 80 percent in the second year;

(iii) 70 percent in the third year;

(iv) 60 percent in the fourth year;

(v) 50 percent in the fifth, sixth, seventh, and eighth such years; and

(vi) 35 percent in any subsequent year.

(B) Remaining cost

The remaining cost of a program assisted under this subpart may be provided in cash or in kind, fairly evaluated, and may be obtained from any source, including other Federal funds under this chapter.

(2) Waiver

The State educational agency may waive, in whole or in part, the Federal share described in paragraph (1) for an eligible entity if the entity—

(A) demonstrates that it otherwise would not be able to participate in the program assisted under this subpart; and

(B) negotiates an agreement with the State educational agency with respect to the amount of the remaining cost to which the waiver will be applicable.

(3) Prohibition

Federal funds provided under this subpart may not be used for the indirect costs of a program assisted under this subpart, except that the Secretary may waive this paragraph if an eligible recipient of funds reserved under section 6381a(a)(1)(C) of this title demonstrates to the Secretary's satisfaction that the recipient otherwise would not be able to participate in the program assisted under this subpart.

(c) Use of funds for family literacy services

(1) In general

A State educational agency may use a portion of funds reserved under section 6381b(a) of this title, to assist eligible entities receiving a subgrant under section 6381b(b) of this title in improving the quality of family literacy services provided under Even Start programs under this subpart, except that in no case may a State educational agency's use of funds for this purpose for a fiscal year result in a decrease from the level of activities and services provided to program participants in the preceding year.

(2) Priority

In carrying out paragraph (1), a State educational agency shall give priority to programs that were of low quality, as evaluated based on the indicators of program quality developed by the State educational agency under section 6381i of this title.

(3) Technical assistance to help local programs raise additional funds

In carrying out paragraph (1), a State educational agency may use the funds referred to in that paragraph to provide technical assistance to help local programs of demonstrated effectiveness to access and leverage additional funds for the purpose of expanding services and reducing waiting lists, including requesting and applying for non-Federal resources.

(4) Technical assistance and training

Assistance under paragraph (1) shall be in the form of technical assistance and training, provided by a State educational agency through a grant, contract, or cooperative agreement with an entity that has experience in offering high-quality training and technical assistance to family literacy providers.

(Pub. L. 89–10, title I, § 1234, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1559.)

§ 6381d. Program elements

Each program assisted under this subpart shall—

(1) include the identification and recruitment of families most in need of services provided under this subpart, as indicated by a low level of income, a low level of adult literacy or English language proficiency of the eligible parent or parents, and other need-related indicators;

(2) include screening and preparation of parents, including teenage parents, and children to enable those parents and children to participate fully in the activities and services provided under this subpart, including testing, referral to necessary counselling, other developmental and support services, and related services;

(3) be designed to accommodate the participants' work schedule and other responsibilities, including the provision of support services, when those services are unavailable from other sources, necessary for participation in the activities assisted under this subpart, such as—

(A) scheduling and locating of services to allow joint participation by parents and children;

(B) child care for the period that parents are involved in the program provided under this subpart; and

(C) transportation for the purpose of enabling parents and their children to participate in programs authorized by this subpart;

(4) include high-quality, intensive instructional programs that promote adult literacy and empower parents to support the educational growth of their children, developmentally appropriate early childhood educational services, and preparation of children for success in regular school programs;

(5) with respect to the qualifications of staff the cost of whose salaries are paid, in whole or in part, with Federal funds provided under this subpart, ensure that—

(A) not later than December 21, 2004—

(i) a majority of the individuals providing academic instruction—

(I) shall have obtained an associate's, bachelor's, or graduate degree in a field related to early childhood education, elementary school or secondary school education, or adult education; and

(II) if applicable, shall meet qualifications established by the State for early childhood education, elementary school or secondary school education, or adult education provided as part of an Even Start program or another family literacy program;

(ii) the individual responsible for administration of family literacy services under this subpart has received training in the operation of a family literacy program; and

(iii) paraprofessionals who provide support for academic instruction have a secondary school diploma or its recognized equivalent; and

(B) all new personnel hired to provide academic instruction—

(i) have obtained an associate's, bachelor's, or graduate degree in a field related to early childhood education, elementary school or secondary school education, or adult education; and

(ii) if applicable, meet qualifications established by the State for early childhood education, elementary school or secondary school education, or adult education provided as part of an Even Start program or another family literacy program;

(6) include special training of staff, including child-care staff, to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this subpart;

(7) provide and monitor integrated instructional services to participating parents and children through home-based programs;

(8) operate on a year-round basis, including the provision of some program services, including instructional and enrichment services, during the summer months;

(9) be coordinated with—

(A) other programs assisted under this chapter;

(B) any relevant programs under the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.], the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], and title I of the Workforce Investment Act of 1998 [29 U.S.C. 2801 et seq.]; and

(C) the Head Start program, volunteer literacy programs, and other relevant programs;

(10) use instructional programs based on scientifically based reading research for children and adults, to the extent that research is available;

(11) encourage participating families to attend regularly and to remain in the program a sufficient time to meet their program goals;

(12) include reading-readiness activities for preschool children based on scientifically based reading research, to the extent available, to ensure that children enter school ready to learn to read;

(13) if applicable, promote the continuity of family literacy to ensure that individuals retain and improve their educational outcomes;

(14) ensure that the programs will serve those families most in need of the activities and services provided by this subpart; and

(15) provide for an independent evaluation of the program, to be used for program improvement.

(Pub. L. 89–10, title I, § 1235, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1560.)

REFERENCES IN TEXT

The Adult Education and Family Literacy Act, referred to in par. (9)(B), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§ 9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in par. (9)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Workforce Investment Act of 1998, referred to in par. (9)(B), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

§ 6381e. Eligible participants

(a) In general

Except as provided in subsection (b) of this section, eligible participants in an Even Start program are—

(1) a parent or parents—

(A) who are eligible for participation in adult education and literacy activities under the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.]; or

(B) who are within the State's compulsory school attendance age range, so long as a local educational agency provides (or ensures the availability of) the basic education component required under this subpart, or who are attending secondary school; and

(2) the child or children, from birth through age 7, of any individual described in paragraph (1).

(b) Eligibility for certain other participants

(1) In general

Family members of eligible participants described in subsection (a) of this section may participate in activities and services provided under this subpart, when appropriate to serve the purpose of this subpart.

(2) Special rule

Any family participating in a program assisted under this subpart that becomes ineligible to participate as a result of one or more members of the family becoming ineligible to participate may continue to participate in the program until all members of the family become ineligible to participate, which—

(A) in the case of a family in which ineligibility was due to the child or children of the family attaining the age of 8, shall be in 2 years or when the parent or parents become ineligible due to educational advancement, whichever occurs first; and

(B) in the case of a family in which ineligibility was due to the educational advancement of the parent or parents of the family, shall be when all children in the family attain the age of 8.

(3) Children 8 years of age or older

If an Even Start program assisted under this subpart collaborates with a program under part A of this subchapter, and funds received under the part A program contribute to paying the cost of providing programs under this subpart to children 8 years of age or older, the Even Start program may, notwithstanding subsection (a)(2) of this section, permit the participation of children 8 years of age or older if the focus of the program continues to remain on families with young children.

(Pub. L. 89–10, title I, § 1236, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1562.)

REFERENCES IN TEXT

The Adult Education and Family Literacy Act, referred to in subsec. (a)(1)(A), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§ 9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

§ 6381f. Applications

(a) Submission

To be eligible to receive a subgrant under this subpart, an eligible entity shall submit an application to the State educational agency in such form and containing or accompanied by such information as the State educational agency shall require.

(b) Required documentation

Each application shall include documentation, satisfactory to the State educational agency, that the eligible entity has the qualified personnel needed—

(1) to develop, administer, and implement an Even Start program under this subpart; and

(2) to provide access to the special training necessary to prepare staff for the program, which may be offered by an eligible organization.

(c) Plan

(1) In general

The application shall also include a plan of operation and continuous improvement for the program, that includes—

(A) a description of the program objectives, strategies to meet those objectives, and how those strategies and objectives are consistent with the program indicators established by the State;

(B) a description of the activities and services that will be provided under the program, including a description of how the program will incorporate the program elements required by section 6381d of this title;

(C) a description of the population to be served and an estimate of the number of participants to be served;

(D) as appropriate, a description of the applicant's collaborative efforts with institutions of higher education, community-based organizations, the State educational agency, private elementary schools, or other eligible organizations in carrying out the program for which assistance is sought;

(E) a statement of the methods that will be used—

(i) to ensure that the programs will serve families most in need of the activities and services provided by this subpart;

(ii) to provide services under this subpart to individuals with special needs, such as individuals with limited English proficiency and individuals with disabilities; and

(iii) to encourage participants to remain in the program for a time sufficient to meet the program's purpose;

(F) a description of how the plan is integrated with other programs under this chapter or other Acts, as appropriate; and

(G) a description of how the plan provides for rigorous and objective evaluation of progress toward the program objectives described in subparagraph (A) and for continuing use of evaluation data for program improvement.

(2) Duration of the plan

Each plan submitted under paragraph (1) shall—

(A) remain in effect for the duration of the eligible entity's participation under this subpart; and

(B) be periodically reviewed and revised by the eligible entity as necessary.

(d) Consolidated application

The plan described in subsection (c)(1) of this section may be submitted as part of a consolidated application under section 7845 of this title.

(Pub. L. 89–10, title I, § 1237, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1563.)

§ 6381g. Award of subgrants

(a) Selection process

(1) In general

The State educational agency shall establish a review panel in accordance with paragraph (3) that will approve applications that—

(A) are most likely to be successful in—

(i) meeting the purpose of this subpart; and

(ii) effectively implementing the program elements required under section 6381d of this title;

(B) demonstrate that the area to be served by the program has a high percentage or a large number of children and families who are in need of those services as indicated by high levels of poverty, illiteracy, unemployment, limited English proficiency, or other need-related indicators, such as a high percentage of children to be served by the program who reside in a school attendance area served by a local educational agency eligible for participation in programs under part A of this subchapter, a high number or percentage of parents who have been victims of domestic violence, or a high number or percentage of parents who are receiving assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(C) provide services for at least a 3-year age range, which may begin at birth;

(D) demonstrate the greatest possible cooperation and coordination between a variety of relevant service providers in all phases of the program;

(E) include cost-effective budgets, given the scope of the application;

(F) demonstrate the applicant's ability to provide the non-Federal share required by section 6381c(b) of this title;

(G) are representative of urban and rural regions of the State; and

(H) show the greatest promise for providing models that may be adopted by other family literacy projects and other local educational agencies.

(2) Priority for subgrants

The State educational agency shall give priority for subgrants under this subsection to applications that—

(A) target services primarily to families described in paragraph (1)(B); or

(B) are located in areas designated as empowerment zones or enterprise communities.

(3) Review panel

A review panel shall consist of at least three members, including one early childhood professional, one adult education professional, and one individual with expertise in family literacy programs, and may include other individuals, such as one or more of the following:

(A) A representative of a parent-child education organization.

(B) A representative of a community-based literacy organization.

(C) A member of a local board of education.

(D) A representative of business and industry with a commitment to education.

(E) An individual who has been involved in the implementation of programs under this subchapter in the State.

(b) Duration

(1) In general

Subgrants under this subpart may be awarded for a period not to exceed 4 years.

(2) Startup period

The State educational agency may provide subgrant funds to an eligible recipient, at the recipient's request, for a 3- to 6-month startup period during the first year of the 4-year grant period, which may include staff recruitment and training, and the coordination of services, before requiring full implementation of the program.

(3) Continuing eligibility

In awarding subgrant funds to continue a program under this subpart after the first year, the State educational agency shall review the progress of each eligible entity in meeting the objectives of the program referred to in section 6381f(c)(1)(A) of this title and shall evaluate the program based on the indicators of program quality developed by the State under section 6381i of this title.

(4) Insufficient progress

The State educational agency may refuse to award subgrant funds to an eligible entity if the agency finds that the eligible entity has not sufficiently improved the performance of the program, as evaluated based on the indicators of program quality developed by the State under section 6381i of this title, after—

(A) providing technical assistance to the eligible entity; and

(B) affording the eligible entity notice and an opportunity for a hearing.

(5) Grant renewal

(A) An eligible entity that has previously received a subgrant under this subpart may reapply under this subpart for additional subgrants.

(B) The Federal share of any subgrant renewed under subparagraph (A) shall be limited in accordance with section 6381c(b) of this title.

(Pub. L. 89–10, title I, § 1238, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1564.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(1)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

§ 6381h. Evaluation

From funds reserved under section 6381a(b)(1) of this title, the Secretary shall provide for an independent evaluation of programs assisted under this subpart—

(1) to determine the performance and effectiveness of programs assisted under this subpart;

(2) to identify effective Even Start programs assisted under this subpart that can be duplicated and used in providing technical assistance to Federal, State, and local programs; and

(3) to provide State educational agencies and eligible entities receiving a subgrant under this subpart, directly or through a grant or contract with an organization with experience in the development and operation of successful family literacy services, technical assistance to ensure that local evaluations undertaken under section 6381d(15) of this title provide accurate information on the effectiveness of programs assisted under this subpart.

(Pub. L. 89–10, title I, § 1239, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1566.)

§ 6381i. Indicators of program quality

Each State educational agency receiving funds under this subpart shall develop, based on the best available research and evaluation data, indicators of program quality for programs assisted under this subpart. The indicators shall be used to monitor, evaluate, and improve those programs within the State. The indicators shall include the following:

(1) With respect to eligible participants in a program who are adults—

(A) achievement in the areas of reading, writing, English-language acquisition, problem solving, and numeracy;

(B) receipt of a secondary school diploma or a general equivalency diploma (GED);

(C) entry into a postsecondary school, job retraining program, or employment or career advancement, including the military; and

(D) such other indicators as the State may develop.

(2) With respect to eligible participants in a program who are children—

(A) improvement in ability to read on grade level or reading readiness;

(B) school attendance;

(C) grade retention and promotion; and

(D) such other indicators as the State may develop.

(Pub. L. 89–10, title I, § 1240, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1566.)

§ 6381j. Research

(a) In general

The Secretary shall carry out, through grant or contract, research into the components of successful family literacy services, in order to—

(1) improve the quality of existing programs assisted under this subpart or other family literacy programs carried out under this chapter or the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.]; and

(2) develop models for new programs to be carried out under this chapter or the Adult Education and Family Literacy Act.

(b) Scientifically based research on family literacy

(1) In general

From amounts reserved under section 6381a(b)(2) of this title, the National Institute for Literacy, in consultation with the Secretary, shall carry out research that—

(A) is scientifically based reading research; and

(B) determines—

(i) the most effective ways of improving the literacy skills of adults with reading difficulties; and

(ii) how family literacy services can best provide parents with the knowledge and skills the parents need to support their children's literacy development.

(2) Use of expert entity

The National Institute for Literacy, in consultation with the Secretary, shall carry out the research under paragraph (1) through an entity, including a Federal agency, that has expertise in carrying out longitudinal studies of the development of literacy skills in children and has developed effective interventions to help children with reading difficulties.

(c) Dissemination

The National Institute for Literacy shall disseminate, pursuant to section 6367 of this title, the results of the research described in subsections (a) and (b) of this section to State educational agencies and recipients of subgrants under this subpart.

(Pub. L. 89–10, title I, § 1241, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1566.)

REFERENCES IN TEXT

The Adult Education and Family Literacy Act, referred to in subsec. (a), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§ 9201 et seq.) of chapter 73 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

PRIOR PROVISIONS

A prior section 1241 of Pub. L. 89–10 was classified to section 2801 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6381k. Construction

Nothing in this subpart shall be construed to prohibit a recipient of funds under this subpart from serving students participating in Even Start simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title I, § 1242, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1567.)

PRIOR PROVISIONS

A prior section 1242 of Pub. L. 89–10 was classified to section 2802 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 4—IMPROVING LITERACY THROUGH SCHOOL LIBRARIES

§ 6383. Improving literacy through school libraries

(a) Purposes

The purpose of this subpart is to improve literacy skills and academic achievement of students by providing students with increased ac-

cess to up-to-date school library materials, a well-equipped, technologically advanced school library media center, and well-trained, professionally certified school library media specialists.

(b) Reservation

From the funds appropriated under section 6302(b)(4) of this title for a fiscal year, the Secretary shall reserve—

(1) one-half of 1 percent to award assistance under this section to the Bureau of Indian Affairs to carry out activities consistent with the purpose of this subpart; and

(2) one-half of 1 percent to award assistance under this section to the outlying areas according to their respective needs for assistance under this subpart.

(c) Grants

(1) Competitive grants to eligible local educational agencies

If the amount of funds appropriated under section 6302(b)(4) of this title for a fiscal year is less than $100,000,000, then the Secretary shall award grants, on a competitive basis, to eligible local educational agencies under subsection (e) of this section.

(2) Formula grants to States

If the amount of funds appropriated under section 6302(b)(4) of this title for a fiscal year equals or exceeds $100,000,000, then the Secretary shall award grants to State educational agencies from allotments under subsection (d) of this section.

(3) Definition of eligible local educational agency

In this section the term ''eligible local educational agency'' means—

(A) in the case of a local educational agency receiving assistance made available under paragraph (1), a local educational agency in which 20 percent of the students served by the local educational agency are from families with incomes below the poverty line; and

(B) in the case of a local educational agency receiving assistance from State allocations made available under paragraph (2), a local educational agency in which—

(i) 15 percent of the students who are served by the local educational agency are from such families; or

(ii) the percentage of students from such families who are served by the local educational agency is greater than the statewide percentage of children from such families.

(d) State grants

(1) Allotments

From funds made available under subsection (c)(2) of this section and not reserved under subsections (b) and (j) of this section for a fiscal year, the Secretary shall allot to each State educational agency having an application approved under subsection (f)(1) of this section an amount that bears the same relation to the funds as the amount the State educational agency received under part A of this subchapter for the preceding fiscal year bears to the amount all such State educational agencies received under part A of this subchapter for the preceding fiscal year, to increase literacy and reading skills by improving school libraries.

(2) Competitive grants to eligible local educational agencies

Each State educational agency receiving an allotment under paragraph (1) for a fiscal year—

(A) may reserve not more than 3 percent of the allotted funds to provide technical assistance, disseminate information about school library media programs that are effective and based on scientifically based research, and pay administrative costs related to activities under this section; and

(B) shall use the allotted funds that remain after making the reservation under subparagraph (A) to award grants, for a period of 1 year, on a competitive basis, to eligible local educational agencies in the State that have an application approved under subsection (f)(2) of this section for activities described in subsection (g) of this section.

(3) Reallotment

If a State educational agency does not apply for an allotment under this section for any fiscal year, or if the State educational agency's application is not approved, the Secretary shall reallot the amount of the State educational agency's allotment to the remaining State educational agencies in accordance with paragraph (1).

(e) Direct competitive grants to eligible local educational agencies

(1) In general

From amounts made available under subsection (c)(1) of this section and not reserved under subsections (b) and (j) of this section for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible local educational agencies that have applications approved under subsection (f)(2) of this section for activities described in subsection (g) of this section.

(2) Duration

The Secretary shall award grants under this subsection for a period of 1 year.

(3) Distribution

The Secretary shall ensure that grants under this subsection are equitably distributed among the different geographic regions of the United States, and among local educational agencies serving urban and rural areas.

(f) Applications

(1) State educational agency

Each State educational agency desiring assistance under this section shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall require. The application shall contain a description of—

(A) how the State educational agency will assist eligible local educational agencies in

meeting the requirements of this section and in using scientifically based research to implement effective school library media programs; and

(B) the standards and techniques the State educational agency will use to evaluate the quality and impact of activities carried out under this section by eligible local educational agencies to determine the need for technical assistance and whether to continue to provide additional funding to the agencies under this section.

(2) Eligible local educational agency

Each eligible local educational agency desiring assistance under this section shall submit to the Secretary or State educational agency, as appropriate, an application at such time, in such manner, and containing such information as the Secretary or State educational agency, respectively, shall require. The application shall contain a description of—

(A) a needs assessment relating to the need for school library media improvement, based on the age and condition of school library media resources, including book collections, access of school library media centers to advanced technology, and the availability of well-trained, professionally certified school library media specialists, in schools served by the eligible local educational agency;

(B) the manner in which the eligible local educational agency will use the funds made available through the grant to carry out the activities described in subsection (g) of this section;

(C) how the eligible local educational agency will extensively involve school library media specialists, teachers, administrators, and parents in the activities assisted under this section, and the manner in which the eligible local educational agency will carry out the activities described in subsection (g) of this section using programs and materials that are grounded in scientifically based research;

(D) the manner in which the eligible local educational agency will effectively coordinate the funds and activities provided under this section with Federal, State, and local funds and activities under this subpart and other literacy, library, technology, and professional development funds and activities; and

(E) the manner in which the eligible local educational agency will collect and analyze data on the quality and impact of activities carried out under this section by schools served by the eligible local educational agency.

(g) Local activities

Funds under this section may be used to—

(1) acquire up-to-date school library media resources, including books;

(2) acquire and use advanced technology, incorporated into the curricula of the school, to develop and enhance the information literacy, information retrieval, and critical thinking skills of students;

(3) facilitate Internet links and other resource-sharing networks among schools and school library media centers, and public and academic libraries, where possible;

(4) provide professional development described in section 6372(d)(2) of this title for school library media specialists, and activities that foster increased collaboration between school library media specialists, teachers, and administrators; and

(5) provide students with access to school libraries during nonschool hours, including the hours before and after school, during weekends, and during summer vacation periods.

(h) Accountability and reporting

(1) Local reports

Each eligible local educational agency that receives funds under this section for a fiscal year shall report to the Secretary or State educational agency, as appropriate, on how the funding was used and the extent to which the availability of, the access to, and the use of, up-to-date school library media resources in the elementary schools and secondary schools served by the eligible local educational agency was increased.

(2) State report

Each State educational agency that receives funds under this section shall compile the reports received under paragraph (1) and submit the compiled reports to the Secretary.

(i) Supplement, not supplant

Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds expended to carry out activities relating to library, technology, or professional development activities.

(j) National activities

(1) Evaluations

From the funds appropriated under section 6302(b)(4) of this title for each fiscal year, the Secretary shall reserve not more than 1 percent for annual, independent, national evaluations of the activities assisted under this section and their impact on improving the reading skills of students. The evaluations shall be conducted not later than 3 years after January 8, 2002, and biennially thereafter.

(2) Report to Congress

The Secretary shall transmit the State reports received under subsection (h)(2) of this section and the evaluations conducted under paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.

(Pub. L. 89–10, title I, § 1251, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1567.)

PART C—EDUCATION OF MIGRATORY CHILDREN

§ 6391. Program purpose

It is the purpose of this part to assist States to—

(1) support high-quality and comprehensive educational programs for migratory children to help reduce the educational disruptions and other problems that result from repeated moves;

(2) ensure that migratory children who move among the States are not penalized in any manner by disparities among the States in curriculum, graduation requirements, and State academic content and student academic achievement standards;

(3) ensure that migratory children are provided with appropriate educational services (including supportive services) that address their special needs in a coordinated and efficient manner;

(4) ensure that migratory children receive full and appropriate opportunities to meet the same challenging State academic content and student academic achievement standards that all children are expected to meet;

(5) design programs to help migratory children overcome educational disruption, cultural and language barriers, social isolation, various health-related problems, and other factors that inhibit the ability of such children to do well in school, and to prepare such children to make a successful transition to postsecondary education or employment; and

(6) ensure that migratory children benefit from State and local systemic reforms.

(Pub. L. 89–10, title I, §1301, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1571.)

PRIOR PROVISIONS

A prior section 6391, Pub. L. 89–10, title I, §1301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3585, related to program purpose, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6392. Program authorized

In order to carry out the purpose of this part, the Secretary shall make grants to State educational agencies, or combinations of such agencies, to establish or improve, directly or through local operating agencies, programs of education for migratory children in accordance with this part.

(Pub. L. 89–10, title I, §1302, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1571.)

PRIOR PROVISIONS

A prior section 6392, Pub. L. 89–10, title I, §1302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3585, authorized migratory children education program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6393. State allocations

(a) State allocations

(1) Fiscal year 2002

For fiscal year 2002, each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part an amount equal to—

(A) the sum of the estimated number of migratory children aged 3 through 21 who reside in the State full time and the full-time equivalent of the estimated number of migratory children aged 3 through 21 who reside in the State part time, as determined in accordance with subsection (e) of this section; multiplied by

(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this paragraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

(2) Subsequent years

(A) Base amount

(i) In general

Except as provided in subsection (b) of this section and clause (ii), each State (other than the Commonwealth of Puerto Rico) is entitled to receive under this part, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

(I) the amount that such State received under this part for fiscal year 2002; plus

(II) the amount allocated to the State under subparagraph (B).

(ii) Nonparticipating States

In the case of a State (other than the Commonwealth of Puerto Rico) that did not receive any funds for fiscal year 2002 under this part, the State shall receive, for fiscal year 2003 and succeeding fiscal years, an amount equal to—

(I) the amount that such State would have received under this part for fiscal year 2002 if its application under section 6394 of this title for the year had been approved; plus

(II) the amount allocated to the State under subparagraph (B).

(B) Allocation of additional amount

For fiscal year 2003 and succeeding fiscal years, the amount (if any) by which the funds appropriated to carry out this part for the year exceed such funds for fiscal year 2002 shall be allocated to a State (other than the Commonwealth of Puerto Rico) so that the State receives an amount equal to—

(i) the sum of—

(I) the number of identified eligible migratory children, aged 3 through 21, residing in the State during the previous year; and

(II) the number of identified eligible migratory children, aged 3 through 21, who received services under this part in summer or intersession programs provided by the State during such year; multiplied by

(ii) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this clause may not be less than 32 percent, or more than 48 percent, of the average per-pupil expenditure in the United States.

(b) Allocation to Puerto Rico

(1) In general

For each fiscal year, the grant which the Commonwealth of Puerto Rico shall be eligible to receive under this part shall be the amount determined by multiplying the number of children who would be counted under subsection (a)(1)(A) of this section if such subsection applied to the Commonwealth of Puerto Rico by the product of—

(A) the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

(B) 32 percent of the average per-pupil expenditure in the United States.

(2) Minimum percentage

The percentage in paragraph (1)(A) shall not be less than—

(A) for fiscal year 2002, 77.5 percent;

(B) for fiscal year 2003, 80.0 percent;

(C) for fiscal year 2004, 82.5 percent; and

(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

(3) Limitation

If the application of paragraph (2) for any fiscal year would result in any of the 50 States or the District of Columbia receiving less under this part than it received under this part for the preceding fiscal year, then the percentage described in paragraph (1)(A) that is used for the Commonwealth of Puerto Rico for the fiscal year for which the determination is made shall be the greater of the percentage in paragraph (1)(A) for such fiscal year or the percentage used for the preceding fiscal year.

(c) Ratable reductions; reallocations

(1) In general

(A) If, after the Secretary reserves funds under section 6398(c) of this title, the amount appropriated to carry out this part for any fiscal year is insufficient to pay in full the amounts for which all States are eligible, the Secretary shall ratably reduce each such amount.

(B) If additional funds become available for making such payments for any fiscal year, the Secretary shall allocate such funds to States in amounts that the Secretary determines will best carry out the purpose of this part.

(2) Special rule

(A) The Secretary shall further reduce the amount of any grant to a State under this part for any fiscal year if the Secretary determines, based on available information on the numbers and needs of migratory children in the State and the program proposed by the State to address such needs, that such amount exceeds the amount required under section 6394 of this title.

(B) The Secretary shall reallocate such excess funds to other States whose grants under this part would otherwise be insufficient to provide an appropriate level of services to migratory children, in such amounts as the Secretary determines are appropriate.

(d) Consortium arrangements

(1) In general

In the case of a State that receives a grant of $1,000,000 or less under this section, the Secretary shall consult with the State educational agency to determine whether consortium arrangements with another State or other appropriate entity would result in delivery of services in a more effective and efficient manner.

(2) Proposals

Any State, regardless of the amount of such State's allocation, may submit a consortium arrangement to the Secretary for approval.

(3) Approval

The Secretary shall approve a consortium arrangement under paragraph (1) or (2) if the proposal demonstrates that the arrangement will—

(A) reduce administrative costs or program function costs for State programs; and

(B) make more funds available for direct services to add substantially to the welfare or educational attainment of children to be served under this part.

(e) Determining numbers of eligible children

In order to determine the estimated number of migratory children residing in each State for purposes of this section, the Secretary shall—

(1) use such information as the Secretary finds most accurately reflects the actual number of migratory children;

(2) develop and implement a procedure for more accurately reflecting cost factors for different types of summer and intersession program designs;

(3) adjust the full-time equivalent number of migratory children who reside in each State to take into account—

(A) the special needs of those children participating in special programs provided under this part that operate during the summer and intersession periods; and

(B) the additional costs of operating such programs; and

(4) conduct an analysis of the options for adjusting the formula so as to better direct services to the child whose education has been interrupted.

(Pub. L. 89–10, title I, § 1303, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1571.)

PRIOR PROVISIONS

A prior section 6393, Pub. L. 89–10, title I, § 1303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3585, related to State allocations, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6394. State applications; services

(a) Application required

Any State desiring to receive a grant under this part for any fiscal year shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

(b) Program information

Each such application shall include—

(1) a description of how, in planning, implementing, and evaluating programs and projects assisted under this part, the State and its local operating agencies will ensure that the special educational needs of migratory children, including preschool migratory children, are identified and addressed through—

(A) the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

(B) joint planning among local, State, and Federal educational programs serving migrant children, including language instruction educational programs under part A or B of subchapter III of this chapter;

(C) the integration of services available under this part with services provided by those other programs; and

(D) measurable program goals and outcomes;

(2) a description of the steps the State is taking to provide all migratory students with the opportunity to meet the same challenging State academic content standards and challenging State student academic achievement standards that all children are expected to meet;

(3) a description of how the State will use funds received under this part to promote interstate and intrastate coordination of services for migratory children, including how, consistent with procedures the Secretary may require, the State will provide for educational continuity through the timely transfer of pertinent school records, including information on health, when children move from one school to another, whether or not such move occurs during the regular school year;

(4) a description of the State's priorities for the use of funds received under this part, and how such priorities relate to the State's assessment of needs for services in the State;

(5) a description of how the State will determine the amount of any subgrants the State will award to local operating agencies, taking into account the numbers and needs of migratory children, the requirements of subsection (d) of this section, and the availability of funds from other Federal, State, and local programs;

(6) such budgetary and other information as the Secretary may require; and

(7) a description of how the State will encourage programs and projects assisted under this part to offer family literacy services if the program or project serves a substantial number of migratory children who have parents who do not have a high school diploma or its recognized equivalent or who have low levels of literacy.

(c) Assurances

Each such application shall also include assurances, satisfactory to the Secretary, that—

(1) funds received under this part will be used only—

(A) for programs and projects, including the acquisition of equipment, in accordance with section 6396 of this title; and

(B) to coordinate such programs and projects with similar programs and projects within the State and in other States, as well as with other Federal programs that can benefit migratory children and their families;

(2) such programs and projects will be carried out in a manner consistent with the objectives of section 6314 of this title, subsections (b) and (d) of section 6315 of this title, subsections (b) and (c) of section 6321 of this title, and part I of this subchapter;

(3) in the planning and operation of programs and projects at both the State and local agency operating level, there is consultation with parent advisory councils for programs of 1 school year in duration, and that all such programs and projects are carried out—

(A) in a manner that provides for the same parental involvement as is required for programs and projects under section 6318 of this title, unless extraordinary circumstances make such provision impractical; and

(B) in a format and language understandable to the parents;

(4) in planning and carrying out such programs and projects, there has been, and will be, adequate provision for addressing the unmet education needs of preschool migratory children;

(5) the effectiveness of such programs and projects will be determined, where feasible, using the same approaches and standards that will be used to assess the performance of students, schools, and local educational agencies under part A of this subchapter;

(6) to the extent feasible, such programs and projects will provide for—

(A) advocacy and outreach activities for migratory children and their families, including informing such children and families of, or helping such children and families gain access to, other education, health, nutrition, and social services;

(B) professional development programs, including mentoring, for teachers and other program personnel;

(C) family literacy programs, including such programs that use models developed under Even Start;

(D) the integration of information technology into educational and related programs; and

(E) programs to facilitate the transition of secondary school students to postsecondary education or employment; and

(7) the State will assist the Secretary in determining the number of migratory children under paragraphs (1)(A) and (2)(B)(i) of section 6393(a) of this title, through such procedures as the Secretary may require.

(d) Priority for services

In providing services with funds received under this part, each recipient of such funds shall give priority to migratory children who are failing, or most at risk of failing, to meet the State's challenging State academic content standards and challenging State student academic achievement standards, and whose education has been interrupted during the regular school year.

(e) Continuation of services

Notwithstanding any other provision of this part—

(1) a child who ceases to be a migratory child during a school term shall be eligible for services until the end of such term;

(2) a child who is no longer a migratory child may continue to receive services for 1 additional school year, but only if comparable services are not available through other programs; and

(3) secondary school students who were eligible for services in secondary school may continue to be served through credit accrual programs until graduation.

(Pub. L. 89–10, title I, § 1304, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1574.)

REFERENCES TO PARTS A AND B OF SUBCHAPTER III CONSIDERED TO BE REFERENCES TO PARTS B AND A OF SUBCHAPTER III

References to parts A and B of subchapter III of this chapter are considered to be references to parts B and A, respectively, of subchapter III of this chapter in certain fiscal years. See section 6801(c) of this title.

PRIOR PROVISIONS

A prior section 6394, Pub. L. 89–10, title I, § 1304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3587; amended Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1605], Dec. 21, 2000, 114 Stat. 2763, 2763A–334, related to State applications and services, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6395. Secretarial approval; peer review

(a) Secretarial approval

The Secretary shall approve each State application that meets the requirements of this part.

(b) Peer review

The Secretary may review any such application with the assistance and advice of State officials and other individuals with relevant expertise.

(Pub. L. 89–10, title I, § 1305, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1576.)

PRIOR PROVISIONS

A prior section 6395, Pub. L. 89–10, title I, § 1305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3588, related to Secretarial approval and peer review, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6396. Comprehensive needs assessment and service-delivery plan; authorized activities

(a) Comprehensive plan

(1) In general

Each State that receives assistance under this part shall ensure that the State and its local operating agencies identify and address the special educational needs of migratory children in accordance with a comprehensive State plan that—

(A) is integrated with other programs under this chapter or other Acts, as appropriate;

(B) may be submitted as a part of a consolidated application under section 7842 of this title, if—

(i) the special needs of migratory children are specifically addressed in the comprehensive State plan;

(ii) the comprehensive State plan is developed in collaboration with parents of migratory children; and

(iii) the comprehensive State plan is not used to supplant State efforts regarding, or administrative funding for, this part;

(C) provides that migratory children will have an opportunity to meet the same challenging State academic content standards and challenging State student academic achievement standards that all children are expected to meet;

(D) specifies measurable program goals and outcomes;

(E) encompasses the full range of services that are available for migratory children from appropriate local, State, and Federal educational programs;

(F) is the product of joint planning among such local, State, and Federal programs, including programs under part A of this subchapter, early childhood programs, and language instruction educational programs under part A or B of subchapter III of this chapter; and

(G) provides for the integration of services available under this part with services provided by such other programs.

(2) Duration of the plan

Each such comprehensive State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

(b) Authorized activities

(1) Flexibility

In implementing the comprehensive plan described in subsection (a) of this section, each State educational agency, where applicable through its local educational agencies, shall have the flexibility to determine the activities to be provided with funds made available under this part, except that such funds first shall be used to meet the identified needs of migratory children that result from their migratory lifestyle, and to permit these children to participate effectively in school.

(2) Unaddressed needs

Funds provided under this part shall be used to address the needs of migratory children that are not addressed by services available from other Federal or non-Federal programs, except that migratory children who are eligible to receive services under part A of this subchapter may receive those services through funds provided under that part, or through funds under this part that remain after the agency addresses the needs described in paragraph (1).

(3) Construction

Nothing in this part shall be construed to prohibit a local educational agency from serving migratory children simultaneously with students with similar educational needs in the same educational settings, where appropriate.

(4) Special rule

Notwithstanding section 6314 of this title, a school that receives funds under this part shall continue to address the identified needs described in paragraph (1), and shall meet the special educational needs of migratory children before using funds under this part for schoolwide programs under section 6314 of this title.

(Pub. L. 89–10, title I, § 1306, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1576.)

REFERENCES TO PARTS A AND B OF SUBCHAPTER III CONSIDERED TO BE REFERENCES TO PARTS B AND A OF SUBCHAPTER III

References to parts A and B of subchapter III of this chapter are considered to be references to parts B and A, respectively, of subchapter III of this chapter in certain fiscal years. See section 6801(c) of this title.

PRIOR PROVISIONS

A prior section 6396, Pub. L. 89–10, title I, § 1306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3589, related to comprehensive needs assessments and service-delivery plans, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6397. Bypass

The Secretary may use all or part of any State's allocation under this part to make arrangements with any public or private nonprofit agency to carry out the purpose of this part in such State if the Secretary determines that—

(1) the State is unable or unwilling to conduct educational programs for migratory children;

(2) such arrangements would result in more efficient and economic administration of such programs; or

(3) such arrangements would add substantially to the welfare or educational attainment of such children.

(Pub. L. 89–10, title I, § 1307, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1578.)

PRIOR PROVISIONS

A prior section 6397, Pub. L. 89–10, title I, § 1307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3590, related to bypass of State, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6398. Coordination of migrant education activities

(a) Improvement of coordination

(1) In general

The Secretary, in consultation with the States, may make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, and other public and private nonprofit entities to improve the interstate and intrastate coordination among such agencies' educational programs, including the establishment or improvement of programs for credit accrual and exchange, available to migratory students.

(2) Duration

Grants under this subsection may be awarded for not more than 5 years.

(b) Student records

(1) Assistance

The Secretary shall assist States in developing effective methods for the electronic transfer of student records and in determining the number of migratory children in each State.

(2) Information system

(A) In general

The Secretary, in consultation with the States, shall ensure the linkage of migrant student record systems for the purpose of electronically exchanging, among the States, health and educational information regarding all migratory students. The Secretary shall ensure such linkage occurs in a cost-effective manner, utilizing systems used by the States prior to, or developed after, January 8, 2002, and shall determine the minimum data elements that each State receiving funds under this part shall collect and maintain. Such elements may include—

(i) immunization records and other health information;

(ii) elementary and secondary academic history (including partial credit), credit accrual, and results from State assessments required under section 6311(b) of this title;

(iii) other academic information essential to ensuring that migratory children achieve to high standards; and

(iv) eligibility for services under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(B) Notice and comment

After consulting with the States under subparagraph (A), the Secretary shall publish a notice in the Federal Register seeking public comment on the proposed data elements that each State receiving funds under this part shall be required to collect for purposes of electronic transfer of migratory student information and the requirements that States shall meet for immediate electronic access to such information. Such publication shall occur not later than 120 days after January 8, 2002.

(3) No cost for certain transfers

A State educational agency or local educational agency receiving assistance under this part shall make student records available to another State educational agency or local educational agency that requests the records at no cost to the requesting agency, if the request is made in order to meet the needs of a migratory child.

(4) Report to Congress

(A) In general

Not later than April 30, 2003, the Secretary shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives the Secretary's findings and recommendations regarding the maintenance and transfer of health and educational information for migratory students by the States.

(B) Required contents

The Secretary shall include in such report—

(i) a review of the progress of States in developing and linking electronic records transfer systems;

(ii) recommendations for the development and linkage of such systems; and

(iii) recommendations for measures that may be taken to ensure the continuity of services provided for migratory students.

(c) Availability of funds

For the purpose of carrying out this section in any fiscal year, the Secretary shall reserve not more than $10,000,000 of the amount appropriated to carry out this part for such year.

(d) Incentive grants

From the amounts made available to carry out this section for any fiscal year, the Secretary may reserve not more than $3,000,000 to award grants of not more than $250,000 on a competitive basis to State educational agencies that propose a consortium arrangement with another State or other appropriate entity that the Secretary determines, pursuant to criteria that the Secretary shall establish, will improve the delivery of services to migratory children whose education is interrupted.

(e) Data collection

The Secretary shall direct the National Center for Education Statistics to collect data on migratory children.

(Pub. L. 89–10, title I, § 1308, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1578.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(A)(iv), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 6398, Pub. L. 89–10, title I, § 1308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3590, related to coordination of migrant education activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6399. Definitions

As used in this part:

(1) Local operating agency

The term ''local operating agency'' means—

(A) a local educational agency to which a State educational agency makes a subgrant under this part;

(B) a public or nonprofit private agency with which a State educational agency or the Secretary makes an arrangement to carry out a project under this part; or

(C) a State educational agency, if the State educational agency operates the State's migrant education program or projects directly.

(2) Migratory child

The term ''migratory child'' means a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent or spouse, in order to obtain, temporary or seasonal employment in agricultural or fishing work—

(A) has moved from one school district to another;

(B) in a State that is comprised of a single school district, has moved from one administrative area to another within such district; or

(C) resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

(Pub. L. 89–10, title I, § 1309, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1579.)

PRIOR PROVISIONS

A prior section 6399, Pub. L. 89–10, title I, § 1309, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3591, defined terms for this part, prior to the general amendment of this subchapter by Pub. L. 107–110.

PART D—PREVENTION AND INTERVENTION PROGRAMS FOR CHILDREN AND YOUTH WHO ARE NEGLECTED, DELINQUENT, OR AT-RISK

§ 6421. Purpose and program authorization

(a) Purpose

It is the purpose of this part—

(1) to improve educational services for children and youth in local and State institutions for neglected or delinquent children and youth so that such children and youth have the opportunity to meet the same challenging State academic content standards and challenging State student academic achievement standards that all children in the State are expected to meet;

(2) to provide such children and youth with the services needed to make a successful transition from institutionalization to further schooling or employment; and

(3) to prevent at-risk youth from dropping out of school, and to provide dropouts, and children and youth returning from correctional facilities or institutions for neglected or delinquent children and youth, with a support system to ensure their continued education.

(b) Program authorized

In order to carry out the purpose of this part and from amounts appropriated under section 6302(d) of this title, the Secretary shall make grants to State educational agencies to enable such agencies to award subgrants to State agencies and local educational agencies to establish or improve programs of education for neglected, delinquent, or at-risk children and youth.

(Pub. L. 89–10, title I, § 1401, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1580.)

PRIOR PROVISIONS

A prior section 6421, Pub. L. 89–10, title I, § 1401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3591, set out findings and purpose and authorized program, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1401 of Pub. L. 89–10 was classified to section 2821 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6422. Payments for programs under this part

(a) Agency subgrants

Based on the allocation amount computed under section 6432 of this title, the Secretary shall allocate to each State educational agency an amount necessary to make subgrants to State agencies under subpart 1 of this part.

(b) Local subgrants

Each State shall retain, for the purpose of carrying out subpart 2 of this part, funds generated

throughout the State under part A of this subchapter based on children and youth residing in local correctional facilities, or attending community day programs for delinquent children and youth.

(Pub. L. 89–10, title I, § 1402, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1580.)

PRIOR PROVISIONS

A prior section 6422, Pub. L. 89–10, title I, § 1402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3592, related to payments for programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1402 of Pub. L. 89–10 was classified to section 2822 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 1—STATE AGENCY PROGRAMS

§ 6431. Eligibility

A State agency is eligible for assistance under this subpart if such State agency is responsible for providing free public education for children and youth—

(1) in institutions for neglected or delinquent children and youth;

(2) attending community day programs for neglected or delinquent children and youth; or

(3) in adult correctional institutions.

(Pub. L. 89–10, title I, § 1411, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1581.)

PRIOR PROVISIONS

A prior section 6431, Pub. L. 89–10, title I, § 1411, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3592, related to eligibility, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6432. Allocation of funds

(a) Subgrants to State agencies

(1) In general

Each State agency described in section 6431 of this title (other than an agency in the Commonwealth of Puerto Rico) is eligible to receive a subgrant under this subpart, for each fiscal year, in an amount equal to the product of—

(A) the number of neglected or delinquent children and youth described in section 6431 of this title who—

(i) are enrolled for at least 15 hours per week in education programs in adult correctional institutions; and

(ii) are enrolled for at least 20 hours per week—

(I) in education programs in institutions for neglected or delinquent children and youth; or

(II) in community day programs for neglected or delinquent children and youth; and

(B) 40 percent of the average per-pupil expenditure in the State, except that the amount determined under this subparagraph shall not be less than 32 percent, nor more than 48 percent, of the average per-pupil expenditure in the United States.

(2) Special rule

The number of neglected or delinquent children and youth determined under paragraph (1) shall—

(A) be determined by the State agency by a deadline set by the Secretary, except that no State agency shall be required to determine the number of such children and youth on a specific date set by the Secretary; and

(B) be adjusted, as the Secretary determines is appropriate, to reflect the relative length of such agency's annual programs.

(b) Subgrants to State agencies in Puerto Rico

(1) In general

For each fiscal year, the amount of the subgrant which a State agency in the Commonwealth of Puerto Rico shall be eligible to receive under this subpart shall be the amount determined by multiplying the number of children counted under subsection (a)(1)(A) of this section for the Commonwealth of Puerto Rico by the product of—

(A) the percentage which the average per-pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per-pupil expenditure of any of the 50 States; and

(B) 32 percent of the average per-pupil expenditure in the United States.

(2) Minimum percentage

The percentage in paragraph (1)(A) shall not be less than—

(A) for fiscal year 2002, 77.5 percent;

(B) for fiscal year 2003, 80.0 percent;

(C) for fiscal year 2004, 82.5 percent; and

(D) for fiscal year 2005 and succeeding fiscal years, 85.0 percent.

(3) Limitation

If the application of paragraph (2) would result in any of the 50 States or the District of Columbia receiving less under this subpart than it received under this subpart for the preceding fiscal year, then the percentage described in paragraph (1)(A) that is used for the Commonwealth of Puerto Rico for the fiscal year for which the determination is made shall be the greater of—

(A) the percentage in paragraph (1)(A) for such fiscal year; or

(B) the percentage used for the preceding fiscal year.

(c) Ratable reductions in case of insufficient appropriations

If the amount appropriated for any fiscal year for subgrants under subsections (a) and (b) of this section is insufficient to pay the full amount for which all State agencies are eligible under such subsections, the Secretary shall ratably reduce each such amount.

(Pub. L. 89–10, title I, § 1412, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1581.)

PRIOR PROVISIONS

A prior section 6432, Pub. L. 89–10, title I, § 1412, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3592, related to allocation of funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6433. State reallocation of funds

If a State educational agency determines that a State agency does not need the full amount of the subgrant for which such State agency is eli-

gible under this subpart for any fiscal year, the State educational agency may reallocate the amount that will not be needed to other eligible State agencies that need additional funds to carry out the purpose of this part, in such amounts as the State educational agency shall determine.

(Pub. L. 89–10, title I, § 1413, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1582.)

PRIOR PROVISIONS

A prior section 6433, Pub. L. 89–10, title I, § 1413, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3593, related to State reallocation of funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6434. State plan and State agency applications

(a) State plan

(1) In general

Each State educational agency that desires to receive a grant under this subpart shall submit, for approval by the Secretary, a plan—

(A) for meeting the educational needs of neglected, delinquent, and at-risk children and youth;

(B) for assisting in the transition of children and youth from correctional facilities to locally operated programs; and

(C) that is integrated with other programs under this chapter or other Acts, as appropriate.

(2) Contents

Each such State plan shall—

(A) describe the program goals, objectives, and performance measures established by the State that will be used to assess the effectiveness of the program in improving the academic, vocational, and technical skills of children in the program;

(B) provide that, to the extent feasible, such children will have the same opportunities to achieve as such children would have if such children were in the schools of local educational agencies in the State; and

(C) contain an assurance that the State educational agency will—

(i) ensure that programs assisted under this subpart will be carried out in accordance with the State plan described in this subsection;

(ii) carry out the evaluation requirements of section 6471 of this title;

(iii) ensure that the State agencies receiving subgrants under this subpart comply with all applicable statutory and regulatory requirements; and

(iv) provide such other information as the Secretary may reasonably require.

(3) Duration of the plan

Each such State plan shall—

(A) remain in effect for the duration of the State's participation under this part; and

(B) be periodically reviewed and revised by the State, as necessary, to reflect changes in the State's strategies and programs under this part.

(b) Secretarial approval and peer review

(1) Secretarial approval

The Secretary shall approve each State plan that meets the requirements of this subpart.

(2) Peer review

The Secretary may review any State plan with the assistance and advice of individuals with relevant expertise.

(c) State agency applications

Any State agency that desires to receive funds to carry out a program under this subpart shall submit an application to the State educational agency that—

(1) describes the procedures to be used, consistent with the State plan under section 6311 of this title, to assess the educational needs of the children to be served under this subpart;

(2) provide an assurance that in making services available to children and youth in adult correctional institutions, priority will be given to such children and youth who are likely to complete incarceration within a 2-year period;

(3) describes the program, including a budget for the first year of the program, with annual updates to be provided to the State educational agency;

(4) describes how the program will meet the goals and objectives of the State plan;

(5) describes how the State agency will consult with experts and provide the necessary training for appropriate staff, to ensure that the planning and operation of institution-wide projects under section 6436 of this title are of high quality;

(6) describes how the State agency will carry out the evaluation requirements of section 7941 of this title and how the results of the most recent evaluation will be used to plan and improve the program;

(7) includes data showing that the State agency has maintained the fiscal effort required of a local educational agency, in accordance with section 7901 of this title;

(8) describes how the programs will be coordinated with other appropriate State and Federal programs, such as programs under title I of Public Law 105–220 [29 U.S.C. 2801 et seq.], vocational and technical education programs, State and local dropout prevention programs, and special education programs;

(9) describes how the State agency will encourage correctional facilities receiving funds under this subpart to coordinate with local educational agencies or alternative education programs attended by incarcerated children and youth prior to their incarceration to ensure that student assessments and appropriate academic records are shared jointly between the correctional facility and the local educational agency or alternative education program;

(10) describes how appropriate professional development will be provided to teachers and other staff;

(11) designates an individual in each affected correctional facility or institution for neglected or delinquent children and youth to be responsible for issues relating to the transition of children and youth from such facility or institution to locally operated programs;

(12) describes how the State agency will endeavor to coordinate with businesses for training and mentoring for participating children and youth;

(13) provides an assurance that the State agency will assist in locating alternative programs through which students can continue their education if the students are not returning to school after leaving the correctional facility or institution for neglected or delinquent children and youth;

(14) provides assurances that the State agency will work with parents to secure parents' assistance in improving the educational achievement of their children and youth, and preventing their children's and youth's further involvement in delinquent activities;

(15) provides an assurance that the State agency will work with children and youth with disabilities in order to meet an existing individualized education program and an assurance that the agency will notify the child's or youth's local school if the child or youth—

(A) is identified as in need of special education services while the child or youth is in the correctional facility or institution for neglected or delinquent children and youth; and

(B) intends to return to the local school;

(16) provides an assurance that the State agency will work with children and youth who dropped out of school before entering the correctional facility or institution for neglected or delinquent children and youth to encourage the children and youth to reenter school once the term of the incarceration is completed or provide the child or youth with the skills necessary to gain employment, continue the education of the child or youth, or achieve a secondary school diploma or its recognized equivalent if the child or youth does not intend to return to school;

(17) provides an assurance that teachers and other qualified staff are trained to work with children and youth with disabilities and other students with special needs taking into consideration the unique needs of such students;

(18) describes any additional services to be provided to children and youth, such as career counseling, distance learning, and assistance in securing student loans and grants; and

(19) provides an assurance that the program under this subpart will be coordinated with any programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) or other comparable programs, if applicable.

(Pub. L. 89–10, title I, §1414, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1582.)

REFERENCES IN TEXT

Pub. L. 105–220, referred to in subsec. (c)(8), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in subsec. (c)(19), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6434, Pub. L. 89–10, title I, §1414, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3593; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(18)(B), (f)(13)(B)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, 2681–431, related to State plan and State agency applications, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6435. Use of funds

(a) Uses

(1) In general

A State agency shall use funds received under this subpart only for programs and projects that—

(A) are consistent with the State plan under section 6434(a) of this title; and

(B) concentrate on providing participants with the knowledge and skills needed to make a successful transition to secondary school completion, vocational or technical training, further education, or employment.

(2) Programs and projects

Such programs and projects—

(A) may include the acquisition of equipment;

(B) shall be designed to support educational services that—

(i) except for institution-wide projects under section 6436 of this title, are provided to children and youth identified by the State agency as failing, or most at-risk of failing, to meet the State's challenging academic content standards and student academic achievement standards;

(ii) supplement and improve the quality of the educational services provided to such children and youth by the State agency; and

(iii) afford such children and youth an opportunity to meet challenging State academic achievement standards;

(C) shall be carried out in a manner consistent with section 6321 of this title and part I of this subchapter (as applied to programs and projects under this part); and

(D) may include the costs of meeting the evaluation requirements of section 7941 of this title.

(b) Supplement, not supplant

A program under this subpart that supplements the number of hours of instruction students receive from State and local sources shall be considered to comply with the supplement, not supplant requirement of section 6321 of this title (as applied to this part) without regard to the subject areas in which instruction is given during those hours.

(Pub. L. 89–10, title I, §1415, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1585.)

PRIOR PROVISIONS

A prior section 6435, Pub. L. 89–10, title I, §1415, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3596, related to use of funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6436. Institution-wide projects

A State agency that provides free public education for children and youth in an institution

for neglected or delinquent children and youth (other than an adult correctional institution) or attending a community-day program for such children and youth may use funds received under this subpart to serve all children in, and upgrade the entire educational effort of, that institution or program if the State agency has developed, and the State educational agency has approved, a comprehensive plan for that institution or program that—

(1) provides for a comprehensive assessment of the educational needs of all children and youth in the institution or program serving juveniles;

(2) provides for a comprehensive assessment of the educational needs of youth aged 20 and younger in adult facilities who are expected to complete incarceration within a 2-year period;

(3) describes the steps the State agency has taken, or will take, to provide all children and youth under age 21 with the opportunity to meet challenging State academic content standards and student academic achievement standards in order to improve the likelihood that the children and youth will complete secondary school, attain a secondary diploma or its recognized equivalent, or find employment after leaving the institution;

(4) describes the instructional program, pupil services, and procedures that will be used to meet the needs described in paragraph (1), including, to the extent feasible, the provision of mentors for the children and youth described in paragraph (1);

(5) specifically describes how such funds will be used;

(6) describes the measures and procedures that will be used to assess student progress;

(7) describes how the agency has planned, and will implement and evaluate, the institution-wide or program-wide project in consultation with personnel providing direct instructional services and support services in institutions or community-day programs for neglected or delinquent children and youth, and with personnel from the State educational agency; and

(8) includes an assurance that the State agency has provided for appropriate training for teachers and other instructional and administrative personnel to enable such teachers and personnel to carry out the project effectively.

(Pub. L. 89–10, title I, §1416, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1585.)

PRIOR PROVISIONS

A prior section 6436, Pub. L. 89–10, title I, §1416, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3596, related to institution-wide projects, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6437. Three-year programs or projects

If a State agency operates a program or project under this subpart in which individual children or youth are likely to participate for more than 1 year, the State educational agency may approve the State agency's application for a subgrant under this subpart for a period of not more than 3 years.

(Pub. L. 89–10, title I, §1417, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1586.)

PRIOR PROVISIONS

A prior section 6437, Pub. L. 89–10, title I, §1417, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3597, related to three-year programs and projects, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6438. Transition services

(a) Transition services

Each State agency shall reserve not less than 15 percent and not more than 30 percent of the amount such agency receives under this subpart for any fiscal year to support—

(1) projects that facilitate the transition of children and youth from State-operated institutions to schools served by local educational agencies; or

(2) the successful reentry of youth offenders, who are age 20 or younger and have received a secondary school diploma or its recognized equivalent, into postsecondary education, or vocational and technical training programs, through strategies designed to expose the youth to, and prepare the youth for, postsecondary education, or vocational and technical training programs, such as—

(A) preplacement programs that allow adjudicated or incarcerated youth to audit or attend courses on college, university, or community college campuses, or through programs provided in institutional settings;

(B) worksite schools, in which institutions of higher education and private or public employers partner to create programs to help students make a successful transition to postsecondary education and employment; and

(C) essential support services to ensure the success of the youth, such as—

(i) personal, vocational and technical, and academic, counseling;

(ii) placement services designed to place the youth in a university, college, or junior college program;

(iii) information concerning, and assistance in obtaining, available student financial aid;

(iv) counseling services; and

(v) job placement services.

(b) Conduct of projects

A project supported under this section may be conducted directly by the State agency, or through a contract or other arrangement with one or more local educational agencies, other public agencies, or private nonprofit organizations.

(c) Rule of construction

Nothing in this section shall be construed to prohibit a school that receives funds under subsection (a) of this section from serving neglected and delinquent children and youth simultaneously with students with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title I, §1418, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1586.)

PRIOR PROVISIONS

A prior section 6438, Pub. L. 89–10, title I, §1418, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3597, related to transition services, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6439. Evaluation; technical assistance; annual model program

The Secretary may reserve not more than 2.5 percent of the amount made available to carry out this subpart for a fiscal year—

(1) to develop a uniform model to evaluate the effectiveness of programs assisted under this subpart; and

(2) to provide technical assistance to and support the capacity building of State agency programs assisted under this subpart.

(Pub. L. 89–10, title I, §1419, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1587.)

SUBPART 2—LOCAL AGENCY PROGRAMS

§ 6451. Purpose

The purpose of this subpart is to support the operation of local educational agency programs that involve collaboration with locally operated correctional facilities—

(1) to carry out high quality education programs to prepare children and youth for secondary school completion, training, employment, or further education;

(2) to provide activities to facilitate the transition of such children and youth from the correctional program to further education or employment; and

(3) to operate programs in local schools for children and youth returning from correctional facilities, and programs which may serve at-risk children and youth.

(Pub. L. 89–10, title I, §1421, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1587.)

PRIOR PROVISIONS

A prior section 6451, Pub. L. 89–10, title I, §1421, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3597, related to purpose of subpart, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6452. Programs operated by local educational agencies

(a) Local subgrants

With funds made available under section 6422(b) of this title, the State educational agency shall award subgrants to local educational agencies with high numbers or percentages of children and youth residing in locally operated (including county operated) correctional facilities for children and youth (including facilities involved in community day programs).

(b) Special rule

A local educational agency that serves a school operated by a correctional facility is not required to operate a program of support for children and youth returning from such school to a school that is not operated by a correctional agency but served by such local educational agency, if more than 30 percent of the children and youth attending the school operated by the correctional facility will reside outside the boundaries served by the local educational agency after leaving such facility.

(c) Notification

A State educational agency shall notify local educational agencies within the State of the eligibility of such agencies to receive a subgrant under this subpart.

(d) Transitional and academic services

Transitional and supportive programs operated in local educational agencies under this subpart shall be designed primarily to meet the transitional and academic needs of students returning to local educational agencies or alternative education programs from correctional facilities. Services to students at-risk of dropping out of school shall not have a negative impact on meeting the transitional and academic needs of the students returning from correctional facilities.

(Pub. L. 89–10, title I, §1422, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1587.)

PRIOR PROVISIONS

A prior section 6452, Pub. L. 89–10, title I, §1422, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3598, related to programs operated by local educational agencies, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6453. Local educational agency applications

Each local educational agency desiring assistance under this subpart shall submit an application to the State educational agency that contains such information as the State educational agency may require. Each such application shall include—

(1) a description of the program to be assisted;

(2) a description of formal agreements, regarding the program to be assisted, between—

(A) the local educational agency; and

(B) correctional facilities and alternative school programs serving children and youth involved with the juvenile justice system;

(3) as appropriate, a description of how participating schools will coordinate with facilities working with delinquent children and youth to ensure that such children and youth are participating in an education program comparable to one operating in the local school such youth would attend;

(4) a description of the program operated by participating schools for children and youth returning from correctional facilities and, as appropriate, the types of services that such schools will provide such children and youth and other at-risk children and youth;

(5) a description of the characteristics (including learning difficulties, substance abuse problems, and other special needs) of the children and youth who will be returning from correctional facilities and, as appropriate, other at-risk children and youth expected to be served by the program, and a description of how the school will coordinate existing educational programs to meet the unique educational needs of such children and youth;

(6) as appropriate, a description of how schools will coordinate with existing social,

health, and other services to meet the needs of students returning from correctional facilities, at-risk children or youth, and other participating children or youth, including prenatal health care and nutrition services related to the health of the parent and the child or youth, parenting and child development classes, child care, targeted reentry and outreach programs, referrals to community resources, and scheduling flexibility;

(7) as appropriate, a description of any partnerships with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring services for participating students;

(8) as appropriate, a description of how the program will involve parents in efforts to improve the educational achievement of their children, assist in dropout prevention activities, and prevent the involvement of their children in delinquent activities;

(9) a description of how the program under this subpart will be coordinated with other Federal, State, and local programs, such as programs under title I of Public Law 105–220 [29 U.S.C. 2801 et seq.] and vocational and technical education programs serving at-risk children and youth;

(10) a description of how the program will be coordinated with programs operated under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.] and other comparable programs, if applicable;

(11) as appropriate, a description of how schools will work with probation officers to assist in meeting the needs of children and youth returning from correctional facilities;

(12) a description of the efforts participating schools will make to ensure correctional facilities working with children and youth are aware of a child's or youth's existing individualized education program; and

(13) as appropriate, a description of the steps participating schools will take to find alternative placements for children and youth interested in continuing their education but unable to participate in a regular public school program.

(Pub. L. 89–10, title I, § 1423, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1588.)

REFERENCES IN TEXT

Pub. L. 105–220, referred to in par. (9), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in par. (10), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§ 5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6453, Pub. L. 89–10, title I, § 1423, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3598; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 405(d)(18)(C), (f)(13)(C)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, 2681–431, related to local educational agency applications, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6454. Uses of funds

Funds provided to local educational agencies under this subpart may be used, as appropriate, for—

(1) programs that serve children and youth returning to local schools from correctional facilities, to assist in the transition of such children and youth to the school environment and help them remain in school in order to complete their education;

(2) dropout prevention programs which serve at-risk children and youth, including pregnant and parenting teens, children and youth who have come in contact with the juvenile justice system, children and youth at least 1 year behind their expected grade level, migrant youth, immigrant youth, students with limited English proficiency, and gang members;

(3) the coordination of health and social services for such individuals if there is a likelihood that the provision of such services, including day care, drug and alcohol counseling, and mental health services, will improve the likelihood such individuals will complete their education;

(4) special programs to meet the unique academic needs of participating children and youth, including vocational and technical education, special education, career counseling, curriculum-based youth entrepreneurship education, and assistance in securing student loans or grants for postsecondary education; and

(5) programs providing mentoring and peer mediation.

(Pub. L. 89–10, title I, § 1424, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1589.)

PRIOR PROVISIONS

A prior section 6454, Pub. L. 89–10, title I, § 1424, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3599, related to uses of funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6455. Program requirements for correctional facilities receiving funds under this section

Each correctional facility entering into an agreement with a local educational agency under section 6453(2) of this title to provide services to children and youth under this subpart shall—

(1) where feasible, ensure that educational programs in the correctional facility are coordinated with the student's home school, particularly with respect to a student with an individualized education program under part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.];

(2) if the child or youth is identified as in need of special education services while in the correctional facility, notify the local school of the child or youth of such need;

(3) where feasible, provide transition assistance to help the child or youth stay in school, including coordination of services for the family, counseling, assistance in accessing drug and alcohol abuse prevention programs, tutoring, and family counseling;

(4) provide support programs that encourage children and youth who have dropped out of school to reenter school once their term at the correctional facility has been completed, or provide such children and youth with the skills necessary to gain employment or seek a secondary school diploma or its recognized equivalent;

(5) work to ensure that the correctional facility is staffed with teachers and other qualified staff who are trained to work with children and youth with disabilities taking into consideration the unique needs of such children and youth;

(6) ensure that educational programs in the correctional facility are related to assisting students to meet high academic achievement standards;

(7) to the extent possible, use technology to assist in coordinating educational programs between the correctional facility and the community school;

(8) where feasible, involve parents in efforts to improve the educational achievement of their children and prevent the further involvement of such children in delinquent activities;

(9) coordinate funds received under this subpart with other local, State, and Federal funds available to provide services to participating children and youth, such as funds made available under title I of Public Law 105–220 [29 U.S.C. 2801 et seq.], and vocational and technical education funds;

(10) coordinate programs operated under this subpart with activities funded under the Juvenile Justice and Delinquency Prevention Act of 1974 [42 U.S.C. 5601 et seq.] and other comparable programs, if applicable; and

(11) if appropriate, work with local businesses to develop training, curriculum-based youth entrepreneurship education, and mentoring programs for children and youth.

(Pub. L. 89–10, title I, §1425, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1589.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in par. (1), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

Pub. L. 105–220, referred to in par. (9), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Juvenile Justice and Delinquency Prevention Act of 1974, referred to in par. (10), is Pub. L. 93–415, Sept. 7, 1974, 88 Stat. 1109, as amended, which is classified principally to chapter 72 (§5601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5601 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 6455, Pub. L. 89–10, title I, §1425, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3599; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §405(d)(18)(D), (f)(13)(D)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–422, 2681–431, related to program requirements for correctional facilities receiving funds, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6456. Accountability

The State educational agency may—

(1) reduce or terminate funding for projects under this subpart if a local educational agency does not show progress in reducing dropout rates for male students and for female students over a 3-year period; and

(2) require correctional facilities or institutions for neglected or delinquent children and youth to demonstrate, after receiving assistance under this subpart for 3 years, that there has been an increase in the number of children and youth returning to school, obtaining a secondary school diploma or its recognized equivalent, or obtaining employment after such children and youth are released.

(Pub. L. 89–10, title I, §1426, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1590.)

PRIOR PROVISIONS

A prior section 6456, Pub. L. 89–10, title I, §1426, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3600, related to accountability, prior to the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 3—GENERAL PROVISIONS

§ 6471. Program evaluations

(a) Scope of evaluation

Each State agency or local educational agency that conducts a program under subpart 1 or 2 of this part shall evaluate the program, disaggregating data on participation by gender, race, ethnicity, and age, not less than once every 3 years, to determine the program's impact on the ability of participants—

(1) to maintain and improve educational achievement;

(2) to accrue school credits that meet State requirements for grade promotion and secondary school graduation;

(3) to make the transition to a regular program or other education program operated by a local educational agency;

(4) to complete secondary school (or secondary school equivalency requirements) and obtain employment after leaving the correctional facility or institution for neglected or delinquent children and youth; and

(5) as appropriate, to participate in postsecondary education and job training programs.

(b) Exception

The disaggregation required under subsection (a) of this section shall not be required in a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.

(c) Evaluation measures

In conducting each evaluation under subsection (a) of this section, a State agency or local educational agency shall use multiple and appropriate measures of student progress.

(d) Evaluation results

Each State agency and local educational agency shall—

(1) submit evaluation results to the State educational agency and the Secretary; and

(2) use the results of evaluations under this section to plan and improve subsequent programs for participating children and youth.

(Pub. L. 89–10, title I, § 1431, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1591.)

PRIOR PROVISIONS

A prior section 6471, Pub. L. 89–10, title I, § 1431, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3600, related to program evaluations, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1431 of Pub. L. 89–10 was classified to section 2831 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6472. Definitions

In this part:

(1) Adult correctional institution

The term ''adult correctional institution'' means a facility in which persons (including persons under 21 years of age) are confined as a result of a conviction for a criminal offense.

(2) At-risk

The term ''at-risk'', when used with respect to a child, youth, or student, means a school aged individual who is at-risk of academic failure, has a drug or alcohol problem, is pregnant or is a parent, has come into contact with the juvenile justice system in the past, is at least 1 year behind the expected grade level for the age of the individual, has limited English proficiency, is a gang member, has dropped out of school in the past, or has a high absenteeism rate at school.

(3) Community day program

The term ''community day program'' means a regular program of instruction provided by a State agency at a community day school operated specifically for neglected or delinquent children and youth.

(4) Institution for neglected or delinquent children and youth

The term ''institution for neglected or delinquent children and youth'' means—

(A) a public or private residential facility, other than a foster home, that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of their parents or guardians; or

(B) a public or private residential facility for the care of children who have been adjudicated to be delinquent or in need of supervision.

(Pub. L. 89–10, title I, § 1432, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1591.)

PRIOR PROVISIONS

A prior section 6472, Pub. L. 89–10, title I, § 1432, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3601, defined terms for this part, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1432 of Pub. L. 89–10 was classified to section 2832 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

PART E—NATIONAL ASSESSMENT OF SUBCHAPTER I

§ 6491. Evaluations

(a) National assessment of subchapter I

(1) In general

The Secretary shall conduct a national assessment of the programs assisted under this subchapter and the impact of this subchapter on States, local educational agencies, schools, and students.

(2) Issues to be examined

In conducting the assessment under this subsection, the Secretary shall examine, at a minimum, the following:

(A) The implementation of programs assisted under this subchapter and the impact of such implementation on increasing student academic achievement (particularly in schools with high concentrations of children living in poverty), relative to the goal of all students reaching the proficient level of achievement based on State academic assessments, challenging State academic content standards, and challenging State student academic achievement standards under section 6311 of this title.

(B) The types of programs and services that have demonstrated the greatest likelihood of helping students reach the proficient and advanced levels of achievement based on State student academic achievement standards and State academic content standards.

(C) The implementation of State academic standards, assessments, and accountability systems developed under this subchapter, including—

(i) the time and cost required for the development of academic assessments for students in grades 3 through 8;

(ii) how well such State assessments meet the requirements for assessments described in this subchapter; and

(iii) the impact of such standards, assessments, and accountability systems on educational programs and instruction at the local level.

(D) Each State's definition of adequate yearly progress, including—

(i) the impact of applying this definition to schools, local educational agencies, and the State;

(ii) the number of schools and local educational agencies not meeting this definition; and

(iii) the changes in the identification of schools in need of improvement as a result of such definition.

(E) How schools, local educational agencies, and States have—

(i) publicized and disseminated the local educational agency report cards required under section 6311(h)(2) of this title to teachers, school staff, students, parents, and the community;

(ii) used funds made available under this subchapter to provide preschool and family literacy services and the impact of

these services on students' school readiness;

(iii) implemented the provisions of section 6318 of this title and afforded parents meaningful opportunities to be involved in the education of their children;

(iv) used Federal, State, and local educational agency funds and resources to support schools and provide technical assistance to improve the achievement of students in low-performing schools, including the impact of the technical assistance on such achievement; and

(v) used State educational agency and local educational agency funds and resources to help schools in which 50 percent or more of the students are from families with incomes below the poverty line meet the requirement described in section 6319 of this title of having all teachers highly qualified not later than the end of the 2005–2006 school year.

(F) The implementation of schoolwide programs and targeted assistance programs under this subchapter and the impact of such programs on improving student academic achievement, including the extent to which schools meet the requirements of such programs.

(G) The extent to which varying models of comprehensive school reform are funded and implemented under this subchapter, and the effect of the implementation of such models on improving achievement of disadvantaged students.

(H) The costs as compared to the benefits of the activities assisted under this subchapter.

(I) The extent to which actions authorized under section 6316 of this title are implemented by State educational agencies and local educational agencies to improve the academic achievement of students in low-performing schools, and the effectiveness of the implementation of such actions, including the following:

(i) The number of schools identified for school improvement and how many years the schools remain in this status.

(ii) The types of support provided by the State educational agencies and local educational agencies to schools and local educational agencies respectively identified as in need of improvement, and the impact of such support on student achievement.

(iii) The number of parents who take advantage of the public school choice provisions of this subchapter, the costs (including transportation costs) associated with implementing these provisions, the implementation of these provisions, and the impact of these provisions (including the impact of attending another school) on student achievement.

(iv) The number of parents who choose to take advantage of the supplemental educational services option, the criteria used by the States to determine the quality of providers, the kinds of services that are available and utilized, the costs associated with implementing this option, and the impact of receiving supplemental educational services on student achievement.

(v) The implementation and impact of actions that are taken with regard to schools and local educational agencies identified for corrective action and restructuring.

(J) The extent to which State and local fiscal accounting requirements under this subchapter affect the flexibility of schoolwide programs.

(K) The implementation and impact of the professional development activities assisted under this subchapter and subchapter II of this chapter on instruction, student academic achievement, and teacher qualifications.

(L) The extent to which the assistance made available under this subchapter, including funds under section 6302 of this title, is targeted to disadvantaged students, schools, and local educational agencies with the greatest need.

(M) The effectiveness of Federal administration assistance made available under this subchapter, including monitoring and technical assistance.

(N) The academic achievement of the groups of students described in section 6311(b)(2)(C)(v)(II) of this title.

(O) Such other issues as the Secretary considers appropriate.

(3) Sources of information

In conducting the assessment under this subsection, the Secretary shall use information from a variety of sources, including the National Assessment of Educational Progress (carried out under section 9622 of this title), State evaluations, and other research studies.

(4) Coordination

In carrying out this subsection, the Secretary shall—

(A) coordinate the national assessment under this subsection with the longitudinal study described in subsection (c) of this section; and

(B) ensure that the independent review panel described in subsection (d) of this section participates in conducting the national assessment under this subsection, including planning for and reviewing the assessment.

(5) Developmentally appropriate measures

In conducting the national assessment under this subsection, the Secretary shall use developmentally appropriate measures to assess student academic achievement.

(6) Reports

(A) Interim report

Not later than 3 years after January 8, 2002, the Secretary shall transmit to the President, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate an interim report on the national assessment conducted under this subsection.

(B) Final report

Not later than 5 years after January 8, 2002, the Secretary shall transmit to the

President, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a final report on the national assessment conducted under this subsection.

(b) Studies and data collection

(1) In general

In addition to other activities described in this section, the Secretary may, directly or through awarding grants to or entering into contracts with appropriate entities—

(A) assess the implementation and effectiveness of programs under this subchapter;

(B) collect the data necessary to comply with the Government Performance and Results Act of 1993; and

(C) provide guidance and technical assistance to State educational agencies and local educational agencies in developing and maintaining management information systems through which such agencies may develop program performance indicators to improve services and performance.

(2) Minimum information

In carrying out this subsection, the Secretary shall collect, at a minimum, trend information on the effect of each program authorized under this subchapter, which shall complement the data collected and reported under subsections (a) and (c) of this section.

(c) National longitudinal study

(1) In general

The Secretary shall conduct a longitudinal study of schools receiving assistance under part A of this subchapter.

(2) Issues to be examined

In carrying out this subsection, the Secretary shall ensure that the study referred to in paragraph (1) provides Congress and educators with each of the following:

(A) An accurate description and analysis of the short- and long-term effect of the assistance made available under this subchapter on academic achievement.

(B) Information that can be used to improve the effectiveness of the assistance made available under this subchapter in enabling students to meet challenging academic achievement standards.

(C) An analysis of educational practices or model programs that are effective in improving the achievement of disadvantaged children.

(D) An analysis of the costs as compared to the benefits of the assistance made available under this subchapter in improving the achievement of disadvantaged children.

(E) An analysis of the effects of the availability of school choice options under section 6316 of this title on the academic achievement of disadvantaged students, on schools in school improvement, and on schools from which students have transferred under such options.

(F) Such other information as the Secretary considers appropriate.

(3) Scope

In conducting the study referred to in paragraph (1), the Secretary shall ensure that the study—

(A) bases its analysis on a nationally representative sample of schools participating in programs under this subchapter;

(B) to the extent practicable, includes in its analysis students who transfer to different schools during the course of the study; and

(C) analyzes varying models or strategies for delivering school services, including—

(i) schoolwide and targeted services; and

(ii) comprehensive school reform models.

(d) Independent Review Panel

(1) In general

The Secretary shall establish an independent review panel (in this subsection referred to as the ''Review Panel'') to advise the Secretary on methodological and other issues that arise in carrying out subsections (a) and (c) of this section.

(2) Appointment of members

(A) In general

Subject to subparagraph (B), the Secretary shall appoint members of the Review Panel from among qualified individuals who are—

(i) specialists in statistics, evaluation, research, and assessment;

(ii) education practitioners, including teachers, principals, and local and State superintendents;

(iii) parents and members of local school boards or other organizations involved with the implementation and operation of programs under this subchapter; and

(iv) other individuals with technical expertise who will contribute to the overall rigor and quality of the program evaluation.

(B) Limitations

In appointing members of the Review Panel, the Secretary shall ensure that—

(i) in order to ensure diversity, the Review Panel includes individuals appointed under subparagraph (A)(i) who represent disciplines or programs outside the field of education; and

(ii) the total number of the individuals appointed under subparagraph (A)(ii) or (A)(iv) does not exceed one-fourth of the total number of the individuals appointed under this paragraph.

(3) Functions

The Review Panel shall consult with and advise the Secretary—

(A) to ensure that the assessment conducted under subsection (a) of this section and the study conducted under subsection (c) of this section—

(i) adhere to the highest possible standards of quality with respect to research design, statistical analysis, and the dissemination of findings; and

(ii) use valid and reliable measures to document program implementation and impacts; and

(B) to ensure—

(i) that the final report described in subsection (a)(6)(B) of this section is reviewed not later than 120 days after its completion by not less than two independent experts in program evaluation (who may be from among the members of the Review Panel appointed under paragraph (2));

(ii) that such experts evaluate and comment on the degree to which the report complies with subsection (a) of this section; and

(iii) that the comments of such experts are transmitted with the report under subsection (a)(6)(B) of this section.

(Pub. L. 89–10, title I, § 1501, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1592; amended Pub. L. 107–279, title IV, § 404(d)(4), Nov. 5, 2002, 116 Stat. 1986.)

REFERENCES IN TEXT

The Government Performance and Results Act of 1993, referred to in subsec. (b)(1)(B), is Pub. L. 103–62, Aug. 3, 1993, 107 Stat. 285, which enacted section 306 of Title 5, Government Organization and Employees, sections 1115 to 1119, 9703, and 9704 of Title 31, Money and Finance, and sections 2801 to 2805 of Title 39, Postal Service, amended section 1105 of Title 31, and enacted provisions set out as notes under sections 1101 and 1115 of Title 31. For complete classification of this Act to the Code, see Short Title of 1993 Amendment note set out under section 1101 of Title 31 and Tables.

PRIOR PROVISIONS

A prior section 6491, Pub. L. 89–10, title I, § 1501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3601; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(b)(3)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–18, title VI, § 60002, June 12, 1997, 111 Stat. 214, related to evaluations, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1501 of Pub. L. 89–10 was classified to section 2911 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2002—Subsec. (a)(3). Pub. L. 107–279 substituted ''section 9622 of this title'' for ''section 9010 of this title''.

§ 6492. Demonstrations of innovative practices

(a) In general

From the funds appropriated for any fiscal year under section 6302(e)(1) of this title, the Secretary may award grants to State educational agencies, local educational agencies, other public agencies, nonprofit organizations, public or private partnerships involving business and industry organizations, and consortia of such entities to carry out demonstration projects that show the most promise of enabling children served under this subchapter to meet challenging State academic content standards and challenging State student academic achievement standards.

(b) Evaluation

The Secretary shall evaluate the demonstration projects supported under this subchapter, using rigorous methodological designs and techniques, including control groups and random assignment, to the extent feasible, to produce reliable evidence of effectiveness.

(c) Partnerships

From funds appropriated under section 6302(e)(1) of this title for any fiscal year, the Secretary may, directly or through grants or contracts, work in partnership with State educational agencies, local educational agencies, other public agencies, and nonprofit organizations to disseminate and use the highest quality research and knowledge about effective practices to improve the quality of teaching and learning in schools assisted under this subchapter.

(Pub. L. 89–10, title I, § 1502, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1597.)

PRIOR PROVISIONS

A prior section 6492, Pub. L. 89–10, title I, § 1502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3604, related to demonstrations of innovative practices, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 1502 of Pub. L. 89–10 was classified to section 2912 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6493. Assessment evaluation

(a) In general

The Secretary shall conduct an independent study of assessments used for State accountability purposes and for making decisions about the promotion and graduation of students. Such research shall be conducted over a period not to exceed 5 years and shall address the components described in subsection (d) of this section.

(b) Contract authorized

The Secretary is authorized to award a contract, through a peer review process, to an organization or entity capable of conducting rigorous, independent research. The Assistant Secretary of Educational Research and Improvement shall appoint peer reviewers to evaluate the applications for this contract.

(c) Study

The study shall—

(1) synthesize and analyze existing research that meets standards of quality and scientific rigor; and

(2) evaluate academic assessment and accountability systems in State educational agencies, local educational agencies, and schools; and

(3) make recommendations to the Department and to the Committee on Education and the Workforce of the United States House of Representatives and the Committee on Health, Education, Labor, and Pensions of the United States Senate, based on the findings of the study.

(d) Components of the research program

The study described in subsection (a) of this section shall examine—

(1) the effect of the assessment and accountability systems described in section[1] (c) on students, teachers, parents, families, schools, school districts, and States, including correlations between such systems and—

(A) student academic achievement, progress to the State-defined level of pro-

[1] So in original. Probably should be ''subsection''.

ficiency, and progress toward closing achievement gaps, based on independent measures;

(B) changes in course offerings, teaching practices, course content, and instructional material;

(C) changes in turnover rates among teachers, principals, and pupil-services personnel;

(D) changes in dropout, grade-retention, and graduation rates for students; and

(E) such other effects as may be appropriate;

(2) the effect of the academic assessments on students with disabilities;

(3) the effect of the academic assessments on low, middle, and high socioeconomic status students, limited and nonlimited English proficient students, racial and ethnic minority students, and nonracial or nonethnic minority students;

(4) guidelines for assessing the validity, reliability, and consistency of those systems using nationally recognized professional and technical standards;

(5) the relationship between accountability systems and the inclusion or exclusion of students from the assessment system; and

(6) such other factors as the Secretary finds appropriate.

(e) Reporting

Not later than 3 years after the contract described in subsection (b) of this section is awarded, the organization or entity conducting the study shall submit an interim report to the Committee on Education and the Workforce of the United States House of Representatives and the Committee on Health, Education, Labor and Pensions of the United States Senate, and to the President and the States, and shall make the report widely available to the public. The organization or entity shall submit a final report to the same recipients as soon as possible after the completion of the study. Additional reports may be periodically prepared and released as necessary.

(f) Reservation of funds

The Secretary may reserve up to 15 percent of the funds authorized to be appropriated for this part to carry out the study, except such reservation of funds shall not exceed $1,500,000.

(Pub. L. 89–10, title I, § 1503, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1597.)

PRIOR PROVISIONS

A prior section 6493, Pub. L. 89–10, title I, § 1503, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3605, related to innovative elementary school transition projects, prior to repeal by Pub. L. 105–277, div. A, § 101(f) [title VIII, § 301(c)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410.

§ 6494. Close Up fellowship program

(a) Program for middle school and secondary school students

(1) Establishment

(A) General authority

In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing civic responsibility and understanding of the Federal Government among middle school and secondary school students.

(B) Use of funds

Grants under this subsection shall be used only to provide financial assistance to economically disadvantaged students who participate in the programs described in subparagraph (A).

(C) Name of fellowships

Financial assistance received by students pursuant to this subsection shall be known as Close Up fellowships.

(2) Applications

(A) Application required

No grant under this subsection may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(B) Contents of application

Each application submitted under this paragraph shall contain assurances that—

(i) Close Up fellowships provided under this subsection shall be made to economically disadvantaged middle school and secondary school students;

(ii) every effort shall be made to ensure the participation of students from rural, small town, and urban areas;

(iii) in awarding the fellowships to economically disadvantaged students, special consideration shall be given to the participation of those students with special educational needs, including students with disabilities, ethnic minority students, and students with migrant parents; and

(iv) the funds received under this subsection shall be properly disbursed.

(b) Program for middle school and secondary school teachers

(1) Establishment

(A) General authority

In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of professional development for middle school and secondary school teachers and its programs to increase civic responsibility and understanding of the Federal Government among the teachers' students.

(B) Use of funds

Grants under this subsection shall be used only to provide financial assistance to teachers who participate in the programs described in subparagraph (A).

(C) Name of fellowships

Financial assistance received by teachers pursuant to this subsection shall be known as Close Up fellowships.

(2) Applications

(A) Application required

No grant under this subsection may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(B) Contents of application

Each application submitted under this paragraph shall contain assurances that—

(i) Close Up fellowships provided under this subsection shall be made only to a teacher who has worked with at least one student from such teacher's school who participates in a program described in subsection (a)(1)(A) of this section;

(ii) no teacher shall receive more than one such fellowship in any fiscal year; and

(iii) the funds received under this subsection shall be properly disbursed.

(c) Programs for new Americans

(1) Establishment

(A) General authority

In accordance with this subsection, the Secretary may make grants to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing civic responsibility and understanding of the Federal Government among economically disadvantaged middle school and secondary school recent immigrant students.

(B) Definition

In this subsection, the term ''recent immigrant student'' means a student who is a member of a family that immigrated to the United States within 5 years of the student's participation in such a program.

(C) Use of funds

Grants under this subsection shall be used only to provide financial assistance to economically disadvantaged recent immigrant students and their teachers who participate in the programs described in subparagraph (A).

(D) Name of fellowships

Financial assistance received by students and teachers pursuant to this subsection shall be known as Close Up Fellowships for New Americans.

(2) Applications

(A) Application required

No grant under this subsection may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(B) Contents of application

Each application submitted under this paragraph shall contain assurances that—

(i) Close Up Fellowships for New Americans shall be made to economically disadvantaged middle school and secondary school recent immigrant students;

(ii) every effort shall be made to ensure the participation of recent immigrant students from rural, small town, and urban areas;

(iii) in awarding the fellowships to economically disadvantaged recent immigrant students, special consideration shall be given to the participation of those students with special educational needs, including students with disabilities, students with migrant parents, and ethnic minority students;

(iv) fully describe the activities to be carried out with the proceeds of the grant made under paragraph (1); and

(v) the funds received under this subsection shall be properly disbursed.

(d) General provisions

(1) Administrative provisions

(A) Accountability

In consultation with the Secretary, the Close Up Foundation shall devise and implement procedures to measure the efficacy of the programs authorized in subsections (a), (b), and (c) of this section in attaining objectives that include the following:

(i) Providing young people with an increased understanding of the Federal Government.

(ii) Heightening a sense of civic responsibility among young people.

(iii) Enhancing the skills of educators in teaching young people about civic responsibility, the Federal Government, and attaining citizenship competencies.

(B) General rule

Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments.

(C) Audit rule

The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this section.

(2) Continuation of awards

Notwithstanding any other provision of this chapter, any person or entity that was awarded a grant under part G of title X before January 8, 2002, shall continue to receive funds in accordance with the terms of such award until the date on which the award period terminates under such terms.

(Pub. L. 89–10, title I, §1504, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1598.)

REFERENCES IN TEXT

Part G of title X before January 8, 2002, referred to in subsec. (d)(2), means part G of title X of Pub. L. 89–10, as added by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3841, which was classified generally to part G (§8161 et seq.) of subchapter X of this chapter, prior to repeal by Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986.

PART F—COMPREHENSIVE SCHOOL REFORM

§ 6511. Purpose

The purpose of this part is to provide financial incentives for schools to develop comprehensive school reforms, based upon scientifically based research and effective practices that include an emphasis on basic academics and parental involvement so that all children can meet challenging State academic content and academic achievement standards.

(Pub. L. 89–10, title I, § 1601, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1601.)

PRIOR PROVISIONS

A prior section 6511, Pub. L. 89–10, title I, § 1601, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3609, related to Federal regulations, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6571 of this title.

§ 6512. Program authorization

(a) [1] Program authorized

(1) In general

The Secretary is authorized to award grants to State educational agencies, from allotments under paragraph (2), to enable the State educational agencies to award subgrants to local educational agencies to carry out the purpose described in section 6511 of this title.

(2) Allotments

(A) Reservations

Of the amount appropriated under section 6302(f) of this title, the Secretary may reserve—

(i) not more than 1 percent for each fiscal year to provide assistance to schools supported by the Bureau of Indian Affairs and in the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands according to their respective needs for assistance under this part;

(ii) not more than 1 percent for each fiscal year to conduct national evaluation activities described in section 6517 of this title; and

(iii) not more than 3 percent of the amount appropriated in fiscal year 2002 to carry out this part, for quality initiatives described in section 6518 of this title.

(B) In general

Of the amount appropriated under section 6302(f) of this title that remains after making the reservation under subparagraph (A) for a fiscal year, the Secretary shall allot to each State for the fiscal year an amount that bears the same ratio to the remainder for that fiscal year as the amount made available under section 6333 of this title to the State for the preceding fiscal year bears to the total amount made available under section 6333 of this title to all States for that year.

(C) Reallotment

If a State does not apply for funds under this section, the Secretary shall reallot such funds to other States that do apply in proportion to the amount allotted to such other States under subparagraph (B).

(Pub. L. 89–10, title I, § 1602, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1601.)

PRIOR PROVISIONS

A prior section 6512, Pub. L. 89–10, title I, § 1602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3610, related to coordination of Federal, State, and local administration, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6513. State applications

(a) In general

Each State educational agency that desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) Contents

Each such application shall describe—

(1) the process and selection criteria by which the State educational agency, using expert review, will select local educational agencies to receive subgrants under this part;

(2) how the State educational agency will ensure that funds under this part are limited to comprehensive school reform programs that—

(A) include each of the components described in section 6516(a) of this title;

(B) have the capacity to improve the academic achievement of all students in core academic subjects within participating schools; and

(C) are supported by technical assistance providers that have a successful track record, financial stability, and the capacity to deliver high quality materials, professional development for school personnel, and on-site support during the full implementation period of the reforms;

(3) how the State educational agency will disseminate materials and information on comprehensive school reforms that are based on scientifically based research and effective practices;

(4) how the State educational agency will evaluate annually the implementation of such reforms and measure the extent to which the reforms have resulted in increased student academic achievement; and

(5) how the State educational agency will provide technical assistance to the local educational agency or consortia of local educational agencies, and to participating schools, in evaluating, developing, and implementing comprehensive school reform.

(Pub. L. 89–10, title I, § 1603, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1602.)

PRIOR PROVISIONS

A prior section 6513, Pub. L. 89–10, title I, § 1603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3611, related to State administration, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6573 of this title.

[1] So in original. No subsec. (b) has been enacted.

§ 6514. State use of funds

(a) In general

Except as provided in subsection (e) of this section, a State educational agency that receives a grant under this part shall use the grant funds to award subgrants, on a competitive basis, to local educational agencies or consortia of local educational agencies in the State that receive funds under part A of this subchapter, to support comprehensive school reforms in schools that are eligible for funds under part A of this subchapter.

(b) Subgrant requirements

A subgrant to a local educational agency or consortium shall be—

(1) of sufficient size and scope to support the initial costs of comprehensive school reforms selected or designed by each school identified in the application of the local educational agency or consortium;

(2) in an amount not less than $50,000—

(A) for each participating school; or

(B) for each participating consortium of small schools (which for purposes of this subparagraph means a consortium of small schools serving a total of not more than 500 students); and

(3) renewable for two additional 1-year subgrant periods after the initial 1-year subgrant is made if the school is or the schools are making substantial progress in the implementation of reforms.

(c) Priority

A State educational agency, in awarding subgrants under this part, shall give priority to local educational agencies or consortia that—

(1) plan to use the funds in schools identified as being in need of improvement or corrective action under section 6316(c) of this title; and

(2) demonstrate a commitment to assist schools with budget allocation, professional development, and other strategies necessary to ensure the comprehensive school reforms are properly implemented and are sustained in the future.

(d) Grant consideration

In awarding subgrants under this part, the State educational agency shall take into consideration the equitable distribution of subgrants to different geographic regions within the State, including urban and rural areas, and to schools serving elementary and secondary students.

(e) Administrative costs

A State educational agency that receives a grant under this part may reserve not more than 5 percent of the grant funds for administrative, evaluation, and technical assistance expenses.

(f) Supplement

Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local funds that would otherwise be available to carry out the activities assisted under this part.

(g) Reporting

Each State educational agency that receives a grant under this part shall provide to the Secretary such information as the Secretary may require, including the names of local educational agencies and schools receiving assistance under this part, the amount of the assistance, a description of the comprehensive school reforms selected and used, and a copy of the State's annual evaluation of the implementation of comprehensive school reforms supported under this part and the student achievement results.

(Pub. L. 89–10, title I, § 1604, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1603.)

PRIOR PROVISIONS

A prior section 6514, Pub. L. 89–10, title I, § 1604, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3612, related to construction of provisions, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6576 of this title.

§ 6515. Local applications

(a) In general

Each local educational agency or consortium of local educational agencies desiring a subgrant under this part shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(b) Contents

Each such application shall—

(1) identify the schools that are eligible for assistance under part A of this subchapter and plan to implement a comprehensive school reform program, including the projected costs of such a program;

(2) describe the comprehensive school reforms based on scientifically based research and effective practices that such schools will implement;

(3) describe how the local educational agency or consortium will provide technical assistance and support for the effective implementation of the comprehensive school reforms based on scientifically based research and effective practices selected by such schools; and

(4) describe how the local educational agency or consortium will evaluate the implementation of such comprehensive school reforms and measure the results achieved in improving student academic achievement.

(Pub. L. 89–10, title I, § 1605, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1604.)

§ 6516. Local use of funds

(a) Uses of funds

A local educational agency or consortium that receives a subgrant under this part shall provide the subgrant funds to schools that are eligible for assistance under part A of this subchapter and served by the agency, to enable the schools to implement a comprehensive school reform program that—

(1) employs proven strategies and proven methods for student learning, teaching, and school management that are based on scientifically based research and effective practices and have been replicated successfully in schools;

(2) integrates a comprehensive design for effective school functioning, including instruction, assessment, classroom management, professional development, parental involvement, and school management, that aligns the school's curriculum, technology, and professional development into a comprehensive school reform plan for schoolwide change designed to enable all students to meet challenging State content and student academic achievement standards and addresses needs identified through a school needs assessment;

(3) provides high quality and continuous teacher and staff professional development;

(4) includes measurable goals for student academic achievement and benchmarks for meeting such goals;

(5) is supported by teachers, principals, administrators, school personnel staff, and other professional staff;

(6) provides support for teachers, principals, administrators, and other school staff;

(7) provides for the meaningful involvement of parents and the local community in planning, implementing, and evaluating school improvement activities consistent with section 6318 of this title;

(8) uses high quality external technical support and assistance from an entity that has experience and expertise in schoolwide reform and improvement, which may include an institution of higher education;

(9) includes a plan for the annual evaluation of the implementation of school reforms and the student results achieved;

(10) identifies other resources, including Federal, State, local, and private resources, that shall be used to coordinate services that will support and sustain the comprehensive school reform effort; and

(11)(A) has been found, through scientifically based research to significantly improve the academic achievement of students participating in such program as compared to students in schools who have not participated in such program; or

(B) has been found to have strong evidence that such program will significantly improve the academic achievement of participating children.

(b) Special rule

A school that receives funds to develop a comprehensive school reform program shall not be limited to using nationally available approaches, but may develop the school's own comprehensive school reform program for schoolwide change as described in subsection (a) of this section.

(Pub. L. 89–10, title I, § 1606, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1604.)

§ 6517. Evaluation and reports

(a) In general

The Secretary shall develop a plan for a national evaluation of the programs assisted under this part.

(b) Evaluation

The national evaluation shall—

(1) evaluate the implementation and results achieved by schools after 3 years of implementing comprehensive school reforms; and

(2) assess the effectiveness of comprehensive school reforms in schools with diverse characteristics.

(c) Reports

The Secretary shall submit a report describing the results of the evaluation under subsection (b) of this section for the Comprehensive School Reform Program to the Committee on Education and the Workforce, and the Committee on Appropriations of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

(Pub. L. 89–10, title I, § 1607, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1605.)

§ 6518. Quality initiatives

The Secretary, through grants or contracts, shall provide funds for—

(1) a public-private effort, in which funds are matched by private organizations, to assist States, local educational agencies, and schools, in making informed decisions regarding approving or selecting providers of comprehensive school reform, consistent with the requirements described in section 6516(a) of this title; and

(2) activities to foster the development of comprehensive school reform models and to provide effective capacity building for comprehensive school reform providers to expand their work in more schools, assure quality, and promote financial stability.

(Pub. L. 89–10, title I, § 1608, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1605.)

PART G—ADVANCED PLACEMENT PROGRAMS

§ 6531. Short title

This part may be cited as the ''Access to High Standards Act''.

(Pub. L. 89–10, title I, § 1701, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1606.)

§ 6532. Purposes

The purposes of this part are—

(1) to support State and local efforts to raise academic standards through advanced placement programs, and thus further increase the number of students who participate and succeed in advanced placement programs;

(2) to encourage more of the 600,000 students who take advanced placement courses each year but do not take advanced placement exams each year, to demonstrate their achievements through taking the exams;

(3) to build on the many benefits of advanced placement programs for students, which benefits may include the acquisition of skills that are important to many employers, Scholastic Aptitude Test (SAT) scores that are 100 points above the national averages, and the achievement of better grades in secondary school and in college than the grades of students who have not participated in the programs;

(4) to increase the availability and broaden the range of schools, including middle schools, that have advanced placement and pre-advanced placement programs;

(5) to demonstrate that larger and more diverse groups of students can participate and succeed in advanced placement programs;

(6) to provide greater access to advanced placement and pre-advanced placement courses and highly trained teachers for low-income and other disadvantaged students;

(7) to provide access to advanced placement courses for secondary school students at schools that do not offer advanced placement programs, increase the rate at which secondary school students participate in advanced placement courses, and increase the numbers of students who receive advanced placement test scores for which college academic credit is awarded;

(8) to increase the participation of low-income individuals in taking advanced placement tests through the payment or partial payment of the costs of the advanced placement test fees; and

(9) to increase the number of individuals that achieve a baccalaureate or advanced degree, and to decrease the amount of time such individuals require to attain such degrees.

(Pub. L. 89–10, title I, §1702, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1606.)

§ 6533. Funding distribution rule

From amounts appropriated under section 6302(g) of this title for a fiscal year, the Secretary shall give priority to funding activities under section 6534 of this title and shall distribute any remaining funds under section 6535 of this title.

(Pub. L. 89–10, title I, §1703, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1606.)

§ 6534. Advanced placement test fee program

(a) Grants authorized

From amounts made available under section 6533 of this title for a fiscal year, the Secretary shall award grants to State educational agencies having applications approved under this section to enable the State educational agencies to reimburse low-income individuals to cover part or all of the costs of advanced placement test fees, if the low-income individuals—

(1) are enrolled in an advanced placement course; and

(2) plan to take an advanced placement test.

(b) Award basis

In determining the amount of the grant awarded to a State educational agency under this section for a fiscal year, the Secretary shall consider the number of children eligible to be counted under section 6333(c) of this title in the State in relation to the number of such children so counted in all the States.

(c) Information dissemination

A State educational agency awarded a grant under this section shall disseminate information regarding the availability of advanced placement test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

(d) Applications

Each State educational agency desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. At a minimum, each State educational agency application shall—

(1) describe the advanced placement test fees the State educational agency will pay on behalf of low-income individuals in the State from grant funds awarded under this section;

(2) provide an assurance that any grant funds awarded under this section shall be used only to pay for advanced placement test fees; and

(3) contain such information as the Secretary may require to demonstrate that the State educational agency will ensure that a student is eligible for payments authorized under this section, including documentation required under chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 [20 U.S.C. 1070a–11 et seq.].

(e) Regulations

The Secretary shall prescribe such regulations as are necessary to carry out this section.

(f) Report

(1) In general

Each State educational agency awarded a grant under this section shall, with respect to each advanced placement subject, annually report to the Secretary on—

(A) the number of students in the State who are taking an advanced placement course in that subject;

(B) the number of advanced placement tests taken by students in the State who have taken an advanced placement course in that subject;

(C) the number of students in the State scoring at different levels on advanced placement tests in that subject; and

(D) demographic information regarding individuals in the State taking advanced placement courses and tests in that subject disaggregated by race, ethnicity, sex, English proficiency status, and socioeconomic status.

(2) Report to Congress

The Secretary shall annually compile the information received from each State educational agency under paragraph (1) and report to the appropriate committees of Congress regarding the information.

(g) BIA as SEA

For purposes of this section the Bureau of Indian Affairs shall be treated as a State educational agency.

(Pub. L. 89–10, title I, §1704, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1606.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (d)(3), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Chapter 1 of subpart 2 of part A of title IV of the Act is classified generally to division 1 (§1070a–11 et seq.) of subpart 2 of part A of subchapter IV of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

§ 6535. Advanced placement incentive program grants

(a) Grants authorized

(1) In general

From amounts made available under section 6533 of this title for a fiscal year, the Secretary shall award grants, on a competitive basis, to eligible entities to enable those entities to carry out the authorized activities described in subsection (d) of this section.

(2) Duration and payments

(A) Duration

The Secretary shall award a grant under this section for a period of not more than 3 years.

(B) Payments

The Secretary shall make grant payments under this section on an annual basis.

(3) Definition of eligible entity

In this section, the term ''eligible entity'' means a State educational agency, local educational agency, or national nonprofit educational entity with expertise in advanced placement services.

(b) Application

Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(c) Priority

In awarding grants under this section, the Secretary shall give priority to an eligible entity that submits an application under subsection (b) of this section that—

(1) demonstrates a pervasive need for access to advanced placement incentive programs;

(2) provides for the involvement of business and community organizations in the activities to be assisted;

(3) assures the availability of matching funds from State, local, or other sources to pay for the cost of activities to be assisted;

(4) demonstrates a focus on developing or expanding advanced placement programs and participation in the core academic areas of English, mathematics, and science;

(5) demonstrates an intent to carry out activities that target—

(A) local educational agencies serving schools with a high concentration of low-income students; or

(B) schools with a high concentration of low-income students; and

(6) in the case of a local educational agency, assures that the local educational agency serves schools with a high concentration of low-income students; or

(7) demonstrates an intent to carry out activities to increase the availability of, and participation in, on-line advanced placement courses.

(d) Authorized activities

(1) In general

Subject to paragraph (2), an eligible entity shall use grant funds made available under this section to expand access for low-income individuals to advanced placement incentive programs that involve—

(A) teacher training;

(B) pre-advanced placement course development;

(C) coordination and articulation between grade levels to prepare students for academic achievement in advanced placement courses;

(D) books and supplies; or

(E) activities to increase the availability of, and participation in, on-line advanced placement courses; or

(F) any other activity directly related to expanding access to and participation in advanced placement incentive programs, particularly for low-income individuals.

(2) State educational agency

In the case of an eligible entity that is a State educational agency, the entity may use grant funds made available under this section to award subgrants to local educational agencies to enable the local educational agencies to carry out the activities under paragraph (1).

(e) Contracts

An eligible entity awarded a grant to provide online advanced placement courses under this part may enter into a contract with a nonprofit or for profit organization to provide the online advanced placement courses, including contracting for necessary support services.

(f) Data collection and reporting

(1) Data collection

Each eligible entity awarded a grant under this section shall, with respect to each advanced placement subject, annually report to the Secretary on—

(A) the number of students served by the eligible entity who are taking an advanced placement course in that subject;

(B) the number of advanced placement tests taken by students served by the eligible entity in that subject;

(C) the number of students served by the eligible entity scoring at different levels on advanced placement tests in that subject; and

(D) demographic information regarding individuals served by such agency who taking[1] advanced placement courses and tests in that subject disaggregated by race, ethnicity, sex, English proficiency status, and socioeconomic status.

(2) Report

The Secretary shall annually compile the information received from each eligible entity under paragraph (1) and report to the appropriate committees of Congress regarding the information.

(Pub. L. 89–10, title I, § 1705, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1608.)

§ 6536. Supplement, not supplant

Grant funds provided under this part shall supplement, and not supplant, other non-Federal

[1] So in original.

funds that are available to assist low-income individuals to pay for the cost of advanced placement test fees or to expand access to advanced placement and pre-advanced placement courses.

(Pub. L. 89–10, title I, § 1706, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1609.)

§ 6537. Definitions

In this part:

(1) Advanced placement test

The term ''advanced placement test'' means an advanced placement test administered by the College Board or approved by the Secretary.

(2) High concentration of low-income students

The term ''high concentration of low-income students'', used with respect to a school, means a school that serves a student population 40 percent or more of whom are low-income individuals.

(3) Low-income individual

The term ''low-income individual'' means an individual who is determined by a State educational agency or local educational agency to be a child, ages 5 through 19, from a low-income family, on the basis of data used by the Secretary to determine allocations under section 6333 of this title, data on children eligible for free or reduced-price lunches under the National School Lunch Act [42 U.S.C. 1751 et seq.], data on children in families receiving assistance under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], or data on children eligible to receive medical assistance under the medicaid program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], or through an alternate method that combines or extrapolates from those data.

(Pub. L. 89–10, title I, § 1707, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1609; amended Pub. L. 108–11, title II, § 2503, Apr. 16, 2003, 117 Stat. 599.)

REFERENCES IN TEXT

The National School Lunch Act, referred to in par. (3), probably means the Richard B. Russell National School Lunch Act, act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§ 1751 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of Title 42 and Tables.

The Social Security Act, referred to in par. (3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2003—Par. (3). Pub. L. 108–11 substituted ''19'' for ''17''.

PART H—SCHOOL DROPOUT PREVENTION

§ 6551. Short title

This part may be cited as the ''Dropout Prevention Act''.

(Pub. L. 89–10, title I, § 1801, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1610.)

§ 6552. Purpose

The purpose of this part is to provide for school dropout prevention and reentry and to raise academic achievement levels by providing grants that—

(1) challenge all children to attain their highest academic potential; and

(2) ensure that all students have substantial and ongoing opportunities to attain their highest academic potential through schoolwide programs proven effective in school dropout prevention and reentry.

(Pub. L. 89–10, title I, § 1802, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1610.)

§ 6553. Authorization of appropriations

For the purpose of carrying out this part, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

(1) 10 percent shall be available to carry out subpart 1 of this part for each fiscal year; and

(2) 90 percent shall be available to carry out subpart 2 of this part for each fiscal year.

(Pub. L. 89–10, title I, § 1803, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1610.)

SUBPART 1—COORDINATED NATIONAL STRATEGY

§ 6555. National activities

(a) In general

The Secretary is authorized—

(1) to collect systematic data on the effectiveness of the programs assisted under this part in reducing school dropout rates and increasing school reentry and secondary school graduation rates;

(2) to establish a national clearinghouse of information on effective school dropout prevention and reentry programs that shall disseminate to State educational agencies, local educational agencies, and schools—

(A) the results of research on school dropout prevention and reentry; and

(B) information on effective programs, best practices, and Federal resources to—

(i) reduce annual school dropout rates;

(ii) increase school reentry; and

(iii) increase secondary school graduation rates;

(3) to provide technical assistance to State educational agencies, local educational agencies, and schools in designing and implementing programs and securing resources to implement effective school dropout prevention and reentry programs;

(4) to establish and consult with an interagency working group that shall—

(A) address inter- and intra-agency program coordination issues at the Federal level with respect to school dropout prevention and reentry, and assess the targeting of existing Federal services to students who are most at risk of dropping out of school, and the cost-effectiveness of various programs and approaches used to address school dropout prevention and reentry;

(B) describe the ways in which State educational agencies and local educational agencies can implement effective school dropout prevention and reentry programs using funds from a variety of Federal programs, including the programs under this part; and

(C) examine Federal programs that may have a positive impact on secondary school graduation or school reentry;

(5) to carry out a national recognition program in accordance with subsection (b) of this section that recognizes schools that have made extraordinary progress in lowering school dropout rates; and

(6) to use funds made available for this subpart to carry out the evaluation required under section 6561i(c) of this title.

(b) Recognition program

(1) Establishment

The Secretary shall—

(A) establish a national recognition program; and

(B) develop uniform national guidelines for the recognition program that shall be used to recognize eligible schools from nominations submitted by State educational agencies.

(2) Recognition

The Secretary shall recognize, under the recognition program established under paragraph (1), eligible schools.

(3) Support

The Secretary may make monetary awards to an eligible school recognized under this subsection in amounts determined appropriate by the Secretary that shall be used for dissemination activities within the eligible school district or nationally.

(4) Definition of eligible school

In this subsection, the term ''eligible school'' means a public middle school or secondary school, including a charter school, that has implemented comprehensive reforms that have been effective in lowering school dropout rates for all students—

(A) in that secondary school or charter school; or

(B) in the case of a middle school, in the secondary school that the middle school feeds students into.

(c) Capacity building

(1) In general

The Secretary, through a contract with one or more non-Federal entities, may conduct a capacity building and design initiative in order to increase the types of proven strategies for school dropout prevention and reentry that address the needs of an entire school population rather than a subset of students.

(2) Number and duration

(A) Number

The Secretary may award not more than five contracts under this subsection.

(B) Duration

The Secretary may award a contract under this subsection for a period of not more than 5 years.

(d) Support for existing reform networks

(1) In general

The Secretary may provide appropriate support to eligible entities to enable the eligible entities to provide training, materials, development, and staff assistance to schools assisted under this part.

(2) Definition of eligible entity

In this subsection, the term ''eligible entity'' means an entity that, prior to January 8, 2002—

(A) provided training, technical assistance, and materials related to school dropout prevention or reentry to 100 or more elementary schools or secondary schools; and

(B) developed and published a specific educational program or design related to school dropout prevention or reentry for use by the schools.

(Pub. L. 89–10, title I, § 1811, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1610.)

SUBPART 2—SCHOOL DROPOUT PREVENTION INITIATIVE

§ 6561. Definitions

In this subpart:

(1) Low-income student

The term ''low-income student'' means a student who is determined by a local educational agency to be from a low-income family using the measures described in section 6313(c) of this title.

(2) State

The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Bureau of Indian Affairs for purposes of serving schools funded by the Bureau.

(Pub. L. 89–10, title I, § 1821, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1612.)

§ 6561a. Program authorized

(a) Grants to State educational agencies and local educational agencies

(1) Amount less than $75,000,000

(A) In general

If the amount appropriated under section 6553 of this title for a fiscal year equals or is less than $75,000,000, then the Secretary shall use such amount to award grants, on a competitive basis, to—

(i) State educational agencies to support activities—

(I) in schools that—

(aa) serve students in grades 6 through 12; and

(bb) have annual school dropout rates that are above the State average annual school dropout rate; or

(II) in the middle schools that feed students into the schools described in subclause (I); or

(ii) local educational agencies that operate—

(I) schools that—

(aa) serve students in grades 6 through 12; and

(bb) have annual school dropout rates that are above the State average annual school dropout rate; or

(II) middle schools that feed students into the schools described in subclause (I).

(B) Use of grant funds

Grant funds awarded under this paragraph shall be used to fund effective, sustainable, and coordinated school dropout prevention and reentry programs that may include the activities described in subsection (b)(2) of this section, in—

(i) schools serving students in grades 6 through 12 that have annual school dropout rates that are above the State average annual school dropout rate; or

(ii) the middle schools that feed students into the schools described in clause (i).

(2) Amount less than $250,000,000 but more than $75,000,000

If the amount appropriated under section 6553 of this title for a fiscal year is less than $250,000,000 but more than $75,000,000, then the Secretary shall use such amount to award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to award subgrants under subsection (b) of this section.

(3) Amount equal to or exceeds $250,000,000

If the amount appropriated under section 6553 of this title for a fiscal year equals or exceeds $250,000,000, then the Secretary shall use such amount to award a grant to each State educational agency in an amount that bears the same relation to such appropriated amount as the amount the State educational agency received under part A of this subchapter for the preceding fiscal year bears to the amount received by all State educational agencies under such part for the preceding fiscal year, to enable the State educational agency to award subgrants under subsection (b) of this section.

(b) Subgrants to local educational agencies

(1) In general

From amounts made available to a State educational agency under paragraph (2) or (3) of subsection (a) of this section, the State educational agency shall award subgrants, on a competitive basis, to local educational agencies that operate public schools that serve students in grades 6 through 12 and that have annual school dropout rates that are above the State average annual school dropout rate, to enable those schools, or the middle schools that feed students into those schools, to implement effective, sustainable, and coordinated school dropout prevention and reentry programs that involve activities such as—

(A) professional development;

(B) obtaining curricular materials;

(C) release time for professional staff to obtain professional development;

(D) planning and research;

(E) remedial education;

(F) reduction in pupil-to-teacher ratios;

(G) efforts to meet State student academic achievement standards;

(H) counseling and mentoring for at-risk students;

(I) implementing comprehensive school reform models, such as creating smaller learning communities; and

(J) school reentry activities.

(2) Amount

Subject to paragraph (3), a subgrant under this subpart shall be awarded—

(A) in the first year that a local educational agency receives a subgrant payment under this subpart, in an amount that is based on factors such as—

(i) the size of schools operated by the local educational agency;

(ii) costs of the model or set of prevention and reentry strategies being implemented; and

(iii) local cost factors such as poverty rates;

(B) in the second year, in an amount that is not less than 75 percent of the amount the local educational agency received under this subpart in the first such year;

(C) in the third year, in an amount that is not less than 50 percent of the amount the local educational agency received under this subpart in the first such year; and

(D) in each succeeding year, in an amount that is not less than 30 percent of the amount the local educational agency received under this subpart in the first year.

(3) Duration

A subgrant under this subpart shall be awarded for a period of 3 years, and may be continued for a period of 2 additional years if the State educational agency determines, based on the annual reports described in section 6561i(a) of this title, that significant progress has been made in lowering the annual school dropout rate for secondary schools participating in the program assisted under this subpart.

(Pub. L. 89–10, title I, § 1822, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1612.)

§ 6561b. Applications

(a) In general

To receive—

(1) a grant under this subpart, a State educational agency or local educational agency shall submit an application and plan to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require; and

(2) a subgrant under this subpart, a local educational agency shall submit an application and plan to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require.

(b) Contents

(1) State educational agency and local educational agency

Each application and plan submitted under subsection (a) of this section shall—

(A) include an outline—

(i) of the State educational agency's or local educational agency's strategy for reducing the State educational agency or local educational agency's annual school dropout rate;

(ii) for targeting secondary schools, and the middle schools that feed students into those secondary schools, that have the highest annual school dropout rates; and

(iii) for assessing the effectiveness of the efforts described in the plan;

(B) contain an identification of the schools in the State or operated by the local educational agency that have annual school dropout rates that are greater than the average annual school dropout rate for the State;

(C) describe the instructional strategies to be implemented, how the strategies will serve all students, and the effectiveness of the strategies;

(D) describe a budget and timeline for implementing the strategies;

(E) contain evidence of coordination with existing resources;

(F) provide an assurance that funds provided under this subpart will supplement, and not supplant, other State and local funds available for school dropout prevention and reentry programs; and

(G) describe how the activities to be assisted conform with research knowledge about school dropout prevention and reentry.

(2) Local educational agency

Each application and plan submitted under subsection (a) of this section by a local educational agency shall contain, in addition to the requirements of paragraph (1)—

(A) an assurance that the local educational agency is committed to providing ongoing operational support for such schools to address the problem of school dropouts for a period of 5 years; and

(B) an assurance that the local educational agency will support the plan, including—

(i) provision of release time for teacher training;

(ii) efforts to coordinate activities for secondary schools and the middle schools that feed students into those secondary schools; and

(iii) encouraging other schools served by the local educational agency to participate in the plan.

(Pub. L. 89–10, title I, §1823, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1614.)

§ 6561c. State reservation

A State educational agency that receives a grant under paragraph (2) or (3) of section 6561a(a) of this title may reserve not more than 5 percent of the grant funds for administrative costs and State activities related to school dropout prevention and reentry activities, of which not more than 2 percent of the grant funds may be used for administrative costs.

(Pub. L. 89–10, title I, §1824, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1615.)

§ 6561d. Strategies and capacity building

Each local educational agency receiving a grant or subgrant under this subpart and each State educational agency receiving a grant under this subpart shall implement scientifically based, sustainable, and widely replicated strategies for school dropout prevention and reentry. The strategies may include—

(1) specific strategies for targeted purposes, such as—

(A) effective early intervention programs designed to identify at-risk students;

(B) effective programs serving at-risk students, including racial and ethnic minorities and pregnant and parenting teenagers, designed to prevent such students from dropping out of school; and

(C) effective programs to identify and encourage youth who have already dropped out of school to reenter school and complete their secondary education; and

(2) approaches such as breaking larger schools down into smaller learning communities and other comprehensive reform approaches, creating alternative school programs, and developing clear linkages to career skills and employment.

(Pub. L. 89–10, title I, §1825, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1615.)

§ 6561e. Selection of local educational agencies for subgrants

(a) State educational agency review and award

The State educational agency shall review applications submitted under section 6561b(a)(2) of this title and award subgrants to local educational agencies with the assistance and advice of a panel of experts on school dropout prevention and reentry.

(b) Eligibility

A local educational agency is eligible to receive a subgrant under this subpart if the local educational agency operates a public school (including a public alternative school)—

(1) that is eligible to receive assistance under part A of this subchapter; and

(2)(A) that serves students 50 percent or more of whom are low-income students; or

(B) in which a majority of the students come from feeder schools that serve students 50 percent or more of whom are low-income students.

(Pub. L. 89–10, title I, §1826, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1616.)

§ 6561f. Community based organizations

A local educational agency that receives a grant or subgrant under this subpart and a State educational agency that receives a grant under this subpart may use the funds to secure nec-

essary services from a community-based organization or other government agency if the funds are used to provide school dropout prevention and reentry activities related to schoolwide efforts.

(Pub. L. 89–10, title I, § 1827, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1616.)

§ 6561g. Technical assistance

Notwithstanding any other provision of law, each local educational agency that receives funds under this subpart shall use the funds to provide technical assistance to secondary schools served by the agency that have not made progress toward lowering annual school dropout rates after receiving assistance under this subpart for 2 fiscal years.

(Pub. L. 89–10, title I, § 1828, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1616.)

§ 6561h. School dropout rate calculation

For purposes of calculating an annual school dropout rate under this subpart, a school shall use the annual event school dropout rate for students leaving a school in a single year determined in accordance with the National Center for Education Statistics' Common Core of Data.

(Pub. L. 89–10, title I, § 1829, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1616.)

§ 6561i. Reporting and accountability

(a) Local educational agency reports

(1) In general

To receive funds under this subpart for a fiscal year after the first fiscal year that a local educational agency receives funds under this subpart, the local educational agency shall provide, on an annual basis, a report regarding the status of the implementation of activities funded under this subpart, and the dropout data for students at schools assisted under this subpart, disaggregated by race and ethnicity, to the—

(A) Secretary, if the local educational agency receives a grant under section 6561a(a)(1) of this title; or

(B) State educational agency, if the local educational agency receives a subgrant under paragraph (2) or (3) of section 6561a(a) of this title.

(2) Dropout data

The dropout data under paragraph (1) shall include annual school dropout rates for each fiscal year, starting with the 2 fiscal years before the local educational agency received funds under this subpart.

(b) State report on program activities

Each State educational agency receiving funds under this subpart shall provide to the Secretary, at such time and in such format as the Secretary may require, information on the status of the implementation of activities funded under this subpart and outcome data for students in schools assisted under this subpart.

(c) Accountability

The Secretary shall evaluate the effect of the activities assisted under this subpart on school dropout prevention compared, if feasible, to a control group using control procedures. The Secretary may use funds appropriated for subpart 1 of this part to carry out this evaluation.

(Pub. L. 89–10, title I, § 1830, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1616.)

PART I—GENERAL PROVISIONS

§ 6571. Federal regulations

(a) In general

The Secretary may issue such regulations as are necessary to reasonably ensure that there is compliance with this subchapter.

(b) Negotiated rulemaking process

(1) In general

Before publishing in the Federal Register proposed regulations to carry out this subchapter, the Secretary shall obtain the advice and recommendations of representatives of Federal, State, and local administrators, parents, teachers, paraprofessionals, and members of local school boards and other organizations involved with the implementation and operation of programs under this subchapter.

(2) Meetings and electronic exchange

Such advice and recommendations may be obtained through such mechanisms as regional meetings and electronic exchanges of information.

(3) Proposed regulations

After obtaining such advice and recommendations, and before publishing proposed regulations, the Secretary shall—

(A) establish a negotiated rulemaking process on, at a minimum, standards and assessments;

(B) select individuals to participate in such process from among individuals or groups that provided advice and recommendations, including representation from all geographic regions of the United States, in such numbers as will provide an equitable balance between representatives of parents and students and representatives of educators and education officials; and

(C) prepare a draft of proposed policy options that shall be provided to the individuals selected by the Secretary under subparagraph (B) not less than 15 days before the first meeting under such process.

(4) Process

Such process—

(A) shall be conducted in a timely manner to ensure that final regulations are issued by the Secretary not later than 1 year after January 8, 2002; and

(B) shall not be subject to the Federal Advisory Committee Act, but shall otherwise follow the provisions of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561 et seq.).

(5) Emergency situation

In an emergency situation in which regulations to carry out this subchapter must be issued within a very limited time to assist State educational agencies and local edu-

cational agencies with the operation of a program under this subchapter, the Secretary may issue proposed regulations without following such process but shall, immediately thereafter and before issuing final regulations, conduct regional meetings to review such proposed regulations.

(c) Limitation

Regulations to carry out this part may not require local programs to follow a particular instructional model, such as the provision of services outside the regular classroom or school program.

(Pub. L. 89–10, title I, § 1901, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1617.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b)(4)(B), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Negotiated Rulemaking Act of 1990, referred to in subsec. (b)(4)(B), is Pub. L. 101–648, Nov. 29, 1990, 104 Stat. 4969, as amended, which enacted subchapter III (§ 561 et seq.) of chapter 5 of Title 5, Government Organization and Employees, and provisions set out as notes under section 561 of Title 5. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 561 of Title 5 and Tables.

§ 6572. Agreements and records

(a) Agreements

All published proposed regulations shall conform to agreements that result from negotiated rulemaking described in section 6571 of this title unless the Secretary reopens the negotiated rulemaking process or provides a written explanation to the participants involved in the process explaining why the Secretary decided to depart from, and not adhere to, such agreements.

(b) Records

The Secretary shall ensure that an accurate and reliable record of agreements reached during the negotiations process is maintained.

(Pub. L. 89–10, title I, § 1902, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1618.)

§ 6573. State administration

(a) Rulemaking

(1) In general

Each State that receives funds under this subchapter shall—

(A) ensure that any State rules, regulations, and policies relating to this subchapter conform to the purposes of this subchapter and provide any such proposed rules, regulations, and policies to the committee of practitioners created under subsection (b) of this section for review and comment;

(B) minimize such rules, regulations, and policies to which the State's local educational agencies and schools are subject;

(C) eliminate or modify State and local fiscal accounting requirements in order to facilitate the ability of schools to consolidate funds under schoolwide programs; and

(D) identify any such rule, regulation, or policy as a State-imposed requirement.

(2) Support and facilitation

State rules, regulations, and policies under this subchapter shall support and facilitate local educational agency and school-level systemic reform designed to enable all children to meet the challenging State student academic achievement standards.

(b) Committee of practitioners

(1) In general

Each State educational agency that receives funds under this subchapter shall create a State committee of practitioners to advise the State in carrying out its responsibilities under this subchapter.

(2) Membership

Each such committee shall include—

(A) as a majority of its members, representatives from local educational agencies;

(B) administrators, including the administrators of programs described in other parts of this subchapter;

(C) teachers, including vocational educators;

(D) parents;

(E) members of local school boards;

(F) representatives of private school children; and

(G) pupil services personnel.

(3) Duties

The duties of such committee shall include a review, before publication, of any proposed or final State rule or regulation pursuant to this subchapter. In an emergency situation where such rule or regulation must be issued within a very limited time to assist local educational agencies with the operation of the program under this subchapter, the State educational agency may issue a regulation without prior consultation, but shall immediately thereafter convene the State committee of practitioners to review the emergency regulation before issuance in final form.

(Pub. L. 89–10, title I, § 1903, as added Pub. L. 107–110, title I, § 101, Jan. 8, 2002, 115 Stat. 1618.)

§ 6574. Local educational agency spending audits

(a) Audits

The Comptroller General of the United States shall conduct audits of not less than 6 local educational agencies that receive funds under part A of this subchapter in each fiscal year to determine more clearly and specifically how local educational agencies are expending such funds. Such audits—

(1) shall be conducted in 6 local educational agencies that represent the size, ethnic, economic, and geographic diversity of local educational agencies; and

(2) shall examine the extent to which funds have been expended for academic instruction in the core curriculum and activities unrelated to academic instruction in the core curriculum, such as the payment of janitorial, utility, and other maintenance services, the purchase and lease of vehicles, and the payment for travel and attendance costs at conferences.

(b) Report

Not later than 3 months after the completion of the audits under subsection (a) of this section each year, the Comptroller General of the United States shall submit a report on each audit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate.

(Pub. L. 89–10, title I, §1904, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1619.)

§ 6575. Prohibition against Federal mandates, direction, or control

Nothing in this subchapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction.

(Pub. L. 89–10, title I, §1905, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1619.)

§ 6576. Rule of construction on equalized spending

Nothing in this subchapter shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

(Pub. L. 89–10, title I, §1906, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1619.)

§ 6577. State report on dropout data

Not later than 1 year after a State educational agency receives funds under this subchapter, the agency shall report to the Secretary and statewide, all school district data regarding annual school dropout rates in the State disaggregated by race and ethnicity according to procedures that conform with the National Center for Education Statistics' Common Core of Data.

(Pub. L. 89–10, title I, §1907, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1619.)

§ 6578. Regulations for sections 6311 and 6316

The Secretary shall issue regulations for sections 6311 and 6316 of this title not later than 6 months after January 8, 2002.

(Pub. L. 89–10, title I, §1908, as added Pub. L. 107–110, title I, §101, Jan. 8, 2002, 115 Stat. 1620.)

SUBCHAPTER II—PREPARING, TRAINING, AND RECRUITING HIGH QUALITY TEACHERS AND PRINCIPALS

CODIFICATION

Title II of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title II is shown, herein, as having been added by Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1620, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

PART A—TEACHER AND PRINCIPAL TRAINING AND RECRUITING FUND

§ 6601. Purpose

The purpose of this part is to provide grants to State educational agencies, local educational agencies, State agencies for higher education, and eligible partnerships in order to—

(1) increase student academic achievement through strategies such as improving teacher and principal quality and increasing the number of highly qualified teachers in the classroom and highly qualified principals and assistant principals in schools; and

(2) hold local educational agencies and schools accountable for improvements in student academic achievement.

(Pub. L. 89–10, title II, §2101, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1620.)

PRIOR PROVISIONS

A prior section 6601, Pub. L. 89–10, title II, §2001, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3612, set forth findings, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 2101 of Pub. L. 89–10 was classified to section 6621 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2101 of Pub. L. 89–10 was classified to section 3001 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6602. Definitions

In this part:

(1) Arts and sciences

The term ''arts and sciences'' means—

(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers one or more academic majors in disciplines or content areas corresponding to the academic subjects in which teachers teach; and

(B) when referring to a specific academic subject, the disciplines or content areas in which an academic major is offered by an organizational unit described in subparagraph (A).

(2) Charter school

The term ''charter school'' has the meaning given the term in section 7221i of this title.

(3) High-need local educational agency

The term ''high-need local educational agency'' means a local educational agency—

(A)(i) that serves not fewer than 10,000 children from families with incomes below the poverty line; or

(ii) for which not less than 20 percent of the children served by the agency are from families with incomes below the poverty line; and

(B)(i) for which there is a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach; or

(ii) for which there is a high percentage of teachers with emergency, provisional, or temporary certification or licensing.

(4) Highly qualified paraprofessional

The term ''highly qualified paraprofessional'' means a paraprofessional who has not less than 2 years of—

(A) experience in a classroom; and

(B) postsecondary education or demonstrated competence in a field or academic subject for which there is a significant shortage of qualified teachers.

(5) Out-of-field teacher

The term ''out-of-field teacher'' means a teacher who is teaching an academic subject or a grade level for which the teacher is not highly qualified.

(6) Principal

The term ''principal'' includes an assistant principal.

(Pub. L. 89–10, title II, § 2102, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1620.)

PRIOR PROVISIONS

A prior section 6602, Pub. L. 89–10, title II, § 2002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3613, set forth purposes of this subchapter, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6601 of this title.

A prior section 2102 of Pub. L. 89–10 was classified to section 6622 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2102 of Pub. L. 89–10 was classified to section 3002 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6603. Authorizations of appropriations

(a) Grants to States, local educational agencies, and eligible partnerships

There are authorized to be appropriated to carry out this part (other than subpart 5) $3,175,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) National programs

There are authorized to be appropriated to carry out subpart 5 of this part such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title II, § 2103, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1621.)

PRIOR PROVISIONS

A prior section 6603, Pub. L. 89–10, title II, § 2003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3614; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(b)(1)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–406, authorized appropriations and related to allocations of appropriations, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 2103 of Pub. L. 89–10 was classified to section 6623 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2103 of Pub. L. 89–10 was classified to section 3003 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 1—GRANTS TO STATES

§ 6611. Allotments to States

(a) In general

The Secretary shall make grants to States with applications approved under section 6612 of this title to pay for the Federal share of the cost of carrying out the activities specified in section 6613 of this title. Each grant shall consist of the allotment determined for a State under subsection (b) of this section.

(b) Determination of allotments

(1) Reservation of funds

(A)[1] In general

From the total amount appropriated under section 6603(a) of this title for a fiscal year, the Secretary shall reserve—

(i) one-half of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be distributed among those outlying areas on the basis of their relative need, as determined by the Secretary, in accordance with the purpose of this part; and

(ii) one-half of 1 percent for the Secretary of the Interior for programs under this part in schools operated or funded by the Bureau of Indian Affairs.

(2) State allotments

(A) Hold harmless

(i) In general

Subject to subparagraph (B), from the funds appropriated under section 6603(a) of this title for any fiscal year and not reserved under paragraph (1), the Secretary shall allot to each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico an amount equal to the total amount that such State received for fiscal year 2001 under—

(I) section 2202(b) of this Act (as in effect on the day before January 8, 2002); and

(II) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

(ii) Ratable reduction

If the funds described in clause (i) are insufficient to pay the full amounts that all States are eligible to receive under clause (i) for any fiscal year, the Secretary shall ratably reduce those amounts for the fiscal year.

(B) Allotment of additional funds

(i) In general

Subject to clause (ii), for any fiscal year for which the funds appropriated under section 6603(a) of this title and not reserved under paragraph (1) exceed the total amount required to make allotments under subparagraph (A), the Secretary shall allot to each of the States described in subparagraph (A) the sum of—

(I) an amount that bears the same relationship to 35 percent of the excess amount as the number of individuals age 5 through 17 in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined; and

(II) an amount that bears the same relationship to 65 percent of the excess amount as the number of individuals age

[1] So in original. No subpar. (B) has been enacted.

5 through 17 from families with incomes below the poverty line, in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in all such States, as so determined.

(ii) Exception

No State receiving an allotment under clause (i) may receive less than one-half of 1 percent of the total excess amount allotted under such clause for a fiscal year.

(3) Reallotment

If any State does not apply for an allotment under this subsection for any fiscal year, the Secretary shall reallot the amount of the allotment to the remaining States in accordance with this subsection.

(Pub. L. 89–10, title II, § 2111, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1621.)

REFERENCES IN TEXT

Section 2202(b) of this Act (as in effect on the day before January 8, 2002), referred to in subsec. (b)(2)(A)(i)(I), is section 2202(b) of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621, which was classified to section 6642(b) of this title prior to the general amendment of this subchapter by Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1620.

Section 306 of the Department of Education Appropriations Act, 2001, referred to in subsec. (b)(2)(A)(i)(II), is section 1(a)(1) [title III, § 306] of Pub. L. 106–554, Nov. 29, 1999, 113 Stat. 2763, 2763A–41, which is not classified to the Code.

§ 6612. State applications

(a) In general

For a State to be eligible to receive a grant under this part, the State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) Contents

Each application submitted under this section shall include the following:

(1) A description of how the activities to be carried out by the State educational agency under this subpart will be based on a review of scientifically based research and an explanation of why the activities are expected to improve student academic achievement.

(2) A description of how the State educational agency will ensure that a local educational agency receiving a subgrant to carry out subpart 2 of this part will comply with the requirements of such subpart.

(3) A description of how the State educational agency will ensure that activities assisted under this subpart are aligned with challenging State academic content and student academic achievement standards, State assessments, and State and local curricula.

(4) A description of how the State educational agency will use funds under this part to improve the quality of the State's teachers and principals.

(5)(A) A description of how the State educational agency will coordinate professional development activities authorized under this part with professional development activities provided under other Federal, State, and local programs.

(B) A description of the comprehensive strategy that the State educational agency will use, as part of such coordination effort, to ensure that teachers are trained in the use of technology so that technology and applications of technology are effectively used in the classroom to improve teaching and learning in all curricula and academic subjects, as appropriate.

(6) A description of how the State educational agency will encourage the development of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(7)(A) A description of how the State educational agency will ensure compliance with the requirements for professional development activities described in section 7801 of this title and how the activities to be carried out under the grant will be developed collaboratively and based on the input of teachers, principals, parents, administrators, paraprofessionals, and other school personnel.

(B) In the case of a State in which the State educational agency is not the entity responsible for teacher professional standards, certification, and licensing, an assurance that the State activities carried out under this subpart are carried out in conjunction with the entity responsible for such standards, certification, and licensing under State law.

(8) A description of how the State educational agency will ensure that the professional development (including teacher mentoring) needs of teachers will be met using funds under this subpart and subpart 2 of this part.

(9) A description of the State educational agency's annual measurable objectives under section 6319(a)(2) of this title.

(10) A description of how the State educational agency will use funds under this part to meet the teacher and paraprofessional requirements of section 6319 of this title and how the State educational agency will hold local educational agencies accountable for meeting the annual measurable objectives described in section 6319(a)(2) of this title.

(11) In the case of a State that has a charter school law that exempts teachers from State certification and licensing requirements, the specific portion of the State law that provides for the exemption.

(12) An assurance that the State educational agency will comply with section 7881 of this title (regarding participation by private school children and teachers).

(c) Deemed approval

An application submitted by a State educational agency pursuant to subsection (a) of this section shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of

the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this subpart.

(d) Disapproval

The Secretary shall not finally disapprove the application, except after giving the State educational agency notice and an opportunity for a hearing.

(e) Notification

If the Secretary finds that the application is not in compliance, in whole or in part, with this subpart, the Secretary shall—

(1) give the State educational agency notice and an opportunity for a hearing; and

(2) notify the State educational agency of the finding of noncompliance and, in such notification, shall—

(A) cite the specific provisions in the application that are not in compliance; and

(B) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(f) Response

If the State educational agency responds to the Secretary's notification described in subsection (e)(2) of this section during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in subsection (e)(2)(B) of this section, the Secretary shall approve or disapprove such application prior to the later of—

(1) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(2) the expiration of the 120-day period described in subsection (c) of this section.

(g) Failure to respond

If the State educational agency does not respond to the Secretary's notification described in subsection (e)(2) of this section during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

(Pub. L. 89–10, title II, § 2112, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1623.)

§ 6613. State use of funds

(a) In general

A State that receives a grant under section 6611 of this title shall—

(1) reserve 95 percent of the funds made available through the grant to make subgrants to local educational agencies as described in subpart 2 of this part;

(2) reserve 2.5 percent (or, for a fiscal year described in subsection (b) of this section, the percentage determined under subsection (b) of this section) of the funds to make subgrants to local partnerships as described in subpart 3 of this part; and

(3) use the remainder of the funds for State activities described in subsection (c) of this section.

(b) Special rule

For any fiscal year for which the total amount that would be reserved by all States under subsection (a)(2) of this section, if the States applied a 2.5 percentage rate, exceeds $125,000,000, the Secretary shall determine an alternative percentage that the States shall apply for that fiscal year under subsection (a)(2) of this section so that the total amount reserved by all States under subsection (a)(2) of this section equals $125,000,000.

(c) State activities

The State educational agency for a State that receives a grant under section 6611 of this title shall use the funds described in subsection (a)(3) of this section to carry out one or more of the following activities, which may be carried out through a grant or contract with a for-profit or nonprofit entity:

(1) Reforming teacher and principal certification (including recertification) or licensing requirements to ensure that—

(A)(i) teachers have the necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach; and

(ii) principals have the instructional leadership skills to help teachers teach and students learn;

(B) teacher certification (including recertification) or licensing requirements are aligned with challenging State academic content standards; and

(C) teachers have the subject matter knowledge and teaching skills, including technology literacy, and principals have the instructional leadership skills, necessary to help students meet challenging State student academic achievement standards.

(2) Carrying out programs that provide support to teachers or principals, including support for teachers and principals new to their profession, such as programs that—

(A) provide teacher mentoring, team teaching, reduced class schedules, and intensive professional development; and

(B) use standards or assessments for guiding beginning teachers that are consistent with challenging State student academic achievement standards and with the requirements for professional development activities described in section 7801 of this title.

(3) Carrying out programs that establish, expand, or improve alternative routes for State certification of teachers and principals, especially in the areas of mathematics and science, for highly qualified individuals with a baccalaureate or master's degree, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective teachers or principals.

(4) Developing and implementing mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers, including specialists in core academic subjects, principals, and pupil services personnel, except that funds made available under this paragraph may be used for pupil services personnel only—

(A) if the State educational agency is making progress toward meeting the annual measurable objectives described in section 6319(a)(2) of this title; and

(B) in a manner consistent with mechanisms to assist local educational agencies and schools in effectively recruiting and retaining highly qualified teachers and principals.

(5) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensing, consistent with title II of the Higher Education Act of 1965 [20 U.S.C. 1021 et seq.].

(6) Providing professional development for teachers and principals and, in cases in which a State educational agency determines support to be appropriate, supporting the participation of pupil services personnel in the same type of professional development activities as are made available to teachers and principals.

(7) Developing systems to measure the effectiveness of specific professional development programs and strategies to document gains in student academic achievement or increases in teacher mastery of the academic subjects the teachers teach.

(8) Fulfilling the State educational agency's responsibilities concerning proper and efficient administration of the programs carried out under this part, including provision of technical assistance to local educational agencies.

(9) Funding projects to promote reciprocity of teacher and principal certification or licensing between or among States, except that no reciprocity agreement developed under this paragraph or developed using funds provided under this part may lead to the weakening of any State teaching certification or licensing requirement.

(10) Developing or assisting local educational agencies in the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(11) Encouraging and supporting the training of teachers and administrators to effectively integrate technology into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decisionmaking, school improvement efforts, and accountability.

(12) Developing, or assisting local educational agencies in developing, merit-based performance systems, and strategies that provide differential and bonus pay for teachers in high-need academic subjects such as reading, mathematics, and science and teachers in high-poverty schools and districts.

(13) Providing assistance to local educational agencies for the development and implementation of professional development programs for principals that enable the principals to be effective school leaders and prepare all students to meet challenging State academic content and student academic achievement standards, and the development and support of school leadership academies to help exceptionally talented aspiring or current principals and superintendents become outstanding managers and educational leaders.

(14) Developing, or assisting local educational agencies in developing, teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

(15) Providing assistance to teachers to enable them to meet certification, licensing, or other requirements needed to become highly qualified by the end of the fourth year for which the State receives funds under this part (as amended by the No Child Left Behind Act of 2001).

(16) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve student academic achievement.

(17) Funding projects and carrying out programs to encourage men to become elementary school teachers.

(18) Establishing and operating a center that—

(A) serves as a statewide clearinghouse for the recruitment and placement of kindergarten, elementary school, and secondary school teachers; and

(B) establishes and carries out programs to improve teacher recruitment and retention within the State.

(d) Administrative costs

A State educational agency or State agency for higher education receiving a grant under this part may use not more than 1 percent of the grant funds for planning and administration related to carrying out activities under subsection (c) of this section and subpart 3 of this part.

(e) Coordination

A State that receives a grant to carry out this subpart and a grant under section 202 of the Higher Education Act of 1965 [20 U.S.C. 1022] shall coordinate the activities carried out under this subpart and the activities carried out under that section.

(f) Supplement, not supplant

Funds received under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart.

(Pub. L. 89–10, title II, § 2113, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1625.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (c)(5), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title II of the Act is classified generally to subchapter II (§ 1021 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

The No Child Left Behind Act of 2001, referred to in subsec. (c)(15), is Pub. L. 107–110, Jan. 8, 2002, 115 Stat. 1425. For complete classification of this Act to the

Code, see Short Title of 2002 Amendment note set out under section 6301 of this title and Tables.

SUBPART 2—SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES

§ 6621. Allocations to local educational agencies

(a) [1] Subgrants to local educational agencies

(1) In general

The Secretary may make a grant to a State under subpart 1 of this part only if the State educational agency agrees to distribute the funds described in this subsection as subgrants to local educational agencies under this subpart.

(2) Hold harmless

(A) In general

From the funds reserved by a State under section 6613(a)(1) of this title, the State educational agency shall allocate to each local educational agency in the State an amount equal to the total amount that such agency received for fiscal year 2001 under—

(i) section 2203(1)(B) of this Act (as in effect on the day before January 8, 2002); and

(ii) section 306 of the Department of Education Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

(B) Nonparticipating agencies

In the case of a local educational agency that did not receive any funds for fiscal year 2001 under one or both of the provisions referred to in clauses (i) and (ii) of subparagraph (A), the amount allocated to the agency under such subparagraph shall be the total amount that the agency would have received for fiscal year 2001 if the agency had elected to participate in all of the programs for which the agency was eligible under each of the provisions referred to in those clauses.

(C) Ratable reduction

If the funds described in subparagraph (A) are insufficient to pay the full amounts that all local educational agencies in the State are eligible to receive under subparagraph (A) for any fiscal year, the State educational agency shall ratably reduce such amounts for the fiscal year.

(3) Allocation of additional funds

For any fiscal year for which the funds reserved by a State under section 6613(a)(1) of this title exceed the total amount required to make allocations under paragraph (2), the State educational agency shall allocate to each of the eligible local educational agencies in the State the sum of—

(A) an amount that bears the same relationship to 20 percent of the excess amount as the number of individuals age 5 through 17 in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined; and

(B) an amount that bears the same relationship to 80 percent of the excess amount as the number of individuals age 5 through 17 from families with incomes below the poverty line in the geographic area served by the agency, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals in the geographic areas served by all the local educational agencies in the State, as so determined.

(Pub. L. 89–10, title II, § 2121, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1627.)

REFERENCES IN TEXT

Section 2203(1)(B) of this Act (as in effect on the day before January 8, 2002), referred to in subsec. (a)(2)(A)(i), is section 2203(1)(B) of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621, which was classified to section 6643(1)(B) of this title prior to the general amendment of this subchapter by Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1620.

Section 306 of the Department of Education Appropriations Act, 2001, referred to in subsec. (a)(2)(A)(ii), is section 1(a)(1) [title III, § 306] of Pub. L. 106–554, Nov. 29, 1999, 113 Stat. 2763, 2763A–41, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 6621, Pub. L. 89–10, title II, § 2101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3614; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, authorized professional development program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6622. Local applications and needs assessment

(a) In general

To be eligible to receive a subgrant under this subpart, a local educational agency shall submit an application to the State educational agency at such time, in such manner, and containing such information as the State educational agency may reasonably require.

(b) Contents

Each application submitted under this section shall be based on the needs assessment required in subsection (c) of this section and shall include the following:

(1)(A) A description of the activities to be carried out by the local educational agency under this subpart and how these activities will be aligned with—

(i) challenging State academic content standards and student academic achievement standards, and State assessments; and

(ii) the curricula and programs tied to the standards described in clause (i).

(B) A description of how the activities will be based on a review of scientifically based research and an explanation of why the activities are expected to improve student academic achievement.

(2) A description of how the activities will have a substantial, measurable, and positive impact on student academic achievement and how the activities will be used as part of a

[1] So in original. No subsec. (b) has been enacted.

broader strategy to eliminate the achievement gap that separates low-income and minority students from other students.

(3) An assurance that the local educational agency will target funds to schools within the jurisdiction of the local educational agency that—

(A) have the lowest proportion of highly qualified teachers;

(B) have the largest average class size; or

(C) are identified for school improvement under section 6316(b) of this title.

(4) A description of how the local educational agency will coordinate professional development activities authorized under this subpart with professional development activities provided through other Federal, State, and local programs.

(5) A description of the professional development activities that will be made available to teachers and principals under this subpart and how the local educational agency will ensure that the professional development (which may include teacher mentoring) needs of teachers and principals will be met using funds under this subpart.

(6) A description of how the local educational agency will integrate funds under this subpart with funds received under part D of this subchapter that are used for professional development to train teachers to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy.

(7) A description of how the local educational agency, teachers, paraprofessionals, principals, other relevant school personnel, and parents have collaborated in the planning of activities to be carried out under this subpart and in the preparation of the application.

(8) A description of the results of the needs assessment described in subsection (c) of this section.

(9) A description of how the local educational agency will provide training to enable teachers to—

(A) teach and address the needs of students with different learning styles, particularly students with disabilities, students with special learning needs (including students who are gifted and talented), and students with limited English proficiency;

(B) improve student behavior in the classroom and identify early and appropriate interventions to help students described in subparagraph (A) learn;

(C) involve parents in their child's education; and

(D) understand and use data and assessments to improve classroom practice and student learning.

(10) A description of how the local educational agency will use funds under this subpart to meet the requirements of section 6319 of this title.

(11) An assurance that the local educational agency will comply with section 7881 of this title (regarding participation by private school children and teachers).

(c) Needs assessment

(1) In general

To be eligible to receive a subgrant under this subpart, a local educational agency shall conduct an assessment of local needs for professional development and hiring, as identified by the local educational agency and school staff.

(2) Requirements

Such needs assessment shall be conducted with the involvement of teachers, including teachers participating in programs under part A of subchapter I of this chapter, and shall take into account the activities that need to be conducted in order to give teachers the means, including subject matter knowledge and teaching skills, and to give principals the instructional leadership skills to help teachers, to provide students with the opportunity to meet challenging State and local student academic achievement standards.

(Pub. L. 89–10, title II, § 2122, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1628.)

PRIOR PROVISIONS

A prior section 6622, Pub. L. 89–10, title II, § 2102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3615, related to authorized professional development activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6623. Local use of funds

(a) In general

A local educational agency that receives a subgrant under section 6621 of this title shall use the funds made available through the subgrant to carry out one or more of the following activities, including carrying out the activities through a grant or contract with a for-profit or nonprofit entity:

(1) Developing and implementing mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers, including specialists in core academic subjects, principals, and pupil services personnel, except that funds made available under this paragraph may be used for pupil services personnel only—

(A) if the local educational agency is making progress toward meeting the annual measurable objectives described in section 6319(a)(2) of this title; and

(B) in a manner consistent with mechanisms to assist schools in effectively recruiting and retaining highly qualified teachers and principals.

(2) Developing and implementing initiatives to assist in recruiting highly qualified teachers (particularly initiatives that have proven effective in retaining highly qualified teachers), and hiring highly qualified teachers, who will be assigned teaching positions within their fields, including—

(A) providing scholarships, signing bonuses, or other financial incentives, such as differential pay, for teachers to teach—

(i) in academic subjects in which there exists a shortage of highly qualified teachers within a school or within the local educational agency; and

(ii) in schools in which there exists a shortage of highly qualified teachers;

(B) recruiting and hiring highly qualified teachers to reduce class size, particularly in the early grades; and

(C) establishing programs that—

(i) train and hire regular and special education teachers (which may include hiring special education teachers to team-teach in classrooms that contain both children with disabilities and nondisabled children);

(ii) train and hire highly qualified teachers of special needs children, as well as teaching specialists in core academic subjects who will provide increased individualized instruction to students;

(iii) recruit qualified professionals from other fields, including highly qualified paraprofessionals, and provide such professionals with alternative routes to teacher certification, including developing and implementing hiring policies that ensure comprehensive recruitment efforts as a way to expand the applicant pool, such as through identifying teachers certified through alternative routes, and using a system of intensive screening designed to hire the most qualified applicants; and

(iv) provide increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession.

(3) Providing professional development activities—

(A) that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning—

(i) one or more of the core academic subjects that the teachers teach; and

(ii) effective instructional strategies, methods, and skills, and use of challenging State academic content standards and student academic achievement standards, and State assessments, to improve teaching practices and student academic achievement; and

(B) that improve the knowledge of teachers and principals and, in appropriate cases, paraprofessionals, concerning effective instructional practices and that—

(i) involve collaborative groups of teachers and administrators;

(ii) provide training in how to teach and address the needs of students with different learning styles, particularly students with disabilities, students with special learning needs (including students who are gifted and talented), and students with limited English proficiency;

(iii) provide training in methods of—

(I) improving student behavior in the classroom; and

(II) identifying early and appropriate interventions to help students described in clause (ii) learn;

(iv) provide training to enable teachers and principals to involve parents in their child's education, especially parents of limited English proficient and immigrant children; and

(v) provide training on how to understand and use data and assessments to improve classroom practice and student learning.

(4) Developing and implementing initiatives to promote retention of highly qualified teachers and principals, particularly within elementary schools and secondary schools with a high percentage of low-achieving students, including programs that provide—

(A) teacher mentoring from exemplary teachers, principals, or superintendents;

(B) induction and support for teachers and principals during their first 3 years of employment as teachers or principals, respectively;

(C) incentives, including financial incentives, to retain teachers who have a record of success in helping low-achieving students improve their academic achievement; or

(D) incentives, including financial incentives, to principals who have a record of improving the academic achievement of all students, but particularly students from economically disadvantaged families, students from racial and ethnic minority groups, and students with disabilities.

(5) Carrying out programs and activities that are designed to improve the quality of the teacher force, such as—

(A) innovative professional development programs (which may be provided through partnerships including institutions of higher education), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy, are consistent with the requirements of section 7801 of this title, and are coordinated with activities carried out under part D of this subchapter;

(B) development and use of proven, cost-effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning;

(C) tenure reform;

(D) merit pay programs; and

(E) testing of elementary school and secondary school teachers in the academic subjects that the teachers teach.

(6) Carrying out professional development activities designed to improve the quality of principals and superintendents, including the development and support of academies to help talented aspiring or current principals and superintendents become outstanding managers and educational leaders.

(7) Hiring highly qualified teachers, including teachers who become highly qualified through State and local alternative routes to certification, and special education teachers, in order to reduce class size, particularly in the early grades.

(8) Carrying out teacher advancement initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

(10)[1] Carrying out programs and activities related to exemplary teachers.

(b) Supplement, not supplant

Funds received under this subpart shall be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this subpart.

(Pub. L. 89–10, title II, § 2123, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1630.)

PRIOR PROVISIONS

A prior section 6623, Pub. L. 89–10, title II, § 2103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3617, related to National Teacher Training Project, prior to the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 3—SUBGRANTS TO ELIGIBLE PARTNERSHIPS

§ 6631. Definitions

In this subpart:

(1) Eligible partnership

The term ''eligible partnership'' means an entity that—

(A) shall include—

(i) a private or State institution of higher education and the division of the institution that prepares teachers and principals;

(ii) a school of arts and sciences; and

(iii) a high-need local educational agency; and

(B) may include another local educational agency, a public charter school, an elementary school or secondary school, an educational service agency, a nonprofit educational organization, another institution of higher education, a school of arts and sciences within such an institution, the division of such an institution that prepares teachers and principals, a nonprofit cultural organization, an entity carrying out a prekindergarten program, a teacher organization, a principal organization, or a business.

(2) Low-performing school

The term ''low-performing school'' means an elementary school or secondary school that is identified under section 6316 of this title.

(Pub. L. 89–10, title II, § 2131, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1633.)

§ 6632. Subgrants

(a) In general

The State agency for higher education for a State that receives a grant under section 6611 of this title, working in conjunction with the State educational agency (if such agencies are separate), shall use the funds reserved under section 6613(a)(2) of this title to make subgrants, on a competitive basis, to eligible partnerships to enable such partnerships to carry out the activities described in section 6634 of this title.

(b) Distribution

The State agency for higher education shall ensure that—

(1) such subgrants are equitably distributed by geographic area within a State; or

(2) eligible partnerships in all geographic areas within the State are served through the subgrants.

(c) Special rule

No single participant in an eligible partnership may use more than 50 percent of the funds made available to the partnership under this section.

(Pub. L. 89–10, title II, § 2132, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1633.)

§ 6633. Applications

To be eligible to receive a subgrant under this subpart, an eligible partnership shall submit an application to the State agency for higher education at such time, in such manner, and containing such information as the agency may require.

(Pub. L. 89–10, title II, § 2133, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1633.)

§ 6634. Use of funds

(a) In general

An eligible partnership that receives a subgrant under section 6632 of this title shall use the subgrant funds for—

(1) professional development activities in core academic subjects to ensure that—

(A) teachers and highly qualified paraprofessionals, and, if appropriate, principals have subject matter knowledge in the academic subjects that the teachers teach, including the use of computer related technology to enhance student learning; and

(B) principals have the instructional leadership skills that will help such principals work most effectively with teachers to help students master core academic subjects; and

(2) developing and providing assistance to local educational agencies and individuals who are teachers, highly qualified paraprofessionals, or principals of schools served by such agencies, for sustained, high-quality professional development activities that—

(A) ensure that the individuals are able to use challenging State academic content standards and student academic achievement standards, and State assessments, to improve instructional practices and improve student academic achievement;

(B) may include intensive programs designed to prepare such individuals who will return to a school to provide instruction related to the professional development described in subparagraph (A) to other such individuals within such school; and

(C) may include activities of partnerships between one or more local educational agencies, one or more schools served by such local educational agencies, and one or more institutions of higher education for the purpose of improving teaching and learning at low-performing schools.

(b) Coordination

An eligible partnership that receives a subgrant to carry out this subpart and a grant

[1] So in original. No par. (9) has been enacted.

under section 1023 of this title shall coordinate the activities carried out under this subpart and the activities carried out under that section 1023 of this title.

(Pub. L. 89–10, title II, § 2134, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1633.)

SUBPART 4—ACCOUNTABILITY

§ 6641. Technical assistance and accountability

(a) Improvement plan

After the second year of the plan described in section 6319(a)(2) of this title, if a State educational agency determines, based on the reports described in section 6319(b)(1) of this title, that a local educational agency in the State has failed to make progress toward meeting the annual measurable objectives described in section 6319(a)(2) of this title, for 2 consecutive years, such local educational agency shall develop an improvement plan that will enable the agency to meet such annual measurable objectives and that specifically addresses issues that prevented the agency from meeting such annual measurable objectives.

(b) Technical assistance

During the development of the improvement plan described in subsection (a) of this section and throughout implementation of the plan, the State educational agency shall—

(1) provide technical assistance to the local educational agency; and

(2) provide technical assistance, if applicable, to schools served by the local educational agency that need assistance to enable the local educational agency to meet the annual measurable objectives described in section 6319(a)(2) of this title.

(c) Accountability

After the third year of the plan described in section 6319(a)(2) of this title, if the State educational agency determines, based on the reports described in section 6319(b)(1) of this title, that the local educational agency has failed to make progress toward meeting the annual measurable objectives described in section 6319(a)(2) of this title, and has failed to make adequate yearly progress as described under section 6311(b)(2)(B) of this title, for 3 consecutive years, the State educational agency shall enter into an agreement with such local educational agency on the use of that agency's funds under this part. As part of this agreement, the State educational agency—

(1) shall develop, in conjunction with the local educational agency, teachers, and principals, professional development strategies and activities, based on scientifically based research, that the local educational agency will use to meet the annual measurable objectives described in section 6319(a)(2) of this title and require such agency to utilize such strategies and activities; and

(2)(A) except as provided in subparagraphs (B) and (C), shall prohibit the use of funds received under part A of subchapter I of this chapter to fund any paraprofessional hired after the date such determination is made;

(B) shall allow the use of such funds to fund a paraprofessional hired after that date if the local educational agency can demonstrate that the hiring is to fill a vacancy created by the departure of another paraprofessional funded under subchapter I of this chapter and such new paraprofessional satisfies the requirements of section 6319(c) of this title; and

(C) may allow the use of such funds to fund a paraprofessional hired after that date if the local educational agency can demonstrate—

(i) that a significant influx of population has substantially increased student enrollment; or

(ii) that there is an increased need for translators or assistance with parental involvement activities.

(d) Special rule

During the development of the strategies and activities described in subsection (c)(1) of this section, the State educational agency shall, in conjunction with the local educational agency, provide from funds allocated to such local educational agency under subpart 2 of this part directly to one or more schools served by such local educational agency, to enable teachers at the schools to choose, with continuing consultation with the principal involved, professional development activities that—

(1) meet the requirements for professional development activities described in section 7801 of this title; and

(2) are coordinated with other reform efforts at the schools.

(Pub. L. 89–10, title II, § 2141, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1634.)

PRIOR PROVISIONS

A prior section 6641, Pub. L. 89–10, title II, § 2201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621, authorized program for State and local professional development activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6642 to 6650 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6642, Pub. L. 89–10, title II, § 2202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621, related to allocation of funds for State and local professional development activities.

Section 6643, Pub. L. 89–10, title II, § 2203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621, related to within-State allocations.

Section 6644, Pub. L. 89–10, title II, § 2204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3622, related to consortium requirement.

Section 6645, Pub. L. 89–10, title II, § 2205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3622; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, related to State applications.

Section 6646, Pub. L. 89–10, title II, § 2206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3625; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(b)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–406, related to priority for professional development in mathematics and science.

Section 6647, Pub. L. 89–10, title II, § 2207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3625, related to State-level activities.

Section 6648, Pub. L. 89–10, title II, § 2208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3626; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, related to local plan and application for improving teaching and learning.

Section 6649, Pub. L. 89–10, title II, § 2209, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3628;

amended Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, related to local cost-sharing.

Section 6650, Pub. L. 89–10, title II, §2210, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3629, related to local allocation of funds and allowable activities.

SUBPART 5—NATIONAL ACTIVITIES

§ 6651. National activities of demonstrated effectiveness

(a) National teacher recruitment campaign

The Secretary is authorized to establish and carry out a national teacher recruitment campaign, which may include activities carried out through the National Teacher Recruitment Clearinghouse, to assist high-need local educational agencies in recruiting teachers (particularly those activities that are effective in retaining new teachers) and training teachers and to conduct a national public service campaign concerning the resources for, and the routes to, entering the field of teaching. In carrying out the campaign, the Secretary may promote and link the activities of the campaign to the information and referral activities of the National Teacher Recruitment Clearinghouse. The Secretary shall coordinate activities under this subsection with State and regional recruitment activities.

(b) School leadership

(1) In general

The Secretary is authorized to establish and carry out a national principal recruitment program to assist high-need local educational agencies in recruiting and training principals (including assistant principals) through such activities as—

(A) providing financial incentives to aspiring new principals;

(B) providing stipends to principals who mentor new principals;

(C) carrying out professional development programs in instructional leadership and management; and

(D) providing incentives that are appropriate for teachers or individuals from other fields who want to become principals and that are effective in retaining new principals.

(2) Grants

If the Secretary uses sums made available under section 6603(b) of this title to carry out paragraph (1), the Secretary shall carry out such paragraph by making grants, on a competitive basis, to—

(A) high-need local educational agencies;

(B) consortia of high-need local educational agencies; and

(C) partnerships of high-need local educational agencies, nonprofit organizations, and institutions of higher education.

(c) Advanced certification or advanced credentialing

(1) In general

The Secretary is authorized to support activities to encourage and support teachers seeking advanced certification or advanced credentialing through high quality professional teacher enhancement programs designed to improve teaching and learning.

(2) Implementation

In carrying out paragraph (1), the Secretary shall make grants to eligible entities to—

(A) develop teacher standards that include measures tied to increased student academic achievement; and

(B) promote outreach, teacher recruitment, teacher subsidy, or teacher support programs, related to teacher certification or credentialing by the National Board for Professional Teaching Standards, the National Council on Teacher Quality, or other nationally recognized certification or credentialing organizations.

(3) Eligible entities

In this subsection, the term ''eligible entity'' includes—

(A) a State educational agency;

(B) a local educational agency;

(C) the National Board for Professional Teaching Standards, in partnership with a high-need local educational agency or a State educational agency;

(D) the National Council on Teacher Quality, in partnership with a high-need local educational agency or a State educational agency; or

(E) another recognized entity, including another recognized certification or credentialing organization, in partnership with a high-need local educational agency or a State educational agency.

(d) Special education teacher training

The Secretary is authorized to award a grant to the University of Northern Colorado to enable such university to provide, to other institutions of higher education, assistance in training special education teachers.

(e) Early childhood educator professional development

(1) Purpose

The purpose of this subsection is to enhance the school readiness of young children, particularly disadvantaged young children, and to prevent young children from encountering difficulties once the children enter school, by improving the knowledge and skills of early childhood educators who work in communities that have high concentrations of children living in poverty.

(2) Program authorized

(A) Grants to partnerships

The Secretary is authorized to carry out the purpose of this subsection by awarding grants, on a competitive basis, to partnerships consisting of—

(i)(I) one or more institutions of higher education that provide professional development for early childhood educators who work with children from low-income families in high-need communities; or

(II) another public or private entity that provides such professional development;

(ii) one or more public agencies ([1]including local educational agencies,

[1] So in original. There is no closing parenthesis.

State educational agencies, State human services agencies, and State and local agencies administering programs under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), Head Start agencies, or private organizations; and

(iii) to the extent feasible, an entity with demonstrated experience in providing training to educators in early childhood education programs concerning identifying and preventing behavior problems or working with children identified as or suspected to be victims of abuse.

(B) Duration and number of grants

(i) Duration

The Secretary shall award grants under this subsection for periods of not more than 4 years.

(ii) Number

No partnership may receive more than one grant under this subsection.

(3) Applications

(A) Applications required

Any partnership that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(B) Contents

Each such application shall include—

(i) a description of the high-need community to be served by the project proposed to be carried out through the grant, including such demographic and socioeconomic information as the Secretary may request;

(ii) information on the quality of the early childhood educator professional development program currently conducted (as of the date of the submission of the application) by the institution of higher education or another provider in the partnership;

(iii) the results of a needs assessment that the entities in the partnership have undertaken to determine the most critical professional development needs of the early childhood educators to be served by the partnership and in the broader community, and a description of how the proposed project will address those needs;

(iv) a description of how the proposed project will be carried out, including a description of—

(I) how individuals will be selected to participate;

(II) the types of professional development activities, based on scientifically based research, that will be carried out;

(III) how research on effective professional development and on adult learning will be used to design and deliver project activities;

(IV) how the project will be coordinated with and build on, and will not supplant or duplicate, early childhood education professional development activities in the high-need community;

(V) how the project will train early childhood educators to provide developmentally appropriate school-readiness services that are based on the best available research on early childhood pedagogy and child development and learning domains;

(VI) how the project will train early childhood educators to meet the diverse educational needs of children in the community, including children who have limited English proficiency, children with disabilities, or children with other special needs; and

(VII) how the project will train early childhood educators in identifying and preventing behavioral problems in children or working with children identified as or suspected to be victims of abuse;

(v) a description of—

(I) the specific objectives that the partnership will seek to attain through the project, and the methods that the partnership will use to measure progress toward attainment of those objectives; and

(II) how the objectives and the measurement methods align with the achievement indicators established by the Secretary under paragraph (6)(A);

(vi) a description of the partnership's plan for continuing the activities carried out under the project after Federal funding ceases;

(vii) an assurance that, where applicable, the project will provide appropriate professional development to volunteers working directly with young children, as well as to paid staff; and

(viii) an assurance that, in developing the application and in carrying out the project, the partnership has consulted with, and will consult with, relevant agencies, early childhood educator organizations, and early childhood providers that are not members of the partnership.

(4) Selection of grant recipients

(A) Criteria

The Secretary shall select partnerships to receive grants under this subsection on the basis of the degree to which the communities proposed to be served require assistance and the quality of the applications submitted under paragraph (3).

(B) Geographic distribution

In selecting partnerships to receive grants under this subsection, the Secretary shall seek to ensure that communities in different regions of the Nation, as well as both urban and rural communities, are served.

(5) Uses of funds

(A) In general

Each partnership receiving a grant under this subsection shall use the grant funds to carry out activities that will improve the knowledge and skills of early childhood educators who are working in early childhood

programs that are located in high-need communities and serve concentrations of children from low-income families.

(B) Allowable activities

Such activities may include—

(i) professional development for early childhood educators, particularly to familiarize those educators with the application of recent research on child, language, and literacy development and on early childhood pedagogy;

(ii) professional development for early childhood educators in working with parents, so that the educators and parents can work together to provide and support developmentally appropriate school-readiness services that are based on scientifically based research on early childhood pedagogy and child development and learning domains;

(iii) professional development for early childhood educators to work with children who have limited English proficiency, children with disabilities, and children with other special needs;

(iv) professional development to train early childhood educators in identifying and preventing behavioral problems in children or working with children identified as or suspected to be victims of abuse;

(v) activities that assist and support early childhood educators during their first 3 years in the field;

(vi) development and implementation of early childhood educator professional development programs that make use of distance learning and other technologies;

(vii) professional development activities related to the selection and use of screening and diagnostic assessments to improve teaching and learning; and

(viii) data collection, evaluation, and reporting needed to meet the requirements of paragraph (6) relating to accountability.

(6) Accountability

(A) Achievement indicators

On the date on which the Secretary first issues a notice soliciting applications for grants under this subsection, the Secretary shall announce achievement indicators for this subsection, which shall be designed—

(i) to measure the quality and accessibility of the professional development provided;

(ii) to measure the impact of that professional development on the early childhood education provided by the individuals who receive the professional development; and

(iii) to provide such other measures of program impact as the Secretary determines to be appropriate.

(B) Annual reports; termination

(i) Annual reports

Each partnership receiving a grant under this subsection shall report annually to the Secretary on the partnership's progress toward attaining the achievement indicators.

(ii) Termination

The Secretary may terminate a grant under this subsection at any time if the Secretary determines that the partnership receiving the grant is not making satisfactory progress toward attaining the achievement indicators.

(7) Cost-sharing

(A) In general

Each partnership carrying out a project through a grant awarded under this subsection shall provide, from sources other than the program carried out under this subsection, which may include Federal sources—

(i) at least 50 percent of the total cost of the project for the grant period; and

(ii) at least 20 percent of the project cost for each year.

(B) Acceptable contributions

A partnership may meet the requirements of subparagraph (A) by providing contributions in cash or in kind, fairly evaluated, including plant, equipment, and services.

(C) Waivers

The Secretary may waive or modify the requirements of subparagraph (A) for partnerships in cases of demonstrated financial hardship.

(8) Federal coordination

The Secretary and the Secretary of Health and Human Services shall coordinate activities carried out through programs under this subsection with activities carried out through other early childhood programs administered by the Secretary or the Secretary of Health and Human Services.

(9) Definitions

In this subsection:

(A) Early childhood educator

The term ''early childhood educator'' means a person providing, or employed by a provider of, nonresidential child care services (including center-based, family-based, and in-home child care services) that is legally operating under State law, and that complies with applicable State and local requirements for the provision of child care services to children at any age from birth through the age at which a child may start kindergarten in that State.

(B) High-need community

(i) In general

The term ''high-need community'' means—

(I) a political subdivision of a State, or a portion of a political subdivision of a State, in which at least 50 percent of the children are from low-income families; or

(II) a political subdivision of a State that is among the 10 percent of political subdivisions of the State having the greatest numbers of such children.

(ii) Determination

In determining which communities are described in clause (i), the Secretary shall

use such data as the Secretary determines are most accurate and appropriate.

(C) Low-income family

The term ''low-income family'' means a family with an income below the poverty line for the most recent fiscal year for which satisfactory data are available.

(f) Teacher mobility

(1) Establishment

The Secretary is authorized to establish a panel to be known as the National Panel on Teacher Mobility (referred to in this subsection as the ''panel'').

(2) Membership

The panel shall be composed of 12 members appointed by the Secretary. The Secretary shall appoint the members from among practitioners and experts with experience relating to teacher mobility, such as teachers, members of teacher certification or licensing bodies, faculty of institutions of higher education that prepare teachers, and State policymakers with such experience.

(3) Period of appointment; vacancies

Members shall be appointed for the life of the panel. Any vacancy in the panel shall not affect the powers of the panel, but shall be filled in the same manner as the original appointment.

(4) Duties

(A) Study

(i) In general

The panel shall study strategies for increasing mobility and employment opportunities for highly qualified teachers, especially for States with teacher shortages and States with school districts or schools that are difficult to staff.

(ii) Data and analysis

As part of the study, the panel shall evaluate the desirability and feasibility of State initiatives that support teacher mobility by collecting data and conducting effective analysis concerning—

(I) teacher supply and demand;

(II) the development of recruitment and hiring strategies that support teachers; and

(III) increasing reciprocity of certification and licensing across States.

(B) Report

Not later than 1 year after the date on which all members of the panel have been appointed, the panel shall submit to the Secretary and to the appropriate committees of Congress a report containing the results of the study.

(5) Powers

(A) Hearings

The panel may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the panel considers advisable to carry out the objectives of this subsection.

(B) Information from Federal agencies

The panel may secure directly from any Federal department or agency such information as the panel considers necessary to carry out the provisions of this subsection. Upon request of a majority of the members of the panel, the head of such department or agency shall furnish such information to the panel.

(C) Postal services

The panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(6) Personnel

(A) Travel expenses

The members of the panel shall not receive compensation for the performance of services for the panel, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the panel. Notwithstanding section 1342 of title 31, the Secretary may accept the voluntary and uncompensated services of members of the panel.

(B) Detail of Government employees

Any Federal Government employee may be detailed to the panel without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(7) Permanent committee

Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the panel.

(Pub. L. 89–10, title II, § 2151, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1635.)

REFERENCES IN TEXT

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (e)(2)(A)(ii), is subchapter C (§ 658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, as added by Pub. L. 101–508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388–236, as amended, which is classified generally to subchapter II–B (§ 9858 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (f)(7), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 6651, Pub. L. 89–10, title II, § 2211, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3632, related to higher education activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

PART B—MATHEMATICS AND SCIENCE PARTNERSHIPS

§ 6661. Purpose; definitions

(a) Purpose

The purpose of this part is to improve the academic achievement of students in the areas of

mathematics and science by encouraging State educational agencies, institutions of higher education, local educational agencies, elementary schools, and secondary schools to participate in programs that—

(1) improve and upgrade the status and stature of mathematics and science teaching by encouraging institutions of higher education to assume greater responsibility for improving mathematics and science teacher education through the establishment of a comprehensive, integrated system of recruiting, training, and advising mathematics and science teachers;

(2) focus on the education of mathematics and science teachers as a career-long process that continuously stimulates teachers' intellectual growth and upgrades teachers' knowledge and skills;

(3) bring mathematics and science teachers in elementary schools and secondary schools together with scientists, mathematicians, and engineers to increase the subject matter knowledge of mathematics and science teachers and improve such teachers' teaching skills through the use of sophisticated laboratory equipment and work space, computing facilities, libraries, and other resources that institutions of higher education are better able to provide than the elementary schools and secondary schools;

(4) develop more rigorous mathematics and science curricula that are aligned with challenging State and local academic content standards and with the standards expected for postsecondary study in engineering, mathematics, and science; and

(5) improve and expand training of mathematics and science teachers, including training such teachers in the effective integration of technology into curricula and instruction.

(b) Definitions

In this part:

(1) Eligible partnership

The term ''eligible partnership'' means a partnership that—

(A) shall include—

(i) if grants are awarded under section 6662(a)(1) of this title, a State educational agency;

(ii) an engineering, mathematics, or science department of an institution of higher education; and

(iii) a high-need local educational agency; and

(B) may include—

(i) another engineering, mathematics, science, or teacher training department of an institution of higher education;

(ii) additional local educational agencies, public charter schools, public or private elementary schools or secondary schools, or a consortium of such schools;

(iii) a business; or

(iv) a nonprofit or for-profit organization of demonstrated effectiveness in improving the quality of mathematics and science teachers.

(2) Summer workshop or institute

The term ''summer workshop or institute'' means a workshop or institute, conducted during the summer, that—

(A) is conducted for a period of not less than 2 weeks;

(B) includes, as a component, a program that provides direct interaction between students and faculty; and

(C) provides for followup training during the academic year that is conducted in the classroom for a period of not less than three consecutive or nonconsecutive days, except that—

(i) if the workshop or institute is conducted during a 2-week period, the followup training shall be conducted for a period of not less than 4 days; and

(ii) if the followup training is for teachers in rural school districts, the followup training may be conducted through distance learning.

(Pub. L. 89–10, title II, §2201, as added Pub. L. 107–110, title II, §201, Jan. 8, 2002, 115 Stat. 1642.)

PRIOR PROVISIONS

A prior section 6661, Pub. L. 89–10, title II, §2251, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–391, set forth purposes of former part relating to reading and literacy grants, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 2201 of Pub. L. 89–10 was classified to section 6641 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2201 of Pub. L. 89–10 was classified to section 3011 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Prior sections 6661a to 6661i were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6661a, Pub. L. 89–10, title II, §2252, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–392; amended Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1606(b)(2)(A)], Dec. 21, 2000, 114 Stat. 2763, 2763A–335, defined terms for purposes of former part. See sections 6368 and 6371 of this title.

Section 6661b, Pub. L. 89–10, title II, §2253, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–393, related to reading and literacy grants to State educational agencies. See section 6362 of this title.

Section 6661c, Pub. L. 89–10, title II, §2254, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–397, related to use of amounts by State educational agencies.

Section 6661d, Pub. L. 89–10, title II, §2255, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–397, related to local reading improvement subgrants. See section 6372 of this title.

Section 6661e, Pub. L. 89–10, title II, §2256, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–401, related to tutorial assistance subgrants.

Section 6661f, Pub. L. 89–10, title II, §2257, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–405, related to national evaluation of programs under former part.

Section 6661g, Pub. L. 89–10, title II, §2258, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–405, related to information dissemination. See sections 6367 and 6374 of this title.

Section 6661h, Pub. L. 89–10, title II, §2259, as added Pub. L. 105–277, div. A, §101(f) [title VIII, §101(a)(2)],

Oct. 21, 1998, 112 Stat. 2681–337, 2681–405, related to State evaluations and performance reports.

Section 6661i, Pub. L. 89–10, title II, § 2260, as added Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–406; amended Pub. L. 106–554, § 1(a)(4) [div. B, title XVI, § 1606(b)(2)(B)], Dec. 21, 2000, 114 Stat. 2763, 2763A–335, related to authorization of appropriations, reservations from appropriations, and sunset.

§ 6662. Grants for mathematics and science partnerships

(a) Grants authorized

(1) Grants to partnerships

For any fiscal year for which the funds appropriated under section 6663 of this title are less than $100,000,000, the Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to carry out the authorized activities described in subsection (c) of this section.

(2) Grants to State educational agencies

(A) In general

For any fiscal year for which the funds appropriated under section 6663 of this title equal or exceed $100,000,000—

(i) if an eligible partnership in the State was previously awarded a grant under paragraph (1), and the grant period has not ended, the Secretary shall reserve funds in a sufficient amount to make payments to the partnership in accordance with the terms of the grant; and

(ii) the Secretary is authorized to award grants to State educational agencies to enable such agencies to award subgrants, on a competitive basis, to eligible partnerships to carry out the authorized activities described in subsection (c) of this section.

(B) Allotment

The Secretary shall allot the amount made available under this part for a fiscal year and not reserved under subparagraph (A)(i) among the State educational agencies in proportion to the number of children, aged 5 to 17, who are from families with incomes below the poverty line and reside in a State for the most recent fiscal year for which satisfactory data are available, as compared to the number of such children who reside in all such States for such year.

(C) Minimum allotment

The amount of any State educational agency's allotment under subparagraph (B) for any fiscal year may not be less than one-half of 1 percent of the amount made available under this part for such year.

(3) Duration

The Secretary shall award grants under this part for a period of 3 years.

(4) Supplement, not supplant

Funds received under this part shall be used to supplement, and not supplant, funds that would otherwise be used for activities authorized under this part.

(b) Application requirements

(1) In general

Each eligible partnership desiring a grant or subgrant under this part shall submit an application—

(A) in the case of grants awarded pursuant to subsection (a)(1) of this section, to the Secretary, at such time, in such manner, and accompanied by such information as the Secretary may require; or

(B) in the case of subgrants awarded pursuant to subsection (a)(2) of this section, to the State educational agency, at such time, in such manner, and accompanied by such information as the State educational agency may require.

(2) Contents

Each application submitted pursuant to paragraph (1) shall include—

(A) the results of a comprehensive assessment of the teacher quality and professional development needs of any schools, local educational agencies, and State educational agencies that comprise the eligible partnership with respect to the teaching and learning of mathematics and science;

(B) a description of how the activities to be carried out by the eligible partnership will be aligned with challenging State academic content and student academic achievement standards in mathematics and science and with other educational reform activities that promote student academic achievement in mathematics and science;

(C) a description of how the activities to be carried out by the eligible partnership will be based on a review of scientifically based research, and an explanation of how the activities are expected to improve student academic achievement and strengthen the quality of mathematics and science instruction;

(D) a description of—

(i) how the eligible partnership will carry out the authorized activities described in subsection (c) of this section; and

(ii) the eligible partnership's evaluation and accountability plan described in subsection (e) of this section; and

(E) a description of how the eligible partnership will continue the activities funded under this part after the original grant or subgrant period has expired.

(c) Authorized activities

An eligible partnership shall use funds provided under this part for one or more of the following activities related to elementary schools or secondary schools:

(1) Creating opportunities for enhanced and ongoing professional development of mathematics and science teachers that improves the subject matter knowledge of such teachers.

(2) Promoting strong teaching skills for mathematics and science teachers and teacher educators, including integrating reliable scientifically based research teaching methods and technology-based teaching methods into the curriculum.

(3) Establishing and operating mathematics and science summer workshops or institutes, including followup training, for elementary school and secondary school mathematics and science teachers that—

(A) shall—

(i) directly relate to the curriculum and academic areas in which the teacher provides instruction, and focus only secondarily on pedagogy;

(ii) enhance the ability of the teacher to understand and use the challenging State academic content standards for mathematics and science and to select appropriate curricula; and

(iii) train teachers to use curricula that are—

(I) based on scientific research;

(II) aligned with challenging State academic content standards; and

(III) object-centered, experiment-oriented, and concept- and content-based; and

(B) may include—

(i) programs that provide teachers and prospective teachers with opportunities to work under the guidance of experienced teachers and college faculty;

(ii) instruction in the use of data and assessments to inform and instruct classroom practice; and

(iii) professional development activities, including supplemental and followup activities, such as curriculum alignment, distance learning, and activities that train teachers to utilize technology in the classroom.

(4) Recruiting mathematics, engineering, and science majors to teaching through the use of—

(A) signing and performance incentives that are linked to activities proven effective in retaining teachers, for individuals with demonstrated professional experience in mathematics, engineering, or science;

(B) stipends provided to mathematics and science teachers for certification through alternative routes;

(C) scholarships for teachers to pursue advanced course work in mathematics, engineering, or science; and

(D) other programs that the State educational agency determines to be effective in recruiting and retaining individuals with strong mathematics, engineering, or science backgrounds.

(5) Developing or redesigning more rigorous mathematics and science curricula that are aligned with challenging State and local academic content standards and with the standards expected for postsecondary study in mathematics and science.

(6) Establishing distance learning programs for mathematics and science teachers using curricula that are innovative, content-based, and based on scientifically based research that is current as of the date of the program involved.

(7) Designing programs to prepare a mathematics or science teacher at a school to provide professional development to other mathematics or science teachers at the school and to assist beginning and other teachers at the school, including (if applicable) a mechanism to integrate the teacher's experiences from a summer workshop or institute into the provision of professional development and assistance.

(8) Establishing and operating programs to bring mathematics and science teachers into contact with working scientists, mathematicians, and engineers, to expand such teachers' subject matter knowledge of and research in science and mathematics.

(9) Designing programs to identify and develop exemplary mathematics and science teachers in the kindergarten through grade 8 classrooms.

(10) Training mathematics and science teachers and developing programs to encourage young women and other underrepresented individuals in mathematics and science careers (including engineering and technology) to pursue postsecondary degrees in majors leading to such careers.

(d) Coordination and consultation

(1) Partnership grants

An eligible partnership receiving a grant under section 1023 of this title shall coordinate the use of such funds with any related activities carried out by such partnership with funds made available under this part.

(2) National Science Foundation

In carrying out the activities authorized by this part, the Secretary shall consult and coordinate with the Director of the National Science Foundation, particularly with respect to the appropriate roles for the Department and the Foundation in the conduct of summer workshops, institutes, or partnerships to improve mathematics and science teaching in elementary schools and secondary schools.

(e) Evaluation and accountability plan

(1) In general

Each eligible partnership receiving a grant or subgrant under this part shall develop an evaluation and accountability plan for activities assisted under this part that includes rigorous objectives that measure the impact of activities funded under this part.

(2) Contents

The plan developed pursuant to paragraph (1)—

(A) shall include measurable objectives to increase the number of mathematics and science teachers who participate in content-based professional development activities;

(B) shall include measurable objectives for improved student academic achievement on State mathematics and science assessments or, where applicable, an International Mathematics and Science Study assessment; and

(C) may include objectives and measures for—

(i) increased participation by students in advanced courses in mathematics and science;

(ii) increased percentages of elementary school teachers with academic majors or

minors, or group majors or minors, in mathematics, engineering, or the sciences; and

(iii) increased percentages of secondary school classes in mathematics and science taught by teachers with academic majors in mathematics, engineering, and science.

(f) Report

Each eligible partnership receiving a grant or subgrant under this part shall report annually to the Secretary regarding the eligible partnership's progress in meeting the objectives described in the accountability plan of the partnership under subsection (e) of this section.

(Pub. L. 89–10, title II, § 2202, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1644.)

PRIOR PROVISIONS

A prior section 2202 of Pub. L. 89–10 was classified to section 6642 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2202 of Pub. L. 89–10 was classified to section 3012 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 6663. Authorization of appropriations

There are authorized to be appropriated to carry out this part $450,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title II, § 2203, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1647.)

PRIOR PROVISIONS

A prior section 2203 of Pub. L. 89–10 was classified to section 6643 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 2203 of Pub. L. 89–10 was classified to section 3013 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

PART C—INNOVATION FOR TEACHER QUALITY

SUBPART 1—TRANSITIONS TO TEACHING

Division A—Troops-to-Teachers Program

§ 6671. Definitions

In this division:

(1) Armed Forces

The term ''Armed Forces'' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(2) Member of the Armed Forces

The term ''member of the Armed Forces'' includes a former member of the Armed Forces.

(3) Program

The term ''Program'' means the Troops-to-Teachers Program authorized by this division.

(4) Reserve component

The term ''reserve component'' means—

(A) the Army National Guard of the United States;

(B) the Army Reserve;

(C) the Navy Reserve;

(D) the Marine Corps Reserve;

(E) the Air National Guard of the United States;

(F) the Air Force Reserve; and

(G) the Coast Guard Reserve.

(5) Secretary concerned

The term ''Secretary concerned'' means—

(A) the Secretary of the Army, with respect to matters concerning a reserve component of the Army;

(B) the Secretary of the Navy, with respect to matters concerning reserve components named in subparagraphs (C) and (D) of paragraph (4);

(C) the Secretary of the Air Force, with respect to matters concerning a reserve component of the Air Force; and

(D) the Secretary of Homeland Security, with respect to matters concerning the Coast Guard Reserve.

(Pub. L. 89–10, title II, § 2301, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1648; amended Pub. L. 107–296, title XVII, § 1704(e)(8), Nov. 25, 2002, 116 Stat. 2315; Pub. L. 109–163, div. A, title V, § 515(g)(1), Jan. 6, 2006, 119 Stat. 3236.)

PRIOR PROVISIONS

A prior section 6671, Pub. L. 89–10, title II, § 2301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3633, set forth findings and purpose of former part relating to professional development demonstration project, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2006—Par. (4)(C). Pub. L. 109–163 substituted ''Navy Reserve'' for ''Naval Reserve''.

2002—Par. (5)(D). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

§ 6672. Authorization of Troops-to-Teachers Program

(a) Purpose

The purpose of this section is to authorize a mechanism for the funding and administration of the Troops-to-Teachers Program, which was originally established by the Troops-to-Teachers Program Act of 1999 (title XVII of the National Defense Authorization Act for Fiscal Year 2000) (20 U.S.C. 9301 et seq.).

(b) Program authorized

The Secretary may carry out a program (to be known as the ''Troops-to-Teachers Program'')—

(1) to assist eligible members of the Armed Forces described in section 6673 of this title to obtain certification or licensing as elementary school teachers, secondary school teachers, or vocational or technical teachers, and to become highly qualified teachers; and

(2) to facilitate the employment of such members—

(A) by local educational agencies or public charter schools that the Secretary identifies as—

(i) receiving grants under part A of subchapter I of this chapter as a result of hav-

ing within their jurisdictions concentrations of children from low-income families; or

(ii) experiencing a shortage of highly qualified teachers, in particular a shortage of science, mathematics, special education, or vocational or technical teachers; and

(B) in elementary schools or secondary schools, or as vocational or technical teachers.

(c) Administration of Program

The Secretary shall enter into a memorandum of agreement with the Secretary of Defense under which the Secretary of Defense, acting through the Defense Activity for Non-Traditional Education Support of the Department of Defense, will perform the actual administration of the Program, other than section 6676 of this title. Using funds appropriated to the Secretary to carry out this division, the Secretary shall transfer to the Secretary of Defense such amounts as may be necessary to administer the Program pursuant to the memorandum of agreement.

(d) Information regarding Program

The Secretary shall provide to the Secretary of Defense information regarding the Program and applications to participate in the Program, for distribution as part of preseparation counseling provided under section 1142 of title 10 to members of the Armed Forces described in section 6673 of this title.

(e) Placement assistance and referral services

The Secretary may, with the agreement of the Secretary of Defense, provide placement assistance and referral services to members of the Armed Forces who meet the criteria described in section 6673 of this title, including meeting education qualification requirements under subsection[1] 6673(c)(2) of this title. Such members shall not be eligible for financial assistance under subsections (c) and (d) of section 6674 of this title.

(Pub. L. 89–10, title II, § 2302, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1648.)

REFERENCES IN TEXT

The Troops-to-Teachers Program Act of 1999, referred to in subsec. (a), is title XVII of div. A of Pub. L. 106–65, Oct. 5, 1999, 113 Stat. 817, which was classified principally to chapter 74 (§ 9301 et seq.) of this title, prior to repeal by Pub. L. 107–110, title X, § 1011(6), Jan. 8, 2002, 115 Stat. 1986.

PRIOR PROVISIONS

A prior section 6672, Pub. L. 89–10, title II, § 2302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3633, authorized professional development demonstration program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6673. Recruitment and selection of program participants

(a) Eligible members

The following members of the Armed Forces are eligible for selection to participate in the Program:

(1) Any member who—

(A) on or after October 1, 1999, becomes entitled to retired or retainer pay in the manner provided in title 10 or title 14;

(B) has an approved date of retirement that is within 1 year after the date on which the member submits an application to participate in the Program; or

(C) has been transferred to the Retired Reserve.

(2) Any member who, on or after January 8, 2002—

(A)(i) is separated or released from active duty after 6 or more years of continuous active duty immediately before the separation or release; or

(ii) has completed a total of at least 10 years of active duty service, 10 years of service computed under section 12732 of title 10, or 10 years of any combination of such service; and

(B) executes a reserve commitment agreement for a period of not less than 3 years under subsection (e)(2) of this section.

(3) Any member who, on or after January 8, 2002, is retired or separated for physical disability under chapter 61 of title 10.

(4) Any member who—

(A) during the period beginning on October 1, 1990, and ending on September 30, 1999, was involuntarily discharged or released from active duty for purposes of a reduction of force after 6 or more years of continuous active duty immediately before the discharge or release; or

(B) applied for the teacher placement program administered under section 1151 of title 10 before the repeal of that section, and satisfied the eligibility criteria specified in subsection (c) of such section 1151.

(b) Submission of applications

(1) Form and submission

Selection of eligible members of the Armed Forces to participate in the Program shall be made on the basis of applications submitted to the Secretary within the time periods specified in paragraph (2). An application shall be in such form and contain such information as the Secretary may require.

(2) Time for submission

An application shall be considered to be submitted on a timely basis under paragraph (1) if—

(A) in the case of a member described in paragraph (1)(A), (2), or (3) of subsection (a) of this section, the application is submitted not later than 4 years after the date on which the member is retired or separated or released from active duty, whichever applies to the member; or

(B) in the case of a member described in subsection (a)(4) of this section, the application is submitted not later than September 30, 2003.

(c) Selection criteria

(1) Establishment

Subject to paragraphs (2) and (3), the Secretary shall prescribe the criteria to be used

[1] So in original. Probably should be ''section''.

to select eligible members of the Armed Forces to participate in the Program.

(2) Educational background

(A) Elementary or secondary school teacher

If a member of the Armed Forces described in paragraph (1), (2), or (3) of subsection (a) of this section is applying for assistance for placement as an elementary school or secondary school teacher, the Secretary shall require the member to have received a baccalaureate or advanced degree from an accredited institution of higher education.

(B) Vocational or technical teacher

If a member of the Armed Forces described in paragraph (1), (2), or (3) of subsection (a) of this section is applying for assistance for placement as a vocational or technical teacher, the Secretary shall require the member—

ave[1] received the equivalent of 1 year of college from an accredited institution of higher education and have 6 or more years of military experience in a vocational or technical field; or

(ii) to otherwise meet the certification or licensing requirements for a vocational or technical teacher in the State in which the member seeks assistance for placement under the Program.

(3) Honorable service

A member of the Armed Forces is eligible to participate in the Program only if the member's last period of service in the Armed Forces was honorable, as characterized by the Secretary concerned (as defined in section 101(a)(9) of title 10). A member selected to participate in the Program before the retirement of the member or the separation or release of the member from active duty may continue to participate in the Program after the retirement, separation, or release only if the member's last period of service is characterized as honorable by the Secretary concerned (as so defined).

(d) Selection priorities

In selecting eligible members of the Armed Forces to receive assistance under the Program, the Secretary shall give priority to members who have educational or military experience in science, mathematics, special education, or vocational or technical subjects and agree to seek employment as science, mathematics, or special education teachers in elementary schools or secondary schools or in other schools under the jurisdiction of a local educational agency.

(e) Other conditions on selection

(1) Selection subject to funding

The Secretary may not select an eligible member of the Armed Forces to participate in the Program under this section and receive financial assistance under section 6674 of this title unless the Secretary has sufficient appropriations for the Program available at the time of the selection to satisfy the obligations to be incurred by the United States under section 6674 of this title with respect to the member.

(2) Reserve commitment agreement

The Secretary may not select an eligible member of the Armed Forces described in subsection (a)(2)(A) of this section to participate in the Program under this section and receive financial assistance under section 6674 of this title unless—

(A) the Secretary notifies the Secretary concerned and the member that the Secretary has reserved a full stipend or bonus under section 6674 of this title for the member; and

(B) the member executes a written agreement with the Secretary concerned to serve as a member of the Selected Reserve of a reserve component of the Armed Forces for a period of not less than 3 years (in addition to any other reserve commitment the member may have).

(Pub. L. 89–10, title II, § 2303, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1649.)

REFERENCES IN TEXT

Section 1151 of title 10, referred to in subsec. (a)(4)(B), was repealed by Pub. L. 106–65, div. A, title XVII, § 1707(a)(1), Oct. 5, 1999, 113 Stat. 823.

PRIOR PROVISIONS

A prior section 6673, Pub. L. 89–10, title II, § 2303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3634, related to grants for the implementation of professional development programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6674. Participation agreement and financial assistance

(a) Participation agreement

(1) In general

An eligible member of the Armed Forces selected to participate in the Program under section 6673 of this title and receive financial assistance under this section shall be required to enter into an agreement with the Secretary in which the member agrees—

(A) within such time as the Secretary may require, to obtain certification or licensing as an elementary school teacher, secondary school teacher, or vocational or technical teacher, and to become a highly qualified teacher; and

(B) to accept an offer of full-time employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher for not less than 3 school years with a high-need local educational agency or public charter school, as such terms are defined in section 6601[1] of this title, to begin the school year after obtaining that certification or licensing.

(2) Waiver

The Secretary may waive the 3-year commitment described in paragraph (1)(B) for a participant if the Secretary determines such waiver to be appropriate. If the Secretary provides the waiver, the participant shall not be

[1] So in original. Probably should be ''(i) to have''.

[1] So in original. Probably should be section ''6602''.

considered to be in violation of the agreement and shall not be required to provide reimbursement under subsection (f) of this section, for failure to meet the 3-year commitment.

(b) Violation of participation agreement; exceptions

A participant in the Program shall not be considered to be in violation of the participation agreement entered into under subsection (a) of this section during any period in which the participant—

(1) is pursuing a full-time course of study related to the field of teaching at an institution of higher education;

(2) is serving on active duty as a member of the Armed Forces;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is a highly qualified teacher who is seeking and unable to find full-time employment as a teacher in an elementary school or secondary school or as a vocational or technical teacher for a single period not to exceed 27 months; or

(6) satisfies the provisions of additional reimbursement exceptions that may be prescribed by the Secretary.

(c) Stipend for participants

(1) Stipend authorized

Subject to paragraph (2), the Secretary may pay to a participant in the Program selected under section 6673 of this title a stipend in an amount of not more than $5,000.

(2) Limitation

The total number of stipends that may be paid under paragraph (1) in any fiscal year may not exceed 5,000.

(d) Bonus for participants

(1) Bonus authorized

Subject to paragraph (2), the Secretary may, in lieu of paying a stipend under subsection (c) of this section, pay a bonus of $10,000 to a participant in the Program selected under section 6673 of this title who agrees in the participation agreement under subsection (a) of this section to become a highly qualified teacher and to accept full-time employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher for not less than 3 school years in a high-need school.

(2) Limitation

The total number of bonuses that may be paid under paragraph (1) in any fiscal year may not exceed 3,000.

(3) High-need school defined

In this subsection, the term ''high-need school'' means a public elementary school, public secondary school, or public charter school that meets one or more of the following criteria:

(A) Low-income children

At least 50 percent of the students enrolled in the school were from low-income families (as described in section 6672(b)(2)(A)(i) of this title).

(B) Children with disabilities

The school has a large percentage of students who qualify for assistance under part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.].

(e) Treatment of stipend and bonus

A stipend or bonus paid under this section to a participant in the Program shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 [20 U.S.C. 1070 et seq. and 42 U.S.C. 2751 et seq.].

(f) Reimbursement under certain circumstances

(1) Reimbursement required

A participant in the Program who is paid a stipend or bonus under this section shall be required to repay the stipend or bonus under the following circumstances:

(A) Failure to obtain qualifications or employment

The participant fails to obtain teacher certification or licensing, to become a highly qualified teacher, or to obtain employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher as required by the participation agreement under subsection (a) of this section.

(B) Termination of employment

The participant voluntarily leaves, or is terminated for cause from, employment as an elementary school teacher, secondary school teacher, or vocational or technical teacher during the 3 years of required service in violation of the participation agreement.

(C) Failure to complete service under reserve commitment agreement

The participant executed a written agreement with the Secretary concerned under section 6673(e)(2) of this title to serve as a member of a reserve component of the Armed Forces for a period of 3 years and fails to complete the required term of service.

(2) Amount of reimbursement

A participant required to reimburse the Secretary for a stipend or bonus paid to the participant under this section shall pay an amount that bears the same ratio to the amount of the stipend or bonus as the unserved portion of required service bears to the 3 years of required service. Any amount owed by the participant shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the reimbursement is determined to be due for securities having maturities of 90 days or less and shall accrue from the day on which the participant is first notified of the amount due.

(3) Treatment of obligation

The obligation to reimburse the Secretary under this subsection is, for all purposes, a debt owing the United States. A discharge in bankruptcy under title 11 shall not release a participant from the obligation to reimburse the Secretary under this subsection.

(4) Exceptions to reimbursement requirement

A participant shall be excused from reimbursement under this subsection if the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician. The Secretary may also waive the reimbursement in cases of extreme hardship to the participant, as determined by the Secretary.

(g) Relationship to educational assistance under Montgomery GI Bill

The receipt by a participant in the Program of a stipend or bonus under this section shall not reduce or otherwise affect the entitlement of the participant to any benefits under chapter 30 of title 38 or chapter 1606 of title 10.

(Pub. L. 89–10, title II, § 2304, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1651.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (d)(3)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§ 1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (e), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title IV of the Act is classified generally to subchapter IV (§ 1070 et seq.) of chapter 28 of this title and part C (§ 2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 6674, Pub. L. 89–10, title II, § 2304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3634, related to plan for program to be assisted, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6675. Participation by States

(a) Discharge of State activities through consortia of States

The Secretary may permit States participating in the Program to carry out activities authorized for such States under the Program through one or more consortia of such States.

(b) Assistance to States

(1) Grants authorized

Subject to paragraph (2), the Secretary may make grants to States participating in the Program, or to consortia of such States, in order to permit such States or consortia of States to operate offices for purposes of recruiting eligible members of the Armed Forces for participation in the Program and facilitating the employment of participants in the Program as elementary school teachers, secondary school teachers, and vocational or technical teachers.

(2) Limitation

The total amount of grants made under paragraph (1) in any fiscal year may not exceed $5,000,000.

(Pub. L. 89–10, title II, § 2305, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1654.)

PRIOR PROVISIONS

A prior section 6675, Pub. L. 89–10, title II, § 2305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635, related to technical assistance, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6676. Support of innovative preretirement teacher certification programs

(a) Purpose

The purpose of this section is to provide funding to develop, implement, and demonstrate teacher certification programs.

(b) Development, implementation and demonstration

The Secretary may enter into a memorandum of agreement with a State educational agency, an institution of higher education, or a consortia of State educational agencies or institutions of higher education, to develop, implement, and demonstrate teacher certification programs for members of the Armed Forces described in section 6673(a)(1)(B) of this title for the purpose of assisting such members to consider and prepare for a career as a highly qualified elementary school teacher, secondary school teacher, or vocational or technical teacher upon retirement from the Armed Forces.

(c) Program elements

A teacher certification program under subsection (b) of this section shall—

(1) provide recognition of military experience and training as related to certification or licensing requirements;

(2) provide courses of instruction that may be conducted on or near a military installation;

(3) incorporate alternative approaches to achieve teacher certification, such as innovative methods to gaining field-based teaching experiences, and assessment of background and experience as related to skills, knowledge, and abilities required of elementary school teachers, secondary school teachers, or vocational or technical teachers;

(4) provide for courses to be delivered via distance education methods; and

(5) address any additional requirements or specifications established by the Secretary.

(d) Application procedures

(1) In general

A State educational agency or institution of higher education (or a consortium of State educational agencies or institutions of higher education) that desires to enter into a memorandum under subsection (b) of this section shall prepare and submit to the Secretary a proposal, at such time, in such manner, and containing such information as the Secretary may require, including an assurance that the State educational agency, institution, or consortium is operating a program leading to State approved teacher certification.

(2) Preference

The Secretary shall give preference to State educational agencies, institutions, and consortia that submit proposals that provide for cost sharing with respect to the program involved.

(e) Continuation of programs

Upon successful completion of the demonstration phase of teacher certification programs funded under this section, the continued operation of the teacher certification programs shall not be the responsibility of the Secretary. A State educational agency, institution, or consortium that desires to continue a program that is funded under this section after such funding is terminated shall use amounts derived from tuition charges to continue such program.

(f) Funding limitation

The total amount obligated by the Secretary under this section for any fiscal year may not exceed $10,000,000.

(Pub. L. 89–10, title II, § 2306, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1654.)

PRIOR PROVISIONS

A prior section 6676, Pub. L. 89–10, title II, § 2306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635, related to matching funds from private sources, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6677. Reporting requirements

(a) Report required

Not later than March 31, 2006, the Secretary (in consultation with the Secretary of Defense and the Secretary of Homeland Security) and the Comptroller General of the United States shall submit to Congress a report on the effectiveness of the Program in the recruitment and retention of qualified personnel by local educational agencies and public charter schools.

(b) Elements of report

The report submitted under subsection (a) of this section shall include information on the following:

(1) The number of participants in the Program.

(2) The schools in which the participants are employed.

(3) The grade levels at which the participants teach.

(4) The academic subjects taught by the participants.

(5) The rates of retention of the participants by the local educational agencies and public charter schools employing the participants.

(6) Such other matters as the Secretary or the Comptroller General of the United States, as the case may be, considers to be appropriate.

(Pub. L. 89–10, title II, § 2307, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1655; amended Pub. L. 107–296, title XVII, § 1704(e)(9), Nov. 25, 2002, 116 Stat. 2315.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–296 substituted ''of Homeland Security'' for ''of Transportation''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of Title 10, Armed Forces.

Division B—Transition to Teaching Program

§ 6681. Purposes

The purposes of this division are—

(1) to establish a program to recruit and retain highly qualified mid-career professionals (including highly qualified paraprofessionals), and recent graduates of an institution of higher education, as teachers in high-need schools, including recruiting teachers through alternative routes to certification; and

(2) to encourage the development and expansion of alternative routes to certification under State-approved programs that enable individuals to be eligible for teacher certification within a reduced period of time, relying on the experience, expertise, and academic qualifications of an individual, or other factors in lieu of traditional course work in the field of education.

(Pub. L. 89–10, title II, § 2311, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1655.)

§ 6682. Definitions

In this division:

(1) Eligible participant

The term ''eligible participant'' means—

(A) an individual with substantial, demonstrable career experience, including a highly qualified paraprofessional; or

(B) an individual who is a graduate of an institution of higher education who—

(i) has graduated not more than 3 years before applying to an eligible entity to teach under this division; and

(ii) in the case of an individual wishing to teach in a secondary school, has completed an academic major (or courses totaling an equivalent number of credit hours) in the academic subject that the individual will teach.

(2) High-need local educational agency

The term ''high-need local educational agency'' has the meaning given the term in section 6602 of this title.

(3) High-need school

The term ''high-need school'' means a school that—

(A) is located in an area in which the percentage of students from families with incomes below the poverty line is 30 percent or more; or

(B)(i) is located in an area with a high percentage of out-of-field teachers, as defined in section 6602 of this title;

(ii) is within the top quartile of elementary schools and secondary schools statewide, as ranked by the number of unfilled, available teacher positions at the schools;

(iii) is located in an area in which there is a high teacher turnover rate; or

(iv) is located in an area in which there is a high percentage of teachers who are not certified or licensed.

(Pub. L. 89–10, title II, § 2312, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1656.)

§ 6683. Grant program

(a) In general

The Secretary may establish a program to make grants on a competitive basis to eligible entities to develop State and local teacher corps or other programs to establish, expand, or enhance teacher recruitment and retention efforts.

(b) Eligible entity

To be eligible to receive a grant under this section, an entity shall be—

(1) a State educational agency;

(2) a high-need local educational agency;

(3) a for-profit or nonprofit organization that has a proven record of effectively recruiting and retaining highly qualified teachers, in a partnership with a high-need local educational agency or with a State educational agency;

(4) an institution of higher education, in a partnership with a high-need local educational agency or with a State educational agency;

(5) a regional consortium of State educational agencies; or

(6) a consortium of high-need local educational agencies.

(c) Priority

In making such a grant, the Secretary shall give priority to a partnership or consortium that includes a high-need State educational agency or local educational agency.

(d) Application

(1) In general

To be eligible to receive a grant under this section, an entity described in subsection (b) of this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) Contents

The application shall describe—

(A) one or more target recruitment groups on which the applicant will focus its recruitment efforts;

(B) the characteristics of each such target group that—

(i) show the knowledge and experience of the group's members; and

(ii) demonstrate that the members are eligible to achieve the objectives of this section;

(C) describe how the applicant will use funds received under this section to develop a teacher corps or other program to recruit and retain highly qualified midcareer professionals (which may include highly qualified paraprofessionals), recent college graduates, and recent graduate school graduates, as highly qualified teachers in high-need schools operated by high-need local educational agencies;

(D) explain how the program carried out under the grant will meet the relevant State laws (including regulations) related to teacher certification or licensing and facilitate the certification or licensing of such teachers;

(E) describe how the grant will increase the number of highly qualified teachers, in high-need schools operated by high-need local educational agencies (in urban or rural school districts), and in high-need academic subjects, in the jurisdiction served by the applicant; and

(F) describe how the applicant will collaborate, as needed, with other institutions, agencies, or organizations to recruit (particularly through activities that have proven effective in retaining highly qualified teachers), train, place, support, and provide teacher induction programs to program participants under this division, including providing evidence of the commitment of the institutions, agencies, or organizations to the applicant's programs.

(e) Duration of grants

The Secretary may make grants under this section for periods of 5 years. At the end of the 5-year period for such a grant, the grant recipient may apply for an additional grant under this section.

(f) Equitable distribution

To the extent practicable, the Secretary shall ensure an equitable geographic distribution of grants under this section among the regions of the United States.

(g) Uses of funds

(1) In general

An entity that receives a grant under this section shall use the funds made available through the grant to develop a teacher corps or other program in order to establish, expand, or enhance a teacher recruitment and retention program for highly qualified mid-career professionals (including highly qualified paraprofessionals), and recent graduates of an institution of higher education, who are eligible participants, including activities that provide alternative routes to teacher certification.

(2) Authorized activities

The entity shall use the funds to carry out a program that includes two or more of the following activities:

(A) Providing scholarships, stipends, bonuses, and other financial incentives, that are linked to participation in activities that have proven effective in retaining teachers in high-need schools operated by high-need local educational agencies, to all eligible participants, in an amount not to exceed $5,000 per participant.

(B) Carrying out pre- and post-placement induction or support activities that have proven effective in recruiting and retaining teachers, such as—

(i) teacher mentoring;

(ii) providing internships;

(iii) providing high-quality, preservice coursework; and

(iv) providing high-quality, sustained in-service professional development.

(C) Carrying out placement and ongoing activities to ensure that teachers are placed in fields in which the teachers are highly qualified to teach and are placed in high-need schools.

(D) Making payments to pay for costs associated with accepting teachers recruited under this section from among eligible participants or provide financial incentives to prospective teachers who are eligible participants.

(E) Collaborating with institutions of higher education in developing and implementing programs to facilitate teacher recruitment (including teacher credentialing) and teacher retention programs.

(F) Carrying out other programs, projects, and activities that are designed and have proven to be effective in recruiting and retaining teachers, and that the Secretary determines to be appropriate.

(G) Developing long-term recruitment and retention strategies including developing—

(i) a statewide or regionwide clearinghouse for the recruitment and placement of teachers;

(ii) administrative structures to develop and implement programs to provide alternative routes to certification;

(iii) reciprocity agreements between or among States for the certification or licensing of teachers; or

(iv) other long-term teacher recruitment and retention strategies.

(3) Effective programs

The entity shall use the funds only for programs that have proven to be effective in both recruiting and retaining teachers.

(h) Requirements

(1) Targeting

An entity that receives a grant under this section to carry out a program shall ensure that participants in the program recruited with funds made available under this section are placed in high-need schools operated by high-need local educational agencies. In placing the participants in the schools, the entity shall give priority to the schools that are located in areas with the highest percentages of students from families with incomes below the poverty line.

(2) Supplement, not supplant

Funds made available under this section shall be used to supplement, and not supplant, State and local public funds expended for teacher recruitment and retention programs, including programs to recruit the teachers through alternative routes to certification.

(3) Partnerships and consortia of local educational agencies

In the case of a partnership established by a local educational agency to carry out a program under this division, or a consortium of such agencies established to carry out a program under this division, the local educational agency or consortium shall not be eligible to receive funds through a State program under this division.

(i) Period of service

A program participant in a program under this division who receives training through the program shall serve a high-need school operated by a high-need local educational agency for at least 3 years.

(j) Repayment

The Secretary shall establish such requirements as the Secretary determines to be appropriate to ensure that program participants who receive a stipend or other financial incentive under subsection (g)(2)(A) of this section, but fail to complete their service obligation under subsection (i) of this section, repay all or a portion of such stipend or other incentive.

(k) Administrative funds

No entity that receives a grant under this section shall use more than 5 percent of the funds made available through the grant for the administration of a program under this division carried out under the grant.

(Pub. L. 89–10, title II, § 2313, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1656.)

§ 6684. Evaluation and accountability for recruiting and retaining teachers

(a) Evaluation

Each entity that receives a grant under this division shall conduct—

(1) an interim evaluation of the program funded under the grant at the end of the third year of the grant period; and

(2) a final evaluation of the program at the end of the fifth year of the grant period.

(b) Contents

In conducting the evaluation, the entity shall describe the extent to which local educational agencies that received funds through the grant have met the goals relating to teacher recruitment and retention described in the application.

(c) Reports

The entity shall prepare and submit to the Secretary and to Congress interim and final reports containing the results of the interim and final evaluations, respectively.

(d) Revocation

If the Secretary determines that the recipient of a grant under this division has not made substantial progress in meeting such goals and the objectives of the grant by the end of the third year of the grant period, the Secretary—

(1) shall revoke the payment made for the fourth year of the grant period; and

(2) shall not make a payment for the fifth year of the grant period.

(Pub. L. 89–10, title II, § 2314, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1659.)

Division C—General Provisions

§ 6691. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subpart $150,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) Reservation

From the funds appropriated to carry out this subpart for fiscal year 2002, the Secretary shall reserve not more than $30,000,000 to carry out division A of this subpart.

(Pub. L. 89–10, title II, § 2321, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1660.)

SUBPART 2—NATIONAL WRITING PROJECT

§ 6701. Purposes

The purposes of this subpart are—

(1) to support and promote the expansion of the National Writing Project network of sites so that teachers in every region of the United States will have access to a National Writing Project program;

(2) to ensure the consistent high quality of the sites through ongoing review, evaluation, and technical assistance;

(3) to support and promote the establishment of programs to disseminate effective practices and research findings about the teaching of writing; and

(4) to coordinate activities assisted under this subpart with activities assisted under this chapter.

(Pub. L. 89–10, title II, § 2331, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1660.)

PRIOR PROVISIONS

A prior section 6701, Pub. L. 89–10, title II, § 2401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(b)(3)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407, related to reporting and accountability, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6702. National Writing Project

(a) Authorization

The Secretary is authorized to award a grant to the National Writing Project, a nonprofit educational organization that has as its primary purpose the improvement of the quality of student writing and learning (hereafter in this section referred to as the ''grantee'') to improve the teaching of writing and the use of writing as a part of the learning process in our Nation's classrooms.

(b) Requirements of grant

The grant shall provide that—

(1) the grantee will enter into contracts with institutions of higher education or other nonprofit educational providers (hereafter in this section referred to as ''contractors'') under which the contractors will agree to establish, operate, and provide the non-Federal share of the cost of teacher training programs in effective approaches and processes for the teaching of writing;

(2) funds made available by the Secretary to the grantee pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating teacher training programs as provided in paragraph (1); and

(3) the grantee will meet such other conditions and standards as the Secretary determines to be necessary to assure compliance with the provisions of this section and will provide such technical assistance as may be necessary to carry out the provisions of this section.

(c) Teacher training programs

The teacher training programs authorized in subsection (a) of this section shall—

(1) be conducted during the school year and during the summer months;

(2) train teachers who teach grades kindergarten through college;

(3) select teachers to become members of a National Writing Project teacher network whose members will conduct writing workshops for other teachers in the area served by each National Writing Project site; and

(4) encourage teachers from all disciplines to participate in such teacher training programs.

(d) Federal share

(1) In general

Except as provided in paragraph (2) or (3) and for purposes of subsection (a) of this section, the term ''Federal share'' means, with respect to the costs of teacher training programs authorized in subsection (a) of this section, 50 percent of such costs to the contractor.

(2) Waiver

The Secretary may waive the provisions of paragraph (1) on a case-by-case basis if the National Advisory Board described in subsection (e) of this section determines, on the basis of financial need, that such waiver is necessary.

(3) Maximum

The Federal share of the costs of teacher training programs conducted pursuant to subsection (a) of this section may not exceed $100,000 for any one contractor, or $200,000 for a statewide program administered by any one contractor in at least five sites throughout the State.

(e) National Advisory Board

(1) Establishment

The National Writing Project shall establish and operate a National Advisory Board.

(2) Composition

The National Advisory Board established pursuant to paragraph (1) shall consist of—

(A) national educational leaders;

(B) leaders in the field of writing; and

(C) such other individuals as the National Writing Project determines necessary.

(3) Duties

The National Advisory Board established pursuant to paragraph (1) shall—

(A) advise the National Writing Project on national issues related to student writing and the teaching of writing;

(B) review the activities and programs of the National Writing Project; and

(C) support the continued development of the National Writing Project.

(f) Evaluation

(1) In general

The Secretary shall conduct an independent evaluation by grant or contract of the teacher

training programs administered pursuant to this subpart. Such evaluation shall specify the amount of funds expended by the National Writing Project and each contractor receiving assistance under this section for administrative costs. The results of such evaluation shall be made available to the appropriate committees of Congress.

(2) Funding limitation

The Secretary shall reserve not more than $150,000 from the total amount appropriated pursuant to the authority of subsection (h) of this section for fiscal year 2002 and each of the 5 succeeding fiscal years to conduct the evaluation described in paragraph (1).

(g) Application review

(1) Review Board

The National Writing Project shall establish and operate a National Review Board that shall consist of—

(A) leaders in the field of research in writing; and

(B) such other individuals as the National Writing Project deems necessary.

(2) Duties

The National Review Board shall—

(A) review all applications for assistance under this subsection; and

(B) recommend applications for assistance under this subsection for funding by the National Writing Project.

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this subpart $15,000,000 as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title II, § 2332, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1660.)

PRIOR PROVISIONS

A prior section 6702, Pub. L. 89–10, title II, § 2402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3635; amended Pub. L. 105–277, div. A, § 101(f) [title VIII, § 101(b)(4)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407, defined terms used in this subchapter, prior to the general amendment of this subchapter by Pub. L. 107–110.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBPART 3—CIVIC EDUCATION

§ 6711. Short title

This subpart may be cited as the ''Education for Democracy Act''.

(Pub. L. 89–10, title II, § 2341, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1662.)

§ 6712. Purpose

It is the purpose of this subpart—

(1) to improve the quality of civics and government education by educating students about the history and principles of the Constitution of the United States, including the Bill of Rights;

(2) to foster civic competence and responsibility; and

(3) to improve the quality of civic education and economic education through cooperative civic education and economic education exchange programs with emerging democracies.

(Pub. L. 89–10, title II, § 2342, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1662.)

§ 6713. General authority

(a) Authority

The Secretary is authorized to award grants to, or enter into contracts with—

(1) the Center for Civic Education, to carry out civic education activities under sections 6714 and 6715 of this title;

(2) the National Council on Economic Education, to carry out economic education activities under section 6715 of this title; and

(3) organizations experienced in the development of curricula and programs in civics and government education and economic education for students in elementary schools and secondary schools in countries other than the United States, to carry out civic education activities under section 6715 of this title.

(b) Distribution for cooperative civic education and economic education exchange programs

(1) Limitation

Not more than 40 percent of the amount appropriated under section 6716 of this title for a fiscal year shall be used to carry out section 6715 of this title.

(2) Distribution

Of the amount used to carry out section 6715 of this title for a fiscal year (consistent with paragraph (1)), the Secretary shall use—

(A) 37.5 percent for a grant or contract for the Center for Civic Education;

(B) 37.5 percent for a grant or contract for the National Council on Economic Education; and

(C) 25 percent for not less than 1, but not more than 3, grants or contracts for organizations described in subsection (a)(3) of this section.

(Pub. L. 89–10, title II, § 2343, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1662.)

AMERICAN HISTORY AND CIVICS EDUCATION

Pub. L. 108–474, Dec. 21, 2004, 118 Stat. 3898, provided that:

''SECTION 1. SHORT TITLE.

''This Act may be cited as the 'American History and Civics Education Act of 2004'.

''SEC. 2. PRESIDENTIAL ACADEMIES FOR TEACHING OF AMERICAN HISTORY AND CIVICS; CONGRESSIONAL ACADEMIES FOR STUDENTS OF AMERICAN HISTORY AND CIVICS.

''(a) ESTABLISHMENT.—The Secretary of Education (referred to in this Act as the 'Secretary') may award not more than 12 grants, on a competitive basis—

''(1) to entities to establish Presidential Academies for Teaching of American History and Civics that

may offer workshops for both veteran and new teachers of American history and civics; and

''(2) to entities to establish Congressional Academies for Students of American History and Civics.

''(b) APPLICATION.—An entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(c) DEMONSTRATED EXPERTISE.—The Secretary shall require that each entity, to be eligible to receive a grant under this section, demonstrate expertise in historical methodology or the teaching of history.

''(d) AVAILABLE FUNDS.—To carry out this section, the Secretary may use any funds appropriated for fiscal year 2005 or any subsequent fiscal year to carry out part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7241 et seq.).

''SEC. 3. NATIONAL HISTORY DAY PROGRAM.

''The Secretary may award grants to the National History Day Program for the purpose of continuing and expanding its activities to promote the study of history and improve instruction.''

§ 6714. We the People program

(a) The Citizen and the Constitution

(1) Educational activities

The Center for Civic Education—

(A) shall use funds made available under grants or contracts under section 6713(a)(1) of this title—

(i) to continue and expand the educational activities of the program entitled the ''We the People. . . The Citizen and the Constitution'' program administered by such center;

(ii) to carry out activities to enhance student attainment of challenging academic content standards in civics and government;

(iii) to provide a course of instruction on the basic principles of the Nation's constitutional democracy and the history of the Constitution of the United States, including the Bill of Rights;

(iv) to provide, at the request of a participating school, school and community simulated congressional hearings following the course of instruction described in clause (iii); and

(v) to provide an annual national competition of simulated congressional hearings for secondary school students who wish to participate in such a program; and

(B) may use funds made available under grants or contracts under section 6713(a)(1) of this title—

(i) to provide advanced, sustained, and ongoing training of teachers about the Constitution of the United States and the political system of the United States;

(ii) to provide materials and methods of instruction, including teacher training, that utilize the latest advancements in educational technology; and

(iii) to provide civic education materials and services to address specific problems such as the prevention of school violence and the abuse of drugs and alcohol.

(2) Availability of program

The education program authorized under this subsection shall be made available to public and private elementary schools and secondary schools, including Bureau funded schools, in the 435 congressional districts, and in the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) Project Citizen

(1) Educational activities

The Center for Civic Education—

(A) shall use funds made available under grants or contracts under section 6713(a)(1) of this title—

(i) to continue and expand the educational activities of the program entitled the ''We the People. . . Project Citizen'' program administered by the Center;

(ii) to carry out activities to enhance student attainment of challenging academic content standards in civics and government;

(iii) to provide a course of instruction at the middle school level on the roles of State and local governments in the Federal system established by the Constitution of the United States; and

(iv) to provide an annual national showcase or competition; and

(B) may use funds made available under grants or contracts under section 6713(a)(1) of this title—

(i) to provide optional school and community simulated State legislative hearings;

(ii) to provide advanced, sustained, and ongoing training of teachers on the roles of State and local governments in the Federal system established by the Constitution of the United States;

(iii) to provide materials and methods of instruction, including teacher training, that utilize the latest advancements in educational technology; and

(iv) to provide civic education materials and services to address specific problems such as the prevention of school violence and the abuse of drugs and alcohol.

(2) Availability of program

The education program authorized under this subsection shall be made available to public and private middle schools, including Bureau funded schools, in the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(c) Bureau-funded school defined

In this section, the term ''Bureau-funded school'' has the meaning given such term in section 2026 of title 25.[1]

(Pub. L. 89–10, title II, § 2344, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1663.)

REFERENCES IN TEXT

Section 2026 of title 25, referred to in subsec. (c), was omitted in the general amendment of chapter 22 of

[1] See References in Text note below.

Title 25, Indians, by Pub. L. 107–110, title X, §1042, Jan. 8, 2002, 115 Stat. 2007. See section 2021 of Title 25.

§ 6715. Cooperative civic education and economic education exchange programs

(a) Cooperative education exchange programs

The Center for Civic Education, the National Council on Economic Education, and organizations described in section 6713(a)(3) of this title shall use funds made available under grants or contracts under section 6713 of this title to carry out cooperative education exchange programs in accordance with this section.

(b) Purpose

The purpose of the cooperative education exchange programs carried out under this section shall be—

(1) to make available to educators from eligible countries exemplary curriculum and teacher training programs in civics and government education, and economics education, developed in the United States;

(2) to assist eligible countries in the adaptation, implementation, and institutionalization of such programs;

(3) to create and implement civics and government education, and economic education, programs for students that draw upon the experiences of the participating eligible countries;

(4) to provide a means for the exchange of ideas and experiences in civics and government education, and economic education, among political, educational, governmental, and private sector leaders of participating eligible countries; and

(5) to provide support for—

(A) independent research and evaluation to determine the effects of educational programs on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

(B) effective participation in, and the preservation and improvement of, an efficient market economy.

(c) Activities

In carrying out the cooperative education exchange programs assisted under this section, the Center for Civic Education, the National Council on Economic Education, and organizations described in section 6713(a)(3) of this title shall—

(1) provide to the participants from eligible countries—

(A) seminars on the basic principles of United States constitutional democracy and economic system, including seminars on the major governmental and economic institutions and systems in the United States, and visits to such institutions;

(B) visits to school systems, institutions of higher education, and nonprofit organizations conducting exemplary programs in civics and government education, and economic education, in the United States;

(C) translations and adaptations with respect to United States civics and government education, and economic education, curricular programs for students and teachers, and in the case of training programs for teachers, translations and adaptations into forms useful in schools in eligible countries, and joint research projects in such areas; and

(D) independent research and evaluation assistance—

(i) to determine the effects of the cooperative education exchange programs on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

(ii) to identify effective participation in, and the preservation and improvement of, an efficient market economy;

(2) provide to the participants from the United States—

(A) seminars on the histories, economies, and systems of government of eligible countries;

(B) visits to school systems, institutions of higher education, and organizations conducting exemplary programs in civics and government education, and economic education, located in eligible countries;

(C) assistance from educators and scholars in eligible countries in the development of curricular materials on the history, government, and economy of such countries that are useful in United States classrooms;

(D) opportunities to provide onsite demonstrations of United States curricula and pedagogy for educational leaders in eligible countries; and

(E) independent research and evaluation assistance to determine—

(i) the effects of the cooperative education exchange programs assisted under this section on students' development of the knowledge, skills, and traits of character essential for the preservation and improvement of constitutional democracy; and

(ii) effective participation in, and improvement of, an efficient market economy; and

(3) assist participants from eligible countries and the United States to participate in international conferences on civics and government education, and economic education, for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

(d) Participants

The primary participants in the cooperative education exchange programs assisted under this section shall be educational leaders in the areas of civics and government education, and economic education, including teachers, curriculum and teacher training specialists, scholars in relevant disciplines, and educational policymakers, and government and private sector leaders from the United States and eligible countries.

(e) Consultation

The Secretary may award a grant to, or enter into a contract with, the entities described in section 6713 of this title to carry out programs

assisted under this section only if the Secretary of State concurs with the Secretary that such grant, or contract, respectively, is consistent with the foreign policy of the United States.

(f) Avoidance of duplication

With the concurrence of the Secretary of State, the Secretary shall ensure that—

(1) the activities carried out under the programs assisted under this section are not duplicative of other activities conducted in eligible countries; and

(2) any institutions in eligible countries, with which the Center for Civic Education, the National Council on Economic Education, or organizations described in section 6713(a)(3) of this title may work in conducting such activities, are creditable.

(g) Eligible country defined

In this section, the term ''eligible country'' means a Central European country, an Eastern European country, Lithuania, Latvia, Estonia, the independent states of the former Soviet Union as defined in section 5801 of title 22, the Republic of Ireland, the province of Northern Ireland in the United Kingdom, and any developing country (as such term is defined in section 4359a(d) of this title)[1] if the Secretary, with the concurrence of the Secretary of State, determines that such developing country has a democratic form of government.

(Pub. L. 89–10, title II, § 2345, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1664.)

REFERENCES IN TEXT

Section 4359a(d) of this title, referred to in subsec. (g), was in the original ''section 209(d) of the Education for the Deaf Act'', and was translated as reading ''section 209(d) of the Education of the Deaf Act of 1986'', to reflect the probable intent of Congress.

§ 6716. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart $30,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title II, § 2346, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1666.)

SUBPART 4—TEACHING OF TRADITIONAL AMERICAN HISTORY

§ 6721. Establishment of program

(a) In general

The Secretary may establish and implement a program to be known as the ''Teaching American History Grant Program'', under which the Secretary shall award grants on a competitive basis to local educational agencies—

(1) to carry out activities to promote the teaching of traditional American history in elementary schools and secondary schools as a separate academic subject (not as a component of social studies); and

(2) for the development, implementation, and strengthening of programs to teach traditional American history as a separate academic subject (not as a component of social studies) within elementary school and secondary school curricula, including the implementation of activities—

(A) to improve the quality of instruction; and

(B) to provide professional development and teacher education activities with respect to American history.

(b) Required partnership

A local educational agency that receives a grant under subsection (a) of this section shall carry out activities under the grant in partnership with one or more of the following:

(1) An institution of higher education.

(2) A nonprofit history or humanities organization.

(3) A library or museum.

(c) Application

To be eligible to receive an[1] grant under this section, a local educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(Pub. L. 89–10, title II, § 2351, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1666.)

§ 6722. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title II, § 2352, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1667.)

SUBPART 5—TEACHER LIABILITY PROTECTION

§ 6731. Short title

This subpart may be cited as the ''Paul D. Coverdell Teacher Protection Act of 2001''.

(Pub. L. 89–10, title II, § 2361, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1667.)

§ 6732. Purpose

The purpose of this subpart is to provide teachers, principals, and other school professionals the tools they need to undertake reasonable actions to maintain order, discipline, and an appropriate educational environment.

(Pub. L. 89–10, title II, § 2362, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1667.)

§ 6733. Definitions

For purposes of this subpart:

(1) Economic loss

The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(2) Harm

The term ''harm'' includes physical, nonphysical, economic, and noneconomic losses.

[1] See References in Text note below.

[1] So in original. Probably should be ''a''.

(3) Noneconomic loss

The term ''noneconomic loss'' means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society or companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, or any other nonpecuniary loss of any kind or nature.

(4) School

The term ''school'' means a public or private kindergarten, a public or private elementary school or secondary school, or a home school.

(5) State

The term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) Teacher

The term ''teacher'' means—

(A) a teacher, instructor, principal, or administrator;

(B) another educational professional who works in a school;

(C) a professional or nonprofessional employee who—

(i) works in a school; and

(ii)(I) in the employee's job, maintains discipline or ensures safety; or

(II) in an emergency, is called on to maintain discipline or ensure safety; or

(D) an individual member of a school board (as distinct from the board).

(Pub. L. 89–10, title II, § 2363, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1667.)

§ 6734. Applicability

This subpart shall only apply to States that receive funds under this chapter, and shall apply to such a State as a condition of receiving such funds.

(Pub. L. 89–10, title II, § 2364, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1668.)

§ 6735. Preemption and election of State nonapplicability

(a) Preemption

This subpart preempts the laws of any State to the extent that such laws are inconsistent with this subpart, except that this subpart shall not preempt any State law that provides additional protection from liability relating to teachers.

(b) Election of State regarding nonapplicability

This subpart shall not apply to any civil action in a State court against a teacher with respect to claims arising within that State if such State enacts a statute in accordance with State requirements for enacting legislation—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this subpart shall not apply, as of a date certain, to such civil action in the State; and

(3) containing no other provisions.

(Pub. L. 89–10, title II, § 2365, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1668.)

§ 6736. Limitation on liability for teachers

(a) Liability protection for teachers

Except as provided in subsection (b) of this section, no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if—

(1) the teacher was acting within the scope of the teacher's employment or responsibilities to a school or governmental entity;

(2) the actions of the teacher were carried out in conformity with Federal, State, and local laws (including rules and regulations) in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;

(3) if appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice involved in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;

(4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and

(5) the harm was not caused by the teacher operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

(b) Exceptions to teacher liability protection

If the laws of a State limit teacher liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a school or governmental entity to adhere to risk management procedures, including mandatory training of teachers.

(2) A State law that makes the school or governmental entity liable for the acts or omissions of its teachers to the same extent as an employer is liable for the acts or omissions of its employees.

ate[1] law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(c) Limitation on punitive damages based on the actions of teachers

(1) General rule

Punitive damages may not be awarded against a teacher in an action brought for harm based on the act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity unless the claimant establishes by clear and convincing evidence

[1] So in original. Probably should be ''(3) A State''.

that the harm was proximately caused by an act or omission of such teacher that constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) Construction

Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(d) Exceptions to limitations on liability

(1) In general

The limitations on the liability of a teacher under this subpart shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(C) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(D) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) Hiring

The limitations on the liability of a teacher under this subpart shall not apply to misconduct during background investigations, or during other actions, involved in the hiring of a teacher.

(e) Rules of construction

(1) Concerning responsibility of teachers to schools and governmental entities

Nothing in this section shall be construed to affect any civil action brought by any school or any governmental entity against any teacher of such school.

(2) Concerning corporal punishment

Nothing in this subpart shall be construed to affect any State or local law (including a rule or regulation) or policy pertaining to the use of corporal punishment.

(Pub. L. 89–10, title II, § 2366, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1668.)

§ 6737. Allocation of responsibility for noneconomic loss

(a) General rule

In any civil action against a teacher, based on an act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity, the liability of the teacher for noneconomic loss shall be determined in accordance with subsection (b) of this section.

(b) Amount of liability

(1) In general

(A) Liability

Each defendant who is a teacher shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable.

(B) Separate judgment

The court shall render a separate judgment against each defendant in an amount determined pursuant to subparagraph (A).

(2) Percentage of responsibility

For purposes of determining the amount of noneconomic loss allocated to a defendant who is a teacher under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

(c) Rule of construction

Nothing in this section shall be construed to preempt or supersede any Federal or State law that further limits the application of joint liability in a civil action described in subsection (a) of this section, beyond the limitations established in this section.

(Pub. L. 89–10, title II, § 2367, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1670.)

§ 6738. Effective date

(a) In general

This subpart shall take effect 90 days after January 8, 2002.

(b) Application

This subpart applies to any claim for harm caused by an act or omission of a teacher if that claim is filed on or after the effective date of the No Child Left Behind Act of 2001 without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

(Pub. L. 89–10, title II, § 2368, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1670.)

REFERENCES IN TEXT

For the effective date of the No Child Left Behind Act of 2001, referred to in subsec. (b), see section 5 of Pub. L. 107–110, set out as an Effective Date of 2002 Amendment note under section 6301 of this title.

PART D—ENHANCING EDUCATION THROUGH TECHNOLOGY

§ 6751. Short title

This part may be cited as the ''Enhancing Education Through Technology Act of 2001''.

(Pub. L. 89–10, title II, § 2401, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1671.)

PRIOR PROVISIONS

A prior section 2401 of Pub. L. 89–10 was classified to section 6701 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6752. Purposes and goals

(a) Purposes

The purposes of this part are the following:

(1) To provide assistance to States and localities for the implementation and support of a comprehensive system that effectively uses technology in elementary schools and secondary schools to improve student academic achievement.

(2) To encourage the establishment or expansion of initiatives, including initiatives involving public-private partnerships, designed to increase access to technology, particularly in schools served by high-need local educational agencies.

(3) To assist States and localities in the acquisition, development, interconnection, implementation, improvement, and maintenance of an effective educational technology infrastructure in a manner that expands access to technology for students (particularly for disadvantaged students) and teachers.

(4) To promote initiatives that provide school teachers, principals, and administrators with the capacity to integrate technology effectively into curricula and instruction that are aligned with challenging State academic content and student academic achievement standards, through such means as high-quality professional development programs.

(5) To enhance the ongoing professional development of teachers, principals, and administrators by providing constant access to training and updated research in teaching and learning through electronic means.

(6) To support the development and utilization of electronic networks and other innovative methods, such as distance learning, of delivering specialized or rigorous academic courses and curricula for students in areas that would not otherwise have access to such courses and curricula, particularly in geographically isolated regions.

(7) To support the rigorous evaluation of programs funded under this part, particularly regarding the impact of such programs on student academic achievement, and ensure that timely information on the results of such evaluations is widely accessible through electronic means.

(8) To support local efforts using technology to promote parent and family involvement in education and communication among students, parents, teachers, principals, and administrators.

(b) Goals

(1) Primary goal

The primary goal of this part is to improve student academic achievement through the use of technology in elementary schools and secondary schools.

(2) Additional goals

The additional goals of this part are the following:

(A) To assist every student in crossing the digital divide by ensuring that every student is technologically literate by the time the student finishes the eighth grade, regardless of the student's race, ethnicity, gender, family income, geographic location, or disability.

(B) To encourage the effective integration of technology resources and systems with teacher training and curriculum development to establish research-based instructional methods that can be widely implemented as best practices by State educational agencies and local educational agencies.

(Pub. L. 89–10, title II, § 2402, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1671.)

PRIOR PROVISIONS

A prior section 2402 of Pub. L. 89–10 was classified to section 6702 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6753. Definitions

In this part:

(1) Eligible local entity

The term ''eligible local entity'' means—

(A) a high-need local educational agency; or

(B) an eligible local partnership.

(2) Eligible local partnership

The term ''eligible local partnership'' means a partnership that—

(A) shall include at least one high-need local educational agency and at least one—

(i) local educational agency that can demonstrate that teachers in schools served by the agency are effectively integrating technology and proven teaching practices into instruction, based on a review of relevant research, and that the integration results in improvement in—

(I) classroom instruction in the core academic subjects; and

(II) the preparation of students to meet challenging State academic content and student academic achievement standards;

(ii) institution of higher education that is in full compliance with the reporting requirements of section 1027(f) of this title and that has not been identified by its State as low-performing under section 1028 of this title;

(iii) for-profit business or organization that develops, designs, manufactures, or produces technology products or services, or has substantial expertise in the application of technology in instruction; or

(iv) public or private nonprofit organization with demonstrated experience in the application of educational technology to instruction; and

(B) may include other local educational agencies, educational service agencies, libraries, or other educational entities appropriate to provide local programs.

(3) High-need local educational agency

The term ''high-need local educational agency'' means a local educational agency that—

(A) is among the local educational agencies in a State with the highest numbers or percentages of children from families with incomes below the poverty line; and

(B)(i) operates one or more schools identified under section 6316 of this title; or

(ii) has a substantial need for assistance in acquiring and using technology.

(Pub. L. 89–10, title II, § 2403, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1672.)

§ 6754. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out subparts 1 and 2 of this part, $1,000,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) Allocation of funds between State and local and national initiatives

The amount of funds made available under subsection (a) of this section for a fiscal year shall be allocated so that—

(1) not less than 98 percent is made available to carry out subpart 1 of this part; and

(2) not more than 2 percent is made available to carry out subpart 2 of this part.

(c) Allocation of funds for study

Of the total amount of funds allocated under subsection (b)(2) of this section for fiscal years 2002 through 2007, not more than $15,000,000 may be used to carry out section 6771(a) of this title.

(d) Limitation

Of the amount of funds made available to a recipient of funds under this part for a fiscal year, not more than 5 percent may be used by the recipient for administrative costs or technical assistance, of which not more than 60 percent may be used by the recipient for administrative costs.

(Pub. L. 89–10, title II, § 2404, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1673.)

SUBPART 1—STATE AND LOCAL TECHNOLOGY GRANTS

§ 6761. Allotment and reallotment

(a) Reservations and allotment

From the amount made available to carry out this subpart under section 6754(b)(1) of this title for a fiscal year—

(1) the Secretary shall reserve—

(A) three-fourths of 1 percent for the Secretary of the Interior for programs under this subpart for schools operated or funded by the Bureau of Indian Affairs;

(B) one-half of 1 percent to provide assistance under this subpart to the outlying areas; and

(C) such sums as may be necessary for continuation awards on grants awarded under section 3136[1] prior to January 8, 2002; and

(2) from the remainder of such amount and subject to subsection (b) of this section, the Secretary shall make grants by allotting to each eligible State educational agency under this subpart an amount that bears the same relationship to such remainder for such year as the amount received under part A of subchapter I of this chapter for such year by such State educational agency bears to the amount received under such part for such year by all State educational agencies.

[1] See References in Text note below.

(b) Minimum allotment

The amount of any State educational agency's allotment under subsection (a)(2) of this section for any fiscal year may not be less than one-half of 1 percent of the amount made available for allotments to States under this part for such year.

(c) Reallotment of unused funds

If any State educational agency does not apply for an allotment under this subpart for a fiscal year, or does not use its entire allotment under this subpart for that fiscal year, the Secretary shall reallot the amount of the State educational agency's allotment, or the unused portion of the allotment, to the remaining State educational agencies that use their entire allotments under this subpart in accordance with this section.

(d) State educational agency defined

In this section, the term ''State educational agency'' does not include an agency of an outlying area or the Bureau of Indian Affairs.

(Pub. L. 89–10, title II, § 2411, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1673.)

REFERENCES IN TEXT

Section 3136 prior to January 8, 2002, referred to in subsec. (a)(1)(C), means section 3136 of Pub. L. 89–10, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3648, which was classified to section 6846 of this title prior to the general amendment of subchapter III of this chapter by Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1689.

§ 6762. Use of allotment by State

(a) In general

Of the amount provided to a State educational agency (from the agency's allotment under section 6761(a)(2) of this title) for a fiscal year—

(1) the State educational agency may use not more than 5 percent to carry out activities under section 6765 of this title; and

(2) the State educational agency shall distribute the remainder as follows:

(A) From 50 percent of the remainder, the State educational agency shall award subgrants by allocating to each eligible local educational agency that has submitted an application to the State educational agency under section 6764 of this title, for the activities described in section 6766 of this title, an amount that bears the same relationship to 50 percent of the remainder for such year as the amount received under part A of subchapter I of this chapter for such year by such local educational agency bears to the amount received under such part for such year by all local educational agencies within the State.

(B) From 50 percent of the remainder and subject to subsection (b) of this section, the State educational agency shall award subgrants, through a State-determined competitive process, to eligible local entities that have submitted applications to the State educational agency under section 6764 of this title, for the activities described in section 6766 of this title.

(b) Sufficient amounts

(1) Special rule

In awarding a subgrant under subsection (a)(2)(B) of this section, the State educational agency shall—

(A) determine the local educational agencies that—

(i) received allocations under subsection (a)(2)(A) of this section that are not of sufficient size to be effective, consistent with the purposes of this part; and

(ii) are eligible local entities;

(B) give priority to applications submitted by eligible local educational agencies described in subparagraph (A); and

(C) determine the minimum amount for awards under subsection (a)(2)(B) of this section to ensure that subgrants awarded under that subsection are of sufficient size to be effective.

(2) Sufficiency

In awarding subgrants under subsection (a)(2)(B) of this section, each State educational agency shall ensure that each subgrant is of sufficient size and duration, and that the program funded by the subgrant is of sufficient scope and quality, to carry out the purposes of this part effectively.

(3) Distribution

In awarding subgrants under subsection (a)(2)(B) of this section, each State educational agency shall ensure an equitable distribution of assistance under this subpart among urban and rural areas of the State, according to the demonstrated need of those local educational agencies serving the areas.

(c) Fiscal agent

If an eligible local partnership receives a subgrant under subsection (a)(2)(B) of this section, a local educational agency in the partnership shall serve as the fiscal agent for the partnership.

(d) Technical assistance

Each State educational agency receiving a grant under section 6761(a) of this title shall—

(1) identify the local educational agencies served by the State educational agency that—

(A) have the highest numbers or percentages of children from families with incomes below the poverty line; and

(B) demonstrate to such State educational agency the greatest need for technical assistance in developing an application under section 6764 of this title; and

(2) offer the technical assistance described in paragraph (1)(B) to those local educational agencies.

(Pub. L. 89–10, title II, § 2412, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1674.)

§ 6763. State applications

(a) In general

To be eligible to receive a grant under this subpart, a State educational agency shall submit to the Secretary, at such time and in such manner as the Secretary may specify, an application containing a new or updated statewide long-range strategic educational technology plan (which shall address the educational technology needs of local educational agencies) and such other information as the Secretary may reasonably require.

(b) Contents

Each State application submitted under subsection (a) of this section shall include each of the following:

(1) An outline of the State educational agency's long-term strategies for improving student academic achievement, including technology literacy, through the effective use of technology in classrooms throughout the State, including through improving the capacity of teachers to integrate technology effectively into curricula and instruction.

(2) A description of the State educational agency's goals for using advanced technology to improve student academic achievement, and how those goals are aligned with challenging State academic content and student academic achievement standards.

(3) A description of how the State educational agency will take steps to ensure that all students and teachers in the State, particularly students and teachers in districts served by high-need local educational agencies, have increased access to technology.

(4) A description of the process and accountability measures that the State educational agency will use to evaluate the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction.

(5) A description of how the State educational agency will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies, particularly for those areas of the State that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

(6) An assurance that financial assistance provided under this subpart will supplement, and not supplant, State and local funds.

(7) A description of how the plan incorporates teacher education, professional development, and curriculum development, and how the State educational agency will work to ensure that teachers and principals in a State receiving funds under this part are technologically literate.

(8) A description of—

(A) how the State educational agency will provide technical assistance to applicants under section 6764 of this title, especially to those applicants serving the highest numbers or percentages of children in poverty or with the greatest need for technical assistance; and

(B) the capacity of the State educational agency to provide such assistance.

(9) A description of technology resources and systems that the State will provide for the purpose of establishing best practices that can be widely replicated by State educational

agencies and local educational agencies in the State and in other States.

(10) A description of the State's long-term strategies for financing technology to ensure that all students, teachers, and classrooms have access to technology.

(11) A description of the State's strategies for using technology to increase parental involvement.

(12) A description of how the State educational agency will ensure that each subgrant awarded under section 6762(a)(2)(B) of this title is of sufficient size and duration, and that the program funded by the subgrant is of sufficient scope and quality, to carry out the purposes of this part effectively.

(13) A description of how the State educational agency will ensure ongoing integration of technology into school curricula and instructional strategies in all schools in the State, so that technology will be fully integrated into the curricula and instruction of the schools by December 31, 2006.

(14) A description of how the local educational agencies in the State will provide incentives to teachers who are technologically literate and teaching in rural or urban areas, to encourage such teachers to remain in those areas.

(15) A description of how public and private entities will participate in the implementation and support of the plan.

(c) Deemed approval

An application submitted by a State educational agency pursuant to subsection (a) of this section shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this part.

(d) Disapproval

The Secretary shall not finally disapprove the application, except after giving the State educational agency notice and an opportunity for a hearing.

(e) Notification

If the Secretary finds that the application is not in compliance, in whole or in part, with this part, the Secretary shall—

(1) give the State educational agency notice and an opportunity for a hearing; and

(2) notify the State educational agency of the finding of noncompliance and, in such notification, shall—

(A) cite the specific provisions in the application that are not in compliance; and

(B) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(f) Response

If the State educational agency responds to the Secretary's notification described in subsection (e)(2) of this section during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in subsection (e)(2)(B) of this section, the Secretary shall approve or disapprove such application prior to the later of—

(1) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(2) the expiration of the 120-day period described in subsection (c) of this section.

(g) Failure to respond

If the State educational agency does not respond to the Secretary's notification described in subsection (e)(2) of this section during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

(Pub. L. 89–10, title II, § 2413, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1675.)

§ 6764. Local applications

(a) In general

To be eligible to receive a subgrant from a State educational agency under this subpart, a local educational agency or eligible local entity shall submit to the State educational agency an application containing a new or updated local long-range strategic educational technology plan that is consistent with the objectives of the statewide educational technology plan described in section 6763(a) of this title, and such other information as the State educational agency may reasonably require, at such time and in such manner as the State educational agency may require.

(b) Contents

The application shall include each of the following:

(1) A description of how the applicant will use Federal funds under this subpart to improve the student academic achievement, including technology literacy, of all students attending schools served by the local educational agency and to improve the capacity of all teachers teaching in schools served by the local educational agency to integrate technology effectively into curricula and instruction.

(2) A description of the applicant's specific goals for using advanced technology to improve student academic achievement, aligned with challenging State academic content and student academic achievement standards.

(3) A description of the steps the applicant will take to ensure that all students and teachers in schools served by the local educational agency involved have increased access to educational technology, including how the agency would use funds under this subpart (such as combining the funds with funds from other sources), to help ensure that—

(A) students in high-poverty and high-needs schools, or schools identified under section 6316 of this title, have access to technology; and

(B) teachers are prepared to integrate technology effectively into curricula and instruction.

(4) A description of how the applicant will—

(A) identify and promote curricula and teaching strategies that integrate tech-

nology effectively into curricula and instruction, based on a review of relevant research, leading to improvements in student academic achievement, as measured by challenging State academic content and student academic achievement standards; and

(B) provide ongoing, sustained professional development for teachers, principals, administrators, and school library media personnel serving the local educational agency, to further the effective use of technology in the classroom or library media center, including, if applicable, a list of the entities that will be partners with the local educational agency involved in providing the ongoing, sustained professional development.

(5) A description of the type and costs of technologies to be acquired under this subpart, including services, software, and digital curricula, and including specific provisions for interoperability among components of such technologies.

(6) A description of how the applicant will coordinate activities carried out with funds provided under this subpart with technology-related activities carried out with funds available from other Federal, State, and local sources.

(7) A description of how the applicant will integrate technology (including software and other electronically delivered learning materials) into curricula and instruction, and a timeline for such integration.

(8) A description of how the applicant will encourage the development and utilization of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies, particularly for those areas that would not otherwise have access to such courses and curricula due to geographical isolation or insufficient resources.

(9) A description of how the applicant will ensure the effective use of technology to promote parental involvement and increase communication with parents, including a description of how parents will be informed of the technology being applied in their child's education so that the parents are able to reinforce at home the instruction their child receives at school.

(10) A description of how programs will be developed, where applicable, in collaboration with adult literacy service providers, to maximize the use of technology.

(11) A description of the process and accountability measures that the applicant will use to evaluate the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

(12) A description of the supporting resources (such as services, software, other electronically delivered learning materials, and print resources) that will be acquired to ensure successful and effective uses of technology.

(c) Combined applications

A local educational agency that is an eligible local entity and submits an application to the State educational agency under this section for funds awarded under section 6762(a)(2)(A) of this title may combine the agency's application for funds awarded under that section with an application for funds awarded under section 6762(a)(2)(B) of this title.

(d) Special rule

(1) Consortium applications

(A) In general

For any fiscal year, a local educational agency applying for financial assistance described in section 6762(a)(2)(A) of this title may apply as part of a consortium that includes other local educational agencies, institutions of higher education, educational service agencies, libraries, or other educational entities appropriate to provide local programs.

(B) Fiscal agent

If a local educational agency applies for and receives financial assistance described in section 6762(a)(2)(A) of this title as part of a consortium, the local educational agency shall serve as the fiscal agent for the consortium.

(2) State educational agency assistance

At the request of a local educational agency, a State educational agency may assist the local educational agency in the formation of a consortium described in paragraph (1) to provide services for the teachers and students served by the local educational agency.

(Pub. L. 89–10, title II, § 2414, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1677.)

§ 6765. State activities

From funds made available under section 6762(a)(1) of this title, a State educational agency shall carry out activities and assist local efforts to carry out the purposes of this part, which may include the following activities:

(1) Developing, or assisting applicants or recipients of funds under this subpart in the development and utilization of, innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies, and providing other technical assistance to such applicants or recipients throughout the State, with priority given to high-need local educational agencies.

(2) Establishing or supporting public-private initiatives (such as interest-free or reduced-cost loans) for the acquisition of educational technology for high-need local educational agencies and students attending schools served by such agencies.

(3) Assisting recipients of funds under this subpart in providing sustained and intensive, high-quality professional development based on a review of relevant research in the integration of advanced technologies, including emerging technologies, into curricula and instruction and in using those technologies to

create new learning environments, including training in the use of technology to—

(A) access data and resources to develop curricula and instructional materials;

(B) enable teachers—

(i) to use the Internet and other technology to communicate with parents, other teachers, principals, and administrators; and

(ii) to retrieve Internet-based learning resources; and

(C) lead to improvements in classroom instruction in the core academic subjects, that effectively prepare students to meet challenging State academic content standards and student academic achievement standards.

(4) Assisting recipients of funds under this subpart in providing all students (including students with disabilities and students with limited English proficiency) and teachers with access to educational technology.

(5) Developing performance measurement systems to determine the effectiveness of educational technology programs funded under this subpart, particularly in determining the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

(6) Collaborating with other State educational agencies on distance learning, including making specialized or rigorous academic courses and curricula available to students in areas that would not otherwise have access to such courses and curricula.

(Pub. L. 89–10, title II, § 2415, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1679.)

§ 6766. Local activities

(a) Professional development

(1) In general

A recipient of funds made available under section 6762(a)(2) of this title shall use not less than 25 percent of such funds to provide ongoing, sustained, and intensive, high-quality professional development. The recipient shall provide professional development in the integration of advanced technologies, including emerging technologies, into curricula and instruction and in using those technologies to create new learning environments, such as professional development in the use of technology—

(A) to access data and resources to develop curricula and instructional materials;

(B) to enable teachers—

(i) to use the Internet and other technology to communicate with parents, other teachers, principals, and administrators; and

(ii) to retrieve Internet-based learning resources; and

(C) to lead to improvements in classroom instruction in the core academic subjects, that effectively prepare students to meet challenging State academic content standards, including increasing student technology literacy, and student academic achievement standards.

(2) Waivers

Paragraph (1) shall not apply to a recipient of funds made available under section 6762(a)(2) of this title that demonstrates, to the satisfaction of the State educational agency involved, that the recipient already provides ongoing, sustained, and intensive, high-quality professional development that is based on a review of relevant research, to all teachers in core academic subjects in the integration of advanced technologies, including emerging technologies, into curricula and instruction.

(b) Other activities

In addition to the activities described in subsection (a) of this section, a recipient of funds made available by a State educational agency under section 6762(a)(2) of this title shall use such funds to carry out other activities consistent with this subpart, which may include the following:

(1) Establishing or expanding initiatives, particularly initiatives involving public-private partnerships, designed to increase access to technology for students and teachers, with special emphasis on the access of high-need schools to technology.

(2) Adapting or expanding existing and new applications of technology to enable teachers to increase student academic achievement, including technology literacy—

(A) through the use of teaching practices that are based on a review of relevant research and are designed to prepare students to meet challenging State academic content and student academic achievement standards; and

(B) by the development and utilization of innovative distance learning strategies to deliver specialized or rigorous academic courses and curricula to areas that would not otherwise have access to such courses and curricula.

(3) Acquiring proven and effective courses and curricula that include integrated technology and are designed to help students meet challenging State academic content and student academic achievement standards.

(4) Utilizing technology to develop or expand efforts to connect schools and teachers with parents and students to promote meaningful parental involvement, to foster increased communication about curricula, assignments, and assessments between students, parents, and teachers, and to assist parents to understand the technology being applied in their child's education, so that parents are able to reinforce at home the instruction their child receives at school.

(5) Preparing one or more teachers in elementary schools and secondary schools as technology leaders who are provided with the means to serve as experts and train other teachers in the effective use of technology,

and providing bonus payments to the technology leaders.

(6) Acquiring, adapting, expanding, implementing, repairing, and maintaining existing and new applications of technology, to support the school reform effort and to improve student academic achievement, including technology literacy.

(7) Acquiring connectivity linkages, resources, and services (including the acquisition of hardware and software and other electronically delivered learning materials) for use by teachers, students, academic counselors, and school library media personnel in the classroom, in academic and college counseling centers, or in school library media centers, in order to improve student academic achievement.

(8) Using technology to collect, manage, and analyze data to inform and enhance teaching and school improvement efforts.

(9) Implementing performance measurement systems to determine the effectiveness of education technology programs funded under this subpart, particularly in determining the extent to which activities funded under this subpart are effective in integrating technology into curricula and instruction, increasing the ability of teachers to teach, and enabling students to meet challenging State academic content and student academic achievement standards.

(10) Developing, enhancing, or implementing information technology courses.

(Pub. L. 89–10, title II, § 2416, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1680.)

SUBPART 2—NATIONAL TECHNOLOGY ACTIVITIES

§ 6771. National activities

(a) Study

Using funds made available under section 6754(b)(2) of this title, the Secretary—

(1) shall conduct an independent, long-term study, utilizing scientifically based research methods and control groups or control conditions—

(A) on the conditions and practices under which educational technology is effective in increasing student academic achievement; and

(B) on the conditions and practices that increase the ability of teachers to integrate technology effectively into curricula and instruction, that enhance the learning environment and opportunities, and that increase student academic achievement, including technology literacy;

(2) shall establish an independent review panel to advise the Secretary on methodological and other issues that arise in conducting the long-term study;

(3) shall consult with other interested Federal departments or agencies, State and local educational practitioners and policymakers (including teachers, principals, and superintendents), and experts in technology, regarding the study; and

(4) shall submit to Congress interim reports, when appropriate, and a final report, to be submitted not later than April 1, 2006, on the findings of the study.

(b) Dissemination

Using funds made available under section 6754(b)(2) of this title, the Secretary shall make widely available, including through dissemination on the Internet and to all State educational agencies and other recipients of funds under this part, findings identified through activities carried out under this section regarding the conditions and practices under which educational technology is effective in increasing student academic achievement.

(c) Technical assistance

Using funds made available under section 6754(b)(2) of this title, the Secretary may provide technical assistance (directly or through the competitive award of grants or contracts) to State educational agencies, local educational agencies, and other recipients of funds, particularly in rural areas, under this part, in order to assist such State educational agencies, local educational agencies, and other recipients to achieve the purposes of this part.

(Pub. L. 89–10, title II, § 2421, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1682.)

§ 6772. National education technology plan

(a) In general

Based on the Nation's progress and an assessment by the Secretary of the continuing and future needs of the Nation's schools in effectively using technology to provide all students the opportunity to meet challenging State academic content and student academic achievement standards, the Secretary shall update and publish, in a form readily accessible to the public, a national long-range technology plan, by not later than 12 months after January 8, 2002.

(b) Contents

The plan referred to in subsection (a) of this section shall include each of the following:

(1) A description of the manner in which the Secretary will promote—

(A) higher student academic achievement through the integration of advanced technologies, including emerging technologies, into curricula and instruction;

(B) increased access to technology for teaching and learning for schools with a high number or percentage of children from families with incomes below the poverty line; and

(C) the use of technology to assist in the implementation of State systemic reform strategies.

(2) A description of joint activities of the Department of Education and other Federal departments or agencies that will promote the use of technology in education.

(Pub. L. 89–10, title II, § 2422, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1682.)

SUBPART 3—READY-TO-LEARN TELEVISION

§ 6775. Ready-to-Learn Television

(a) Program authorized

(1) In general

The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, eligible entities described in paragraph (3) to enable such entities—

(A) to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate student academic achievement;

(B) to facilitate the development, directly or through contracts with producers of children and family educational television programming, of educational programming for preschool and elementary school children, and the accompanying support materials and services that promote the effective use of such programming;

(C) to facilitate the development of programming and digital content containing Ready-to-Learn-based children's programming and resources for parents and caregivers that is specially designed for nationwide distribution over public television stations' digital broadcasting channels and the Internet;

(D) to contract with entities (such as public telecommunications entities) so that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming, and through the use of the most appropriate distribution technologies; and

(E) to develop and disseminate education and training materials, including interactive programs and programs adaptable to distance learning technologies, that are designed—

(i) to promote school readiness; and

(ii) to promote the effective use of materials developed under subparagraphs (B) and (C) among parents, teachers, Head Start providers, Even Start providers, providers of family literacy services, child care providers, early childhood development personnel, elementary school teachers, public libraries, and after-school program personnel caring for preschool and elementary school children.

(2) Availability

In awarding grants, contracts, or cooperative agreements under this section, the Secretary shall ensure that eligible entities make programming widely available, with support materials as appropriate, to young children, parents, child care workers, Head Start providers, Even Start providers, and providers of family literacy services to increase the effective use of such programming.

(3) Eligible entities

To be eligible to receive a grant, contract, or cooperative agreements under this section, an entity shall be a public telecommunications entity that is able to demonstrate each of the following:

(A) A capacity for the development and national distribution of educational and instructional television programming of high quality that is accessible by a large majority of disadvantaged preschool and elementary school children.

(B) A capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality.

(C) A capacity, consistent with the entity's mission and nonprofit nature, to negotiate such contracts in a manner that returns to the entity an appropriate share of any ancillary income from sales of any program-related products.

(D) A capacity to localize programming and materials to meet specific State and local needs and to provide educational outreach at the local level.

(4) Coordination of activities

An entity receiving a grant, contract, or cooperative agreement under this section shall consult with the Secretary and the Secretary of Health and Human Services—

(A) to maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

(B) to coordinate activities with Federal programs that have major training components for early childhood development, including programs under the Head Start Act (42 U.S.C. 9831 et seq.) and Even Start, and State training activities funded under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), regarding the availability and utilization of materials developed under paragraph (1)(E) to enhance parent and child care provider skills in early childhood development and education.

(b) Applications

To be eligible to receive a grant, contract, or cooperative agreement under subsection (a) of this section, an entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) Reports and evaluations

(1) Annual report to the Secretary

An entity receiving a grant, contract, or cooperative agreement under this section shall prepare and submit to the Secretary an annual report that contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under the grant, contract, or cooperative agreement, including each of the following:

(A) The programming that has been developed, directly or indirectly, by the eligible entity, and the target population of the programs developed.

(B) The support and training materials that have been developed to accompany the programming, and the method by which the materials are distributed to consumers and users of the programming.

(C) The means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available, and the geographic distribution achieved through such technologies.

(D) The initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development, distribution, and broadcast of educational and instructional programming.

(2) Report to Congress

The Secretary shall prepare and submit to the relevant committees of Congress a biannual report that includes the following:

(A) A summary of the activities assisted under subsection (a) of this section.

(B) A description of the education and training materials made available under subsection (a)(1)(E) of this section, the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such subsection.

(d) Administrative costs

An entity that receives a grant, contract, or cooperative agreement under this section may use up to 5 percent of the amount received under the grant, contract, or agreement for the normal and customary expenses of administering the grant, contract, or agreement.

(e) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002, and for each of the 5 succeeding fiscal years.

(2) Funding rule

Not less than 60 percent of the amount appropriated under paragraph (1) for each fiscal year shall be used to carry out activities under subparagraphs (B) through (D) of subsection (a)(1) of this section.

(Pub. L. 89–10, title II, § 2431, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1683.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (a)(4)(B), is subchapter B (§ 635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (a)(4)(B), is subchapter C (§ 658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, as added by Pub. L. 101–508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388–236, as amended, which is classified generally to subchapter II–B (§ 9858 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

SUBPART 4—LIMITATION ON AVAILABILITY OF CERTAIN FUNDS FOR SCHOOLS

§ 6777. Internet safety

(a) In general

No funds made available under this part to a local educational agency for an elementary school or secondary school that does not receive services at discount rates under section 254(h)(5) of title 47 may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such school unless the school, school board, local educational agency, or other authority with responsibility for administration of such school both—

(1)(A) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(i) obscene;

(ii) child pornography; or

(iii) harmful to minors; and

(B) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

(2)(A) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(i) obscene; or

(ii) child pornography; and

(B) is enforcing the operation of such technology protection measure during any use of such computers.

(b) Timing and applicability of implementation

(1) In general

The local educational agency with responsibility for a school covered by subsection (a) of this section shall certify the compliance of such school with the requirements of subsection (a) of this section as part of the application process for the next program funding year under this chapter following December 21, 2000, and for each subsequent program funding year thereafter.

(2) Process

(A) Schools with Internet safety policies and technology protection measures in place

A local educational agency with responsibility for a school covered by subsection (a) of this section that has in place an Internet safety policy meeting the requirements of subsection (a) of this section shall certify its compliance with subsection (a) of this section during each annual program application cycle under this chapter.

(B) Schools without Internet safety policies and technology protection measures in place

(i) Certification

A local educational agency with responsibility for a school covered by subsection

(a) of this section that does not have in place an Internet safety policy meeting the requirements of subsection (a) of this section—

(I) for the first program year after December 21, 2000, in which the local educational agency is applying for funds for such school under this chapter, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

(II) for the second program year after December 21, 2000, in which the local educational agency is applying for funds for such school under this chapter, shall certify that such school is in compliance with such requirements.

(ii) Ineligibility

Any school covered by subsection (a) of this section for which the local educational agency concerned is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this part for such second program year and all subsequent program years until such time as such school comes into compliance with such requirements.

(C) Waivers

Any school subject to a certification under subparagraph (B)(i)(II) for which the local educational agency concerned cannot make the certification otherwise required by that subparagraph may seek a waiver of that subparagraph if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification otherwise required by that subparagraph. The local educational agency concerned shall notify the Secretary of the applicability of that subparagraph to the school. Such notice shall certify that the school will be brought into compliance with the requirements in subsection (a) of this section before the start of the third program year after December 21, 2000, in which the school is applying for funds under this part.

(c) Disabling during certain use

An administrator, supervisor, or person authorized by the responsible authority under subsection (a) of this section may disable the technology protection measure concerned to enable access for bona fide research or other lawful purposes.

(d) Noncompliance

(1) Use of General Education Provisions Act remedies

Whenever the Secretary has reason to believe that any recipient of funds under this part is failing to comply substantially with the requirements of this section, the Secretary may—

(A) withhold further payments to the recipient under this part;

(B) issue a complaint to compel compliance of the recipient through a cease and desist order; or

(C) enter into a compliance agreement with a recipient to bring it into compliance with such requirements,

in[1] same manner as the Secretary is authorized to take such actions under sections 455, 456, and 457, respectively, of the General Education Provisions Act [20 U.S.C. 1234d, 1234e, 1234f].

(2) Recovery of funds prohibited

The actions authorized by paragraph (1) are the exclusive remedies available with respect to the failure of a school to comply substantially with a provision of this section, and the Secretary shall not seek a recovery of funds from the recipient for such failure.

(3) Recommencement of payments

Whenever the Secretary determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under paragraph (1)(A) has cured the failure providing the basis for the withholding of payments, the Secretary shall cease the withholding of payments to the recipient under that paragraph.

(e) Definitions

In this subpart:

(1) Computer

The term ''computer'' includes any hardware, software, or other technology attached or connected to, installed in, or otherwise used in connection with a computer.

(2) Access to Internet

A computer shall be considered to have access to the Internet if such computer is equipped with a modem or is connected to a computer network that has access to the Internet.

(3) Acquisition or operation

An elementary school or secondary school shall be considered to have received funds under this part for the acquisition or operation of any computer if such funds are used in any manner, directly or indirectly—

(A) to purchase, lease, or otherwise acquire or obtain the use of such computer; or

(B) to obtain services, supplies, software, or other actions or materials to support, or in connection with, the operation of such computer.

(4) Minor

The term ''minor'' means an individual who has not attained the age of 17.

(5) Child pornography

The term ''child pornography'' has the meaning given that term in section 2256 of title 18.

(6) Harmful to minors

The term ''harmful to minors'' means any picture, image, graphic image file, or other visual depiction that—

(A) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

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

(B) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(C) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(7) Obscene

The term ''obscene'' has the meaning applicable to that term under section 1460 of title 18.

(8) Sexual act and sexual contact

The terms ''sexual act'' and ''sexual contact'' have the meanings given those terms in section 2246 of title 18.

(f) Severability

If any provision of this section is held invalid, the remainder of this section shall not be affected thereby.

(Pub. L. 89–10, title II, § 2441, as added Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1686.)

SUBCHAPTER III—LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS

CODIFICATION

Title III of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title III is shown, herein, as having been added by Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1689, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

§ 6801. Authorizations of appropriations; condition on effectiveness of parts

(a) Authorizations of appropriations

(1) In general

Subject to subsection (b) of this section, there are authorized to be appropriated to carry out this subchapter, except for subpart 4 of part B, $750,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(2) Emergency immigrant education program

There are authorized to be appropriated to carry out subpart 4 of part B of this subchapter (when such part is in effect) such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(b) Conditions on effectiveness of parts A and B

(1) Part A

Part A of this subchapter shall be in effect for any fiscal year for which the amount appropriated under paragraphs (1) and (2) of subsection (a) of this section equals or exceeds $650,000,000.

(2) Part B

Part B of this subchapter shall be in effect only for a fiscal year for which part A of this subchapter is not in effect.

(c) References

In any fiscal year for which part A of this subchapter is in effect, references in Federal law (other than this subchapter) to part B of this subchapter shall be considered to be references to part A of this subchapter. In any fiscal year for which part B of this subchapter is in effect, references in Federal law (other than this subchapter) to part A of this subchapter shall be considered to be references to part B of this subchapter.

(Pub. L. 89–10, title III, § 3001, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1689.)

PRIOR PROVISIONS

A prior section 6801, Pub. L. 89–10, title III, § 3101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3636, set out Short Title of prior subchapter III as the Technology for Education Act of 1994, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3001 of Pub. L. 89–10 was classified to section 3021 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

PART A—ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT ACT

§ 6811. Short title

This part may be cited as the ''English Language Acquisition, Language Enhancement, and Academic Achievement Act''.

(Pub. L. 89–10, title III, § 3101, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1690.)

PRIOR PROVISIONS

A prior section 6811, Pub. L. 89–10, title III, § 3111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3637, set forth findings, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3101 of Pub. L. 89–10 was classified to section 6801 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6812. Purposes

The purposes of this part are—

(1) to help ensure that children who are limited English proficient, including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

(2) to assist all limited English proficient children, including immigrant children and youth, to achieve at high levels in the core academic subjects so that those children can meet the same challenging State academic content and student academic achievement standards as all children are expected to meet, consistent with section 6311(b)(1) of this title;

(3) to develop high-quality language instruction educational programs designed to assist State educational agencies, local educational agencies, and schools in teaching limited English proficient children and serving immigrant children and youth;

(4) to assist State educational agencies and local educational agencies to develop and enhance their capacity to provide high-quality

instructional programs designed to prepare limited English proficient children, including immigrant children and youth, to enter all-English instruction settings;

(5) to assist State educational agencies, local educational agencies, and schools to build their capacity to establish, implement, and sustain language instruction educational programs and programs of English language development for limited English proficient children;

(6) to promote parental and community participation in language instruction educational programs for the parents and communities of limited English proficient children;

(7) to streamline language instruction educational programs into a program carried out through formula grants to State educational agencies and local educational agencies to help limited English proficient children, including immigrant children and youth, develop proficiency in English, while meeting challenging State academic content and student academic achievement standards;

(8) to hold State educational agencies, local educational agencies, and schools accountable for increases in English proficiency and core academic content knowledge of limited English proficient children by requiring—

(A) demonstrated improvements in the English proficiency of limited English proficient children each fiscal year; and

(B) adequate yearly progress for limited English proficient children, including immigrant children and youth, as described in section 6311(b)(2)(B) of this title; and

(9) to provide State educational agencies and local educational agencies with the flexibility to implement language instruction educational programs, based on scientifically based research on teaching limited English proficient children, that the agencies believe to be the most effective for teaching English.

(Pub. L. 89–10, title III, § 3102, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1690.)

PRIOR PROVISIONS

A prior section 6812, Pub. L. 89–10, title III, § 3112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3638, set forth purpose of former part A of this subchapter, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6813 to 6815 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6813, Pub. L. 89–10, title III, § 3113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3639; amended Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 709(a)(1), (3)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312; Pub. L. 105–220, title II, § 251(b)(2)(D), Aug. 7, 1998, 112 Stat. 1080, defined terms for purposes of prior subchapter III.

Section 6814, Pub. L. 89–10, title III, § 3114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3640, authorized appropriations and set forth funding rule.

Section 6815, Pub. L. 89–10, title III, § 3115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3641, limited use of funds for administrative costs and technical assistance.

SUBPART 1—GRANTS AND SUBGRANTS FOR ENGLISH LANGUAGE ACQUISITION AND LANGUAGE ENHANCEMENT

§ 6821. Formula grants to States

(a) In general

In the case of each State educational agency having a plan approved by the Secretary for a fiscal year under section 6823 of this title, the Secretary shall make a grant for the year to the agency for the purposes specified in subsection (b) of this section. The grant shall consist of the allotment determined for the State educational agency under subsection (c) of this section.

(b) Use of funds

(1) Subgrants to eligible entities

The Secretary may make a grant under subsection (a) of this section only if the State educational agency involved agrees to expend at least 95 percent of the State educational agency's allotment under subsection (c) of this section for a fiscal year—

(A) to award subgrants, from allocations under section 6824 of this title, to eligible entities to carry out the activities described in section 6825 of this title (other than subsection (e)); and

(B) to award subgrants under section 6824(d)(1) of this title to eligible entities that are described in that section to carry out the activities described in section 6825(e) of this title.

(2) State activities

Subject to paragraph (3), each State educational agency receiving a grant under subsection (a) of this section may reserve not more than 5 percent of the agency's allotment under subsection (c) of this section to carry out one or more of the following activities:

(A) Professional development activities, and other activities, that assist personnel in meeting State and local certification and licensing requirements for teaching limited English proficient children.

(B) Planning, evaluation, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

(C) Providing technical assistance and other forms of assistance to eligible entities that are receiving subgrants from a State educational agency under this subpart, including assistance in—

(i) identifying and implementing language instruction educational programs and curricula that are based on scientifically based research on teaching limited English proficient children;

(ii) helping limited English proficient children meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

(iii) identifying or developing, and implementing, measures of English proficiency; and

(iv) promoting parental and community participation in programs that serve limited English proficient children.

(D) Providing recognition, which may include providing financial awards, to sub-

grantees that have exceeded their annual measurable achievement objectives pursuant to section 6842 of this title.

(3) Administrative expenses

From the amount reserved under paragraph (2), a State educational agency may use not more than 60 percent of such amount or $175,000, whichever is greater, for the planning and administrative costs of carrying out paragraphs (1) and (2).

(c) Reservations and allotments

(1) Reservations

From the amount appropriated under section 6801(a) of this title for each fiscal year, the Secretary shall reserve—

(A) 0.5 percent or $5,000,000 of such amount, whichever is greater, for payments to eligible entities that are defined under section 6822(a) of this title for activities, approved by the Secretary, consistent with this subpart;

(B) 0.5 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this subpart, as determined by the Secretary, for activities, approved by the Secretary, consistent with this subpart;

(C) 6.5 percent of such amount for national activities under sections 6861 and 7013 of this title, except that not more than 0.5 percent of such amount shall be reserved for evaluation activities conducted by the Secretary and not more than $2,000,000 of such amount may be reserved for the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs described in section 7013 of this title; and

(D) such sums as may be necessary to make continuation awards under paragraph (2).

(2) Continuation awards

(A) In general

Before making allotments to State educational agencies under paragraph (3) for any fiscal year, the Secretary shall use the sums reserved under paragraph (1)(D) to make continuation awards to recipients who received grants or fellowships for the fiscal year preceding any fiscal year described in section 6801(b)(1)(A) of this title under—

(i) subparts 1 and 3 of part A of title VII (as in effect on the day before January 8, 2002); or

(ii) subparts 1 and 3 of part B of this subchapter.

(B) Use of funds

The Secretary shall make the awards in order to allow such recipients to receive awards for the complete period of their grants or fellowships under the appropriate subparts.

(3) State allotments

(A) In general

Except as provided in subparagraph (B), from the amount appropriated under section 6801(a) of this title for each fiscal year that remains after making the reservations under paragraph (1), the Secretary shall allot to each State educational agency having a plan approved under section 6823(c) of this title—

(i) an amount that bears the same relationship to 80 percent of the remainder as the number of limited English proficient children in the State bears to the number of such children in all States; and

(ii) an amount that bears the same relationship to 20 percent of the remainder as the number of immigrant children and youth in the State bears to the number of such children and youth in all States.

(B) Minimum allotments

No State educational agency shall receive an allotment under this paragraph that is less than $500,000.

(C) Reallotment

If any State educational agency described in subparagraph (A) does not submit a plan to the Secretary for a fiscal year, or submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of this subpart, the Secretary—

(i) shall endeavor to make the State's allotment available on a competitive basis to specially qualified agencies within the State to satisfy the requirements of section 6825 of this title (and any additional requirements that the Secretary may impose), consistent with the purposes of such section, and to carry out required and authorized activities under such section; and

(ii) shall reallot any portion of such allotment remaining after the application of clause (i) to the remaining State educational agencies in accordance with subparagraph (A).

(D) Special rule for Puerto Rico

The total amount allotted to Puerto Rico for any fiscal year under subparagraph (A) shall not exceed 0.5 percent of the total amount allotted to all States for that fiscal year.

(4) Use of data for determinations

(A) In general

In making State allotments under paragraph (3), for the purpose of determining the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, for each fiscal year, the Secretary shall use data that will yield the most accurate, up-to-date numbers of such children and youth.

(B) Special rule

(i) First 2 years

In making determinations under subparagraph (A) for the 2 fiscal years following January 8, 2002, the Secretary shall determine the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, using data available from the Bu-

reau of Census or submitted by the States to the Secretary.

(ii) Subsequent years

For subsequent fiscal years, the Secretary shall determine the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, using the more accurate of—

(I) the data available from the American Community Survey available from the Department of Commerce; or

(II) the number of children being assessed for English proficiency in a State as required under section 6311(b)(7) of this title.

(Pub. L. 89–10, title III, § 3111, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1691.)

REFERENCES IN TEXT

Subparts 1 and 3 of part A of title VII (as in effect on the day before January 8, 2002), referred to in subsec. (c)(2)(A)(i), means subparts 1 and 3 of part A of title VII of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719, 3732, which were classified generally to subparts 1 (§ 7421 et seq.) and 3 (§ 7471 et seq.) of part A of subchapter VII of this chapter prior to the general amendment of subchapter VII of this chapter by Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1907.

PRIOR PROVISIONS

A prior section 3111 of Pub. L. 89–10 was classified to section 6811 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6822. Native American and Alaska Native children in school

(a) Eligible entities

For the purpose of carrying out programs under this part for individuals served by elementary schools, secondary schools, and postsecondary schools operated predominately for Native American children (including Alaska Native children), the following shall be considered to be an eligible entity:

(1) An Indian tribe.

(2) A tribally sanctioned educational authority.

(3) A Native Hawaiian or Native American Pacific Islander native language educational organization.

(4) An elementary school or secondary school that is operated or funded by the Bureau of Indian Affairs, or a consortium of such schools.

(5) An elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Affairs, in consortium with another such school or a tribal or community organization.

(6) An elementary school or secondary school operated by the Bureau of Indian Affairs and an institution of higher education, in consortium with an elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Affairs or a tribal or community organization.

(b) Submission of applications for assistance

Notwithstanding any other provision of this part, an entity that is considered to be an eligible entity under subsection (a) of this section, and that desires to receive Federal financial assistance under this subpart, shall submit an application to the Secretary.

(c) Special rule

An eligible entity described in subsection (a) of this section that receives Federal financial assistance pursuant to this section shall not be eligible to receive a subgrant under section 6824 of this title.

(Pub. L. 89–10, title III, § 3112, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1694.)

PRIOR PROVISIONS

A prior section 3112 of Pub. L. 89–10 was classified to section 6812 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6823. State and specially qualified agency plans

(a) Plan required

Each State educational agency and specially qualified agency desiring a grant under this subpart shall submit a plan to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(b) Contents

Each plan submitted under subsection (a) of this section shall—

(1) describe the process that the agency will use in making subgrants to eligible entities under section 6824(d)(1) of this title;

(2) describe how the agency will establish standards and objectives for raising the level of English proficiency that are derived from the four recognized domains of speaking, listening, reading, and writing, and that are aligned with achievement of the challenging State academic content and student academic achievement standards described in section 6311(b)(1) of this title;

(3) contain an assurance that—

(A) in the case of a State educational agency, the agency consulted with local educational agencies, education-related community groups and nonprofit organizations, parents, teachers, school administrators, and researchers, in developing the annual measurable achievement objectives described in section 6842 of this title;

(B) in the case of a specially qualified agency, the agency consulted with education-related community groups and nonprofit organizations, parents, teachers, and researchers, in developing the annual measurable achievement objectives described in section 6842 of this title;

(C) the agency will ensure that eligible entities receiving a subgrant under this subpart comply with the requirement in section 6311(b)(7) of this title to annually assess in English children who have been in the United States for 3 or more consecutive years;

(D) the agency will ensure that eligible entities receiving a subgrant under this subpart annually assess the English proficiency of all limited English proficient children participating in a program funded under this subpart, consistent with section 6311(b)(7) of this title;

(E) in awarding subgrants under section 6824 of this title, the agency will address the needs of school systems of all sizes and in all geographic areas, including school systems with rural and urban schools;

(F) subgrants to eligible entities under section 6824(d)(1) of this title will be of sufficient size and scope to allow such entities to carry out high-quality language instruction educational programs for limited English proficient children; and

(G) the agency will require an eligible entity receiving a subgrant under this subpart to use the subgrant in ways that will build such recipient's capacity to continue to offer high-quality language instruction educational programs that assist limited English proficient children in meeting challenging State academic content and student academic achievement standards once assistance under this subpart is no longer available;

(4) describe how the agency will coordinate its programs and activities under this subpart with its other programs and activities under this chapter and other Acts, as appropriate;

(5) describe how the agency will hold local educational agencies, eligible entities, elementary schools, and secondary schools accountable for—

(A) meeting all annual measurable achievement objectives described in section 6842 of this title;

(B) making adequate yearly progress for limited English proficient children, as described in section 6311(b)(2)(B) of this title; and

(C) achieving the purposes of this part; and

(6) describe how eligible entities in the State will be given the flexibility to teach limited English proficient children—

(A) using a language instruction curriculum that is tied to scientifically based research on teaching limited English proficient children and that has been demonstrated to be effective; and

(B) in the manner the eligible entities determine to be the most effective.

(c) Approval

The Secretary, after using a peer review process, shall approve a plan submitted under subsection (a) of this section if the plan meets the requirements of this section.

(d) Duration of plan

(1) In general

Each plan submitted by a State educational agency or specially qualified agency and approved under subsection (c) of this section shall—

(A) remain in effect for the duration of the agency's participation under this part; and

(B) be periodically reviewed and revised by the agency, as necessary, to reflect changes to the agency's strategies and programs carried out under this part.

(2) Additional information

(A) Amendments

If the State educational agency or specially qualified agency amends the plan, the agency shall submit such amendment to the Secretary.

(B) Approval

The Secretary shall approve such amendment to an approved plan, unless the Secretary determines that the amendment will result in the agency not meeting the requirements, or fulfilling the purposes, of this part.

(e) Consolidated plan

A plan submitted under subsection (a) of this section may be submitted as part of a consolidated plan under section 7842 of this title.

(f) Secretary assistance

The Secretary shall provide technical assistance, if requested, in the development of English proficiency standards, objectives, and assessments.

(Pub. L. 89–10, title III, § 3113, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1694.)

PRIOR PROVISIONS

A prior section 3113 of Pub. L. 89–10 was classified to section 6813 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6824. Within-State allocations

(a) In general

After making the reservation required under subsection (d)(1) of this section, each State educational agency receiving a grant under section 6821(c)(3) of this title shall award subgrants for a fiscal year by allocating to each eligible entity in the State having a plan approved under section 6826 of this title an amount that bears the same relationship to the amount received under the grant and remaining after making such reservation as the population of limited English proficient children in schools served by the eligible entity bears to the population of limited English proficient children in schools served by all eligible entities in the State.

(b) Limitation

A State educational agency shall not award a subgrant from an allocation made under subsection (a) of this section if the amount of such subgrant would be less than $10,000.

(c) Reallocation

Whenever a State educational agency determines that an amount from an allocation made to an eligible entity under subsection (a) of this section for a fiscal year will not be used by the entity for the purpose for which the allocation was made, the agency shall, in accordance with such rules as it determines to be appropriate, reallocate such amount, consistent with such subsection, to other eligible entities in the State that the agency determines will use the amount to carry out that purpose.

(d) Required reservation

A State educational agency receiving a grant under this subpart for a fiscal year—

(1) shall reserve not more than 15 percent of the agency's allotment under section 6821(c)(3) of this title to award subgrants to eligible entities in the State that have experienced a sig-

nificant increase, as compared to the average of the 2 preceding fiscal years, in the percentage or number of immigrant children and youth, who have enrolled, during the fiscal year preceding the fiscal year for which the subgrant is made, in public and nonpublic elementary schools and secondary schools in the geographic areas under the jurisdiction of, or served by, such entities; and

(2) in awarding subgrants under paragraph (1)—

(A) shall equally consider eligible entities that satisfy the requirement of such paragraph but have limited or no experience in serving immigrant children and youth; and

(B) shall consider the quality of each local plan under section 6826 of this title and ensure that each subgrant is of sufficient size and scope to meet the purposes of this part.

(Pub. L. 89–10, title III, § 3114, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1696.)

PRIOR PROVISIONS

A prior section 3114 of Pub. L. 89–10 was classified to section 6814 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6825. Subgrants to eligible entities

(a) Purposes of subgrants

A State educational agency may make a subgrant to an eligible entity from funds received by the agency under this subpart only if the entity agrees to expend the funds to improve the education of limited English proficient children, by assisting the children to learn English and meet challenging State academic content and student academic achievement standards. In carrying out activities with such funds, the entity shall use approaches and methodologies based on scientifically based research on teaching limited English proficient children and immigrant children and youth for the following purposes:

(1) Developing and implementing new language instruction educational programs and academic content instruction programs for such children, and such children and youth, including programs of early childhood education, elementary school programs, and secondary school programs.

(2) Carrying out highly focused, innovative, locally designed activities to expand or enhance existing language instruction educational programs and academic content instruction programs for such children, and such children and youth.

(3) Implementing, within an individual school, schoolwide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for such children, and such children and youth.

(4) Implementing, within the entire jurisdiction of a local educational agency, agencywide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for such children, and such children and youth.

(b) Administrative expenses

Each eligible entity receiving funds under section 6824(a) of this title for a fiscal year may use not more than 2 percent of such funds for the cost of administering this subpart.

(c) Required subgrantee activities

An eligible entity receiving funds under section 6824(a) of this title shall use the funds—

(1) to increase the English proficiency of limited English proficient children by providing high-quality language instruction educational programs that are based on scientifically based research demonstrating the effectiveness of the programs in increasing—

(A) English proficiency; and

(B) student academic achievement in the core academic subjects; and

(2) to provide high-quality professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel, that is—

(A) designed to improve the instruction and assessment of limited English proficient children;

(B) designed to enhance the ability of such teachers to understand and use curricula, assessment measures, and instruction strategies for limited English proficient children;

(C) based on scientifically based research demonstrating the effectiveness of the professional development in increasing children's English proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers; and

(D) of sufficient intensity and duration (which shall not include activities such as one-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers' performance in the classroom, except that this subparagraph shall not apply to an activity that is one component of a long-term, comprehensive professional development plan established by a teacher and the teacher's supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and any local educational agency employing the teacher.

(d) Authorized subgrantee activities

Subject to subsection (c) of this section, an eligible entity receiving funds under section 6824(a) of this title may use the funds to achieve one of the purposes described in subsection (a) of this section by undertaking one or more of the following activities:

(1) Upgrading program objectives and effective instruction strategies.

(2) Improving the instruction program for limited English proficient children by identifying, acquiring, and upgrading curricula, instruction materials, educational software, and assessment procedures.

(3) Providing—

(A) tutorials and academic or vocational education for limited English proficient children; and

(B) intensified instruction.

(4) Developing and implementing elementary school or secondary school language instruction educational programs that are coordinated with other relevant programs and services.

(5) Improving the English proficiency and academic achievement of limited English proficient children.

(6) Providing community participation programs, family literacy services, and parent outreach and training activities to limited English proficient children and their families—

(A) to improve the English language skills of limited English proficient children; and

(B) to assist parents in helping their children to improve their academic achievement and becoming active participants in the education of their children.

(7) Improving the instruction of limited English proficient children by providing for—

(A) the acquisition or development of educational technology or instructional materials;

(B) access to, and participation in, electronic networks for materials, training, and communication; and

(C) incorporation of the resources described in subparagraphs (A) and (B) into curricula and programs, such as those funded under this subpart.

(8) Carrying out other activities that are consistent with the purposes of this section.

(e) Activities by agencies experiencing substantial increases in immigrant children and youth

(1) In general

An eligible entity receiving funds under section 6824(d)(1) of this title shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, which may include—

(A) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

(B) support for personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

(C) provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth;

(D) identification and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with funds;

(E) basic instruction services that are directly attributable to the presence in the school district involved of immigrant children and youth, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services;

(F) other instruction services that are designed to assist immigrant children and youth to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education; and

(G) activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents of immigrant children and youth by offering comprehensive community services.

(2) Duration of subgrants

The duration of a subgrant made by a State educational agency under section 6824(d)(1) of this title shall be determined by the agency in its discretion.

(f) Selection of method of instruction

(1) In general

To receive a subgrant from a State educational agency under this subpart, an eligible entity shall select one or more methods or forms of instruction to be used in the programs and activities undertaken by the entity to assist limited English proficient children to attain English proficiency and meet challenging State academic content and student academic achievement standards.

(2) Consistency

Such selection shall be consistent with sections 6845 through 6847 of this title.

(g) Supplement, not supplant

Federal funds made available under this subpart shall be used so as to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for limited English proficient children and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.

(Pub. L. 89–10, title III, § 3115, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1697.)

PRIOR PROVISIONS

A prior section 3115 of Pub. L. 89–10 was classified to section 6815 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6826. Local plans

(a) Plan required

Each eligible entity desiring a subgrant from the State educational agency under section 6824 of this title shall submit a plan to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require.

(b) Contents

Each plan submitted under subsection (a) of this section shall—

(1) describe the programs and activities proposed to be developed, implemented, and administered under the subgrant;

(2) describe how the eligible entity will use the subgrant funds to meet all annual measurable achievement objectives described in section 6842 of this title;

(3) describe how the eligible entity will hold elementary schools and secondary schools receiving funds under this subpart accountable for—

(A) meeting the annual measurable achievement objectives described in section 6842 of this title;

(B) making adequate yearly progress for limited English proficient children, as described in section 6311(b)(2)(B) of this title; and

(C) annually measuring the English proficiency of limited English proficient children, so that such children served by the programs carried out under this part develop proficiency in English while meeting State academic content and student academic achievement standards as required by section 6311(b)(1) of this title;

(4) describe how the eligible entity will promote parental and community participation in programs for limited English proficient children;

(5) contain an assurance that the eligible entity consulted with teachers, researchers, school administrators, and parents, and, if appropriate, with education-related community groups and nonprofit organizations, and institutions of higher education, in developing such plan; and

(6) describe how language instruction educational programs carried out under the subgrant will ensure that limited English proficient children being served by the programs develop English proficiency.

(c) Teacher English fluency

Each eligible entity receiving a subgrant under section 6824 of this title shall include in its plan a certification that all teachers in any language instruction educational program for limited English proficient children that is, or will be, funded under this part are fluent in English and any other language used for instruction, including having written and oral communications skills.

(d) Other requirements for approval

Each local plan shall also contain assurances that—

(1) each local educational agency that is included in the eligible entity is complying with section 7012 of this title prior to, and throughout, each school year;

(2) the eligible entity annually will assess the English proficiency of all children with limited English proficiency participating in programs funded under this part;

(3) the eligible entity has based its proposed plan on scientifically based research on teaching limited English proficient children;

(4) the eligible entity will ensure that the programs will enable children to speak, read, write, and comprehend the English language and meet challenging State academic content and student academic achievement standards; and

(5) the eligible entity is not in violation of any State law, including State constitutional law, regarding the education of limited English proficient children, consistent with sections 6846 and 6847 of this title.

(Pub. L. 89–10, title III, § 3116, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1700.)

PRIOR PROVISIONS

Prior sections 6831 to 6833 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6831, Pub. L. 89–10, title III, § 3121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3641, related to national long-range technology plan. See section 6772 of this title.

Section 6832, Pub. L. 89–10, title III, § 3122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3642, related to Federal leadership in promoting the use of technology in education.

Section 6833, Pub. L. 89–10, title III, § 3123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3644, related to study, evaluation and report of funding alternatives.

SUBPART 2—ACCOUNTABILITY AND ADMINISTRATION

§ 6841. Evaluations

(a) In general

Each eligible entity that receives a subgrant from a State educational agency under subpart 1 of this part shall provide such agency, at the conclusion of every second fiscal year during which the subgrant is received, with an evaluation, in a form prescribed by the agency, that includes—

(1) a description of the programs and activities conducted by the entity with funds received under subpart 1 of this part during the two immediately preceding fiscal years;

(2) a description of the progress made by children in learning the English language and meeting challenging State academic content and student academic achievement standards;

(3) the number and percentage of children in the programs and activities attaining English proficiency by the end of each school year, as determined by a valid and reliable assessment of English proficiency; and

(4) a description of the progress made by children in meeting challenging State academic content and student academic achievement standards for each of the 2 years after such children are no longer receiving services under this part.

(b) Use of evaluation

An evaluation provided by an eligible entity under subsection (a) of this section shall be used by the entity and the State educational agency—

(1) for improvement of programs and activities;

(2) to determine the effectiveness of programs and activities in assisting children who are limited English proficient to attain English proficiency (as measured consistent with subsection (d) of this section) and meet challenging State academic content and student academic achievement standards; and

(3) in determining whether or not to continue funding for specific programs or activities.

(c) Evaluation components

An evaluation provided by an eligible entity under subsection (a) of this section shall—

(1) provide an evaluation of children enrolled in a program or activity conducted by the entity using funds under subpart 1 of this part (including the percentage of children) who—

(A) are making progress in attaining English proficiency, including the percentage of children who have achieved English proficiency;

(B) have transitioned into classrooms not tailored to limited English proficient children, and have a sufficient level of English proficiency to permit them to achieve in English and transition into classrooms not tailored to limited English proficient children;

(C) are meeting the same challenging State academic content and student academic achievement standards as all children are expected to meet; and

(D) are not receiving waivers for the reading or language arts assessments under section 6311(b)(3)(C) of this title; and

(2) include such other information as the State educational agency may require.

(d) Evaluation measures

A State shall approve evaluation measures for use under subsection (c) of this section that are designed to assess—

(1) the progress of children in attaining English proficiency, including a child's level of comprehension, speaking, listening, reading, and writing skills in English;

(2) student attainment of challenging State student academic achievement standards on assessments described in section 6311(b)(3) of this title; and

(3) progress in meeting the annual measurable achievement objectives described in section 6842 of this title.

(e) Special rule for specially qualified agencies

Each specially qualified agency receiving a grant under this part shall provide the evaluations described in subsection (a) of this section to the Secretary subject to the same requirements as apply to eligible entities providing such evaluations to State educational agencies under such subsection.

(Pub. L. 89–10, title III, § 3121, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1701.)

PRIOR PROVISIONS

A prior section 6841, Pub. L. 89–10, title III, § 3131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3644, related to allotment and reallotment of funds, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6761 of this title.

A prior section 3121 of Pub. L. 89–10 was classified to section 6831 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6842. Achievement objectives and accountability

(a) Achievement objectives

(1) In general

Each State educational agency or specially qualified agency receiving a grant under subpart 1 of this part shall develop annual measurable achievement objectives for limited English proficient children served under this part that relate to such children's development and attainment of English proficiency while meeting challenging State academic content and student academic achievement standards as required by section 6311(b)(1) of this title.

(2) Development of objectives

Such annual measurable achievement objectives shall be developed in a manner that—

(A) reflects the amount of time an individual child has been enrolled in a language instruction educational program; and

(B) uses consistent methods and measurements to reflect the increases described in subparagraphs (A)(i), (A)(ii), and (B) of paragraph (3).

(3) Contents

Such annual measurable achievement objectives—

(A) shall include—

(i) at a minimum, annual increases in the number or percentage of children making progress in learning English;

(ii) at a minimum, annual increases in the number or percentage of children attaining English proficiency by the end of each school year, as determined by a valid and reliable assessment of English proficiency consistent with section 6311(b)(7) of this title; and

(iii) making adequate yearly progress for limited English proficient children as described in section 6311(b)(2)(B) of this title; and

(B) at the discretion of the agency, may include the number or percentage of children not receiving waivers for reading or language arts assessments under section 6311(b)(3)(C) of this title, but this achievement objective shall not be applied to an eligible entity that, in a given school year—

(i) has experienced a large increase in limited English proficient children or immigrant children and youth;

(ii) enrolls a statistically significant number of immigrant children and youth from countries where such children and youth had little or no access to formal education; or

(iii) has a statistically significant number of immigrant children and youth who have fled from war or natural disaster.

(b) Accountability

(1) For States

Each State educational agency receiving a grant under subpart 1 of this part shall hold eligible entities receiving a subgrant under such subpart accountable for meeting the annual measurable achievement objectives under subsection (a) of this section, including making adequate yearly progress for limited English proficient children.

(2) Improvement plan

If a State educational agency determines, based on the annual measurable achievement objectives described in subsection (a) of this section, that an eligible entity has failed to make progress toward meeting such objectives for 2 consecutive years, the agency shall require the entity to develop an improvement plan that will ensure that the entity meets such objectives. The improvement plan shall

specifically address the factors that prevented the entity from achieving such objectives.

(3) Technical assistance

During the development of the improvement plan described in paragraph (2), and throughout its implementation, the State educational agency shall—

(A) provide technical assistance to the eligible entity;

(B) provide technical assistance, if applicable, to schools served by such entity under subpart 1 of this part that need assistance to enable the schools to meet the annual measurable achievement objectives described in subsection (a) of this section;

(C) develop, in consultation with the entity, professional development strategies and activities, based on scientifically based research, that the agency will use to meet such objectives;

(D) require such entity to utilize such strategies and activities; and

(E) develop, in consultation with the entity, a plan to incorporate strategies and methodologies, based on scientifically based research, to improve the specific program or method of instruction provided to limited English proficient children.

(4) Accountability

If a State educational agency determines that an eligible entity has failed to meet the annual measurable achievement objectives described in subsection (a) of this section for 4 consecutive years, the agency shall—

(A) require such entity to modify the entity's curriculum, program, and method of instruction; or

(B)(i) make a determination whether the entity shall continue to receive funds related to the entity's failure to meet such objectives; and

(ii) require such entity to replace educational personnel relevant to the entity's failure to meet such objectives.

(c) Special rule for specially qualified agencies

The Secretary shall hold specially qualified agencies receiving a grant under this subpart accountable for meeting the annual measurable achievement objectives described in subsection (a) of this section in the same manner as State educational agencies hold eligible entities accountable under subsection (b) of this section.

(Pub. L. 89–10, title III, § 3122, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1702.)

PRIOR PROVISIONS

A prior section 6842, Pub. L. 89–10, title III, § 3132, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3645, related to school technology resource grants, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3122 of Pub. L. 89–10 was classified to section 6832 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6843. Reporting requirements

(a) States

Based upon the evaluations provided to a State educational agency under section 6841 of this title, each such agency that receives a grant under this part shall prepare and submit every second year to the Secretary a report on programs and activities carried out by the State educational agency under this part and the effectiveness of such programs and activities in improving the education provided to children who are limited English proficient.

(b) Secretary

Every second year, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

(1) on programs and activities carried out to serve limited English proficient children under this part, and the effectiveness of such programs and activities in improving the academic achievement and English proficiency of children who are limited English proficient;

(2) on the types of language instruction educational programs used by local educational agencies or eligible entities receiving funding under this part to teach limited English proficient children;

(3) containing a critical synthesis of data reported by eligible entities to States under section 6841(a) of this title;

(4) containing a description of technical assistance and other assistance provided by State educational agencies under section 6821(b)(2)(C) of this title;

(5) containing an estimate of the number of certified or licensed teachers working in language instruction educational programs and educating limited English proficient children, and an estimate of the number of such teachers that will be needed for the succeeding 5 fiscal years;

(6) containing the major findings of scientifically based research carried out under this part;

(7) containing the number of programs or activities, if any, that were terminated because the entities carrying out the programs or activities were not able to reach program goals;

(8) containing the number of limited English proficient children served by eligible entities receiving funding under this part who were transitioned out of language instruction educational programs funded under this part into classrooms where instruction is not tailored for limited English proficient children; and

(9) containing other information gathered from the evaluations from specially qualified agencies and other reports submitted to the Secretary under this subchapter when applicable.

(Pub. L. 89–10, title III, § 3123, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1704.)

PRIOR PROVISIONS

A prior section 6843, Pub. L. 89–10, title III, § 3133, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3646, related to State applications for technology education assistance, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6763 of this title.

A prior section 3123 of Pub. L. 89–10 was classified to section 6833 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6844. Coordination with related programs

In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other entities carrying out programs serving language-minority and limited English proficient children that are administered by the Department and other agencies.

(Pub. L. 89–10, title III, § 3124, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1705.)

PRIOR PROVISIONS

A prior section 6844, Pub. L. 89–10, title III, § 3134, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3646, related to local uses of funds, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6766 of this title.

§ 6845. Rules of construction

Nothing in this part shall be construed—

(1) to prohibit a local educational agency from serving limited English proficient children simultaneously with children with similar educational needs, in the same educational settings where appropriate;

(2) to require a State or a local educational agency to establish, continue, or eliminate any particular type of instructional program for limited English proficient children; or

(3) to limit the preservation or use of Native American languages.

(Pub. L. 89–10, title III, § 3125, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1705.)

PRIOR PROVISIONS

A prior section 6845, Pub. L. 89–10, title III, § 3135, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3647, related to local applications for technology education assistance, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6764 of this title.

§ 6846. Legal authority under State law

Nothing in this part shall be construed to negate or supersede State law, or the legal authority under State law of any State agency, State entity, or State public official, over programs that are under the jurisdiction of the State agency, entity, or official.

(Pub. L. 89–10, title III, § 3126, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1705.)

PRIOR PROVISIONS

A prior section 6846, Pub. L. 89–10, title III, § 3136, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3648, related to national challenge grants for technology in education, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6847. Civil rights

Nothing in this part shall be construed in a manner inconsistent with any Federal law guaranteeing a civil right.

(Pub. L. 89–10, title III, § 3127, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1705.)

PRIOR PROVISIONS

A prior section 6847, Pub. L. 89–10, title III, § 3137, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3649, related to Federal administration of programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6848. Programs for Native Americans and Puerto Rico

Notwithstanding any other provision of this part, programs authorized under this part that serve Native American (including Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that an outcome of programs serving such children shall be increased English proficiency among such children.

(Pub. L. 89–10, title III, § 3128, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1705.)

§ 6849. Prohibition

In carrying out this part, the Secretary shall neither mandate nor preclude the use of a particular curricular or pedagogical approach to educating limited English proficient children.

(Pub. L. 89–10, title III, § 3129, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1706.)

SUBPART 3—NATIONAL ACTIVITIES

§ 6861. National professional development project

The Secretary shall use funds made available under section 6821(c)(1)(C) of this title to award grants on a competitive basis, for a period of not more than 5 years, to institutions of higher education (in consortia with State educational agencies or local educational agencies) to provide for professional development activities that will improve classroom instruction for limited English proficient children and assist educational personnel working with such children to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve limited English proficient children. Grants awarded under this subsection may be used—

(1) for preservice professional development programs that will assist local schools and institutions of higher education to upgrade the qualifications and skills of educational personnel who are not certified or licensed, especially educational paraprofessionals;

(2) for the development of curricula appropriate to the needs of the consortia participants involved; and

(3) in conjunction with other Federal need-based student financial assistance programs, for financial assistance, and costs related to tuition, fees, and books for enrolling in courses required to complete the degree involved, to meet certification or licensing requirements for teachers who work in language instruction educational programs or serve limited English proficient children.

(Pub. L. 89–10, title III, § 3131, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1706.)

PRIOR PROVISIONS

A prior section 6861, Pub. L. 89–10, title III, § 3141, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3649, related to regional technical support and professional development, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3131 of Pub. L. 89–10 was classified to section 6841 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 4—DEFINITIONS

§ 6871. Eligible entity

In this part, the term ''eligible entity'' means—

(1) one or more local educational agencies; or

(2) one or more local educational agencies, in collaboration with an institution of higher education, community-based organization, or State educational agency.

(Pub. L. 89–10, title III, § 3141, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1706.)

PRIOR PROVISIONS

A prior section 6871, Pub. L. 89–10, title III, § 3151, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3652, related to educational technology product development, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 3141 of Pub. L. 89–10 was classified to section 6861 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

PART B—IMPROVING LANGUAGE INSTRUCTION EDUCATIONAL PROGRAMS

§ 6891. Short title

This part may be cited as the ''Improving Language Instruction Educational Programs For Academic Achievement Act''.

(Pub. L. 89–10, title III, § 3201, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1706.)

PRIOR PROVISIONS

A prior section 6891, Pub. L. 89–10, title III, § 3201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3654, set out short title of the Star Schools Act, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7255 of this title.

§ 6892. Purpose

The purpose of this part is to help ensure that limited English proficient children master English and meet the same rigorous standards for academic achievement as all children are expected to meet, including meeting challenging State academic content and student academic achievement standards by—

(1) promoting systemic improvement and reform of, and developing accountability systems for, educational programs serving limited English proficient children;

(2) developing language skills and multicultural understanding;

(3) developing the English proficiency of limited English proficient children and, to the extent possible, the native language skills of such children;

(4) providing similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law;

(5) developing data collection and dissemination, research, materials, and technical assistance that are focused on school improvement for limited English proficient children; and

(6) developing programs that strengthen and improve the professional training of educational personnel who work with limited English proficient children.

(Pub. L. 89–10, title III, § 3202, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1707.)

PRIOR PROVISIONS

A prior section 6892, Pub. L. 89–10, title III, § 3202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3654, set forth findings relating to the Star Schools Program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 6893. Native American children in school

(a) Eligible entities

For the purpose of carrying out programs under this part for individuals served by elementary schools, secondary schools, and postsecondary schools operated predominately for Native American (including Alaska Native) children and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander native language education organization, or an elementary school or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency.

(b) Application

Notwithstanding any other provision of this part, each tribe, authority, organization, or school described in subsection (a) of this section shall submit any application for assistance under this part directly to the Secretary along with timely comments on the need for the program proposed in the application.

(Pub. L. 89–10, title III, § 3203, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1707.)

PRIOR PROVISIONS

A prior section 6893, Pub. L. 89–10, title III, § 3203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3655, set forth purpose of the Star Schools Program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7255a of this title.

§ 6894. Residents of the territories and freely associated states

For the purpose of carrying out programs under this part in the outlying areas, the term ''local educational agency'' includes public institutions or agencies whose mission is the preservation and maintenance of native languages.

(Pub. L. 89–10, title III, § 3204, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1707.)

PRIOR PROVISIONS

A prior section 6894, Pub. L. 89–10, title III, § 3204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3655, authorized grants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7255b of this title.

Prior sections 6895 to 6900 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6895, Pub. L. 89–10, title III, § 3205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3656, related to eligible entities.

Section 6896, Pub. L. 89–10, title III, § 3206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3657, related to applications for grants. See section 7255c of this title.

Section 6897, Pub. L. 89–10, title III, § 3207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3660, related to leadership and evaluation activities.

Section 6898, Pub. L. 89–10, title III, § 3208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3661, defined terms. See section 7255f of this title.

Section 6899, Pub. L. 89–10, title III, § 3209, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3661, set forth administrative provisions. See section 7255e of this title.

Section 6900, Pub. L. 89–10, title III, § 3210, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3661, related to other assistance. See section 7255d of this title.

SUBPART 1—PROGRAM DEVELOPMENT AND ENHANCEMENT

§ 6911. Financial assistance for language instruction educational programs

The purpose of this subpart is to assist local educational agencies, institutions of higher education, and community-based organizations, through the grants authorized under sections 6912 and 6913 of this title—

(1) to develop and enhance their capacity to provide high-quality instruction through language instruction educational programs or special alternative instruction programs to limited English proficient children; and

(2) to help such children—

(A) develop English proficiency and, to the extent possible, proficiency in their native language; and

(B) meet the same challenging State academic content and student academic achievement standards as all children are expected to meet under section 6311(b)(1) of this title.

(Pub. L. 89–10, title III, § 3211, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1707.)

§ 6912. Program enhancement activities

(a) Program authorized

(1) Authority

(A) In general

The Secretary is authorized to award grants to eligible entities having applications approved under section 6914 of this title to enable such entities to provide innovative, locally designed, high-quality instruction to limited English proficient children, by expanding, developing, or strengthening language instruction educational programs or special alternative instruction programs.

(B) Period

Each grant awarded under this section shall be awarded for a period of 3 years.

(2) Authorized activities

(A) Mandatory activities

Grants awarded under this section shall be used for—

(i) developing, implementing, expanding, or enhancing comprehensive preschool, elementary, or secondary education programs for limited English proficient children, that are—

(I) aligned with State and local academic content and student academic achievement standards, and local school reform efforts; and

(II) coordinated with related academic services for children;

(ii) providing high-quality professional development to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of limited English proficient children; and

(iii) annually assessing the English proficiency of all limited English proficient children served by activities carried out under this section.

(B) Permissible activities

Grants awarded under this section may be used for—

(i) implementing programs to upgrade the reading and other academic skills of limited English proficient children;

(ii) developing accountability systems to monitor the academic progress of limited English proficient and formerly limited English proficient children;

(iii) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

(iv) improving the instruction programs for limited English proficient children by identifying, acquiring, and applying effective curricula, instruction materials (including materials provided through technology), and assessments that are all aligned with State and local standards;

(v) providing intensified instruction, including tutorials and academic, or vocational and technical, training, for limited English proficient children;

(vi) adapting best practice models for meeting the needs of limited English proficient children;

(vii) assisting limited English proficient children with disabilities;

(viii) implementing applied learning activities such as service learning to enhance and support comprehensive elementary and secondary language instruction educational programs;

(ix) acquiring or developing education technology or instruction materials for limited English proficient children, including materials in languages other than English;

(x) participating in electronic networks for materials, training, and communication, and incorporating information derived from such participation in curricula and programs; and

(xi) carrying out such other activities related to the purpose of this part as the Secretary may approve.

(b) Priority

In awarding grants under this section, the Secretary may give priority to an entity that—

(1) serves a school district—

(A) that has a total district enrollment that is less than 10,000 students; or

(B) with a large percentage or number of limited English proficient children; and

(2) has limited or no experience in serving limited English proficient children.

(c) Eligible entity

In this section, the term ''eligible entity'' means—

(1) one or more local educational agencies;

(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization, or State educational agency; or

(3) a community-based organization or an institution of higher education that has an application approved by the local educational agency to participate in programs carried out under this subpart by enhancing early childhood education or family education programs or conducting instruction programs that supplement the educational services provided by a local educational agency.

(Pub. L. 89–10, title III, § 3212, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1708.)

§ 6913. Comprehensive school and systemwide improvement activities

(a) Program authorized

(1) Authority

The Secretary is authorized to award grants to eligible entities having applications approved under section 6914 of this title to enable such entities to develop and implement language instruction educational programs, and improve, reform, or upgrade programs or operations that serve significant percentages or numbers of limited English proficient children.

(2) Mandatory activities

Grants awarded under this section shall be used for—

(A) improving instruction programs for limited English proficient children by acquiring and upgrading curricula and related instruction materials;

(B) aligning the activities carried out under this section with State and local school reform efforts;

(C) providing training, aligned with State and local standards, to school personnel and participating community-based organization personnel to improve the instruction and assessment of limited English proficient children;

(D) developing and implementing plans, coordinated with plans for programs carried out under title II of the Higher Education Act of 1965 [20 U.S.C. 1021 et seq.] (where applicable), and subchapter II of this chapter (where applicable), to recruit teachers trained to serve limited English proficient children;

(E) implementing culturally and linguistically appropriate family education programs, or parent outreach and training activities, that are designed to assist parents of limited English proficient children to become active participants in the education of their children;

(F) coordinating the activities carried out under this section with other programs, such as programs carried out under this subchapter;

(G) providing services to meet the full range of the educational needs of limited English proficient children;

(H) annually assessing the English proficiency of all limited English proficient children served by the activities carried out under this section; and

(I) developing or improving accountability systems to monitor the academic progress of limited English proficient children.

(3) Permissible activities

Grants awarded under this section may be used for—

(A) implementing programs to upgrade reading and other academic skills of limited English proficient children;

(B) developing and using educational technology to improve learning, assessments, and accountability to meet the needs of limited English proficient children;

(C) implementing scientifically based research programs to meet the needs of limited English proficient children;

(D) providing tutorials and academic, or vocational and technical, training for limited English proficient children;

(E) developing and implementing State and local academic content and student academic achievement standards for learning English as a second language, as well as for learning other languages;

(F) developing and implementing programs for limited English proficient children to meet the needs of changing populations of such children;

(G) implementing policies to ensure that limited English proficient children have access to other education programs (other than programs designed to address limited English proficiency);

(H) assisting limited English proficient children with disabilities;

(I) developing and implementing programs to help children become proficient in English and other languages;

(J) acquiring or developing education technology or instruction materials for limited English proficient children, including materials in languages other than English;

(K) participating in electronic networks for materials, training, and communication and incorporating information derived from such participation in curricula and programs; and

(L) carrying out such other activities related to the purpose of this part as the Secretary may approve.

(4) Special rule

(A) Planning

A recipient of a grant under this section, before carrying out activities under this section, shall plan, train personnel, develop

curricula, and acquire or develop materials, but shall not use funds made available under this section for planning purposes for more than 45 days.

(B) Commencement of activities

The recipient shall commence carrying out activities under this section not later than the later of—

(i) the beginning of the first school year that begins after the grant is received; or

(ii) 30 days after the date of receipt of the grant.

(b) Availability of appropriations

(1) Reservation of funds for continued payments

(A) Covered grant

In this paragraph, the term ''covered grant'' means a grant—

(i) that was awarded under sections 7112, 7113, 7114, or 7115 (as such sections were in effect on the day before January 8, 2002); and

(ii) for which the grant period has not ended.

(B) Reservation

For any fiscal year that is part of the grant period of a covered grant, the Secretary shall reserve funds for the payments described in subparagraph (C) from the amount appropriated for the fiscal year under section 6801(a) of this title and made available for carrying out this section.

(C) Payments

The Secretary shall continue to make grant payments to each entity that received a covered grant, in accordance with the terms of that grant, for the duration of the grant period of the grant, to carry out activities in accordance with the appropriate section described in subparagraph (A)(i).

(2) Availability

Of the amount appropriated for a fiscal year under section 6801(a) of this title that is made available to carry out this section, and that remains after the Secretary reserves funds for payments under paragraph (1)—

(A) not less than one-third of the remainder shall be used to award grants to eligible entities for activities carried out within an entire school district; and

(B) not less than two-thirds of the remainder shall be used to award grants to eligible entities for activities carried out within individual schools.

(c) Priority

In awarding grants under this section, the Secretary shall give priority to an applicant that—

(1) experiences a significant increase in the number or percentage of limited English proficient children enrolled in the applicant's programs and has limited or no experience in serving limited English proficient children;

(2) is a local educational agency that serves a school district that has a total district enrollment that is less than 10,000 students;

(3) demonstrates that the applicant has a proven track record of success in helping limited English proficient children learn English and meet high academic standards; or

(4) serves a school district with a large number or percentage of limited English proficient children.

(d) Eligible entities

In this section, the term ''eligible entity'' means—

(1) one or more local educational agencies; or

(2) one or more local educational agencies, in collaboration with an institution of higher education, community-based organization, or State educational agency.

(Pub. L. 89–10, title III, § 3213, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1709.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (a)(2)(D), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title II of the Act is classified generally to subchapter II (§ 1021 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

Sections 7112, 7113, 7114, and 7115 (as such sections were in effect on the day before January 8, 2002), referred to in subsec. (b)(1)(A)(i), means sections 7112, 7113, 7114, and 7115 of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719–3722, which were classified to sections 7422, 7423, 7424, and 7425 of this title, respectively, prior to the general amendment of title VII of this chapter by Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1907.

§ 6914. Applications

(a) In general

(1) Secretary

To receive a grant under this subpart, an eligible entity described in section 6912 or 6913 of this title shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(2) State educational agency

The eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of the application submitted by the entity under this section to the State educational agency.

(b) State review and comments

(1) Deadline

The State educational agency, not later than 45 days after receipt of an application under this section, shall review the application and submit the written comments of the agency regarding the application to the Secretary.

(2) Comments

(A) Submission of comments

Regarding applications submitted under this subpart, the State educational agency shall—

(i) submit to the Secretary written comments regarding all such applications; and

(ii) submit to each eligible entity the comments that pertain to such entity.

(B) Subject

For purposes of this subpart, such comments shall address—

(i) how the activities to be carried out under the grant will further the academic achievement and English proficiency of limited English proficient children served under the grant; and

(ii) how the grant application is consistent with the State plan required under section 6311 of this title.

(c) Eligible entity comments

An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

(d) Comment consideration

In making grants under this subpart, the Secretary shall take into consideration comments made by State educational agencies.

(e) Waiver

Notwithstanding subsection (b) of this section, the Secretary is authorized to waive the review requirement specified in subsection (b) of this section if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the program authorized in section 6934 of this title, particularly such agency's ability to carry out data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this subpart.

(f) Required documentation

Such application shall include documentation that—

(1) the applicant has the qualified personnel required to develop, administer, and implement the program proposed in the application; and

(2) the leadership personnel of each school participating in the program have been involved in the development and planning of the program in the school.

(g) Contents

(1) In general

An application for a grant under this subpart shall contain the following:

(A) A description of the need for the proposed program, including—

(i) data on the number of limited English proficient children in the school or school district to be served;

(ii) information on the characteristics of the children, including—

(I) the native languages of the children;

(II) the proficiency of the children in English and their native language;

(III) achievement data (current as of the date of submission of the application) for the limited English proficient children in—

(aa) reading or language arts (in English and in the native language, if applicable); and

(bb) mathematics;

(IV) a comparison of that data for the children with that data for the English proficient peers of the children; and

(V) the previous schooling experiences of the children;

(iii) the professional development needs of the instruction personnel who will provide services for the limited English proficient children under the proposed program; and

(iv) how the services provided through the grant will supplement the basic services provided to limited English proficient children.

(B) A description of the program to be implemented and how such program's design—

(i) relates to the linguistic and academic needs of the limited English proficient children to be served;

(ii) will ensure that the services provided through the program will supplement the basic services the applicant provides to limited English proficient children;

(iii) will ensure that the program is coordinated with other programs under this chapter and other Acts;

(iv) involves the parents of the limited English proficient children to be served;

(v) ensures accountability in achieving high academic standards; and

(vi) promotes coordination of services for the limited English proficient children to be served and their families.

(C) A description, if appropriate, of the applicant's collaborative activities with institutions of higher education, community-based organizations, local educational agencies or State educational agencies, private schools, nonprofit organizations, or businesses in carrying out the proposed program.

(D) An assurance that the applicant will not reduce the level of State and local funds that the applicant expends for language instruction educational programs or special alternative instruction programs if the applicant receives an award under this subpart.

(E) An assurance that the applicant will employ teachers in the proposed program who, individually or in combination, are proficient in—

(i) English, with respect to written, as well as oral, communication skills; and

(ii) the native language of the majority of the children who the teachers teach, if instruction in the program is in the native language as well as English.

(F) A budget for the grant funds.

(2) Additional information

Each application for a grant under section 6913 of this title shall—

(A) describe—

(i) current services (as of the date of submission of the application) the applicant provides to limited English proficient children;

(ii) what services limited English proficient children will receive under the grant that such children will not otherwise receive;

(iii) how funds received under this subpart will be integrated with all other Federal, State, local, and private resources that may be used to serve limited English proficient children;

(iv) specific achievement and school retention goals for the children to be served by the proposed program and how progress toward achieving such goals will be measured; and

(v) the current family education programs (as of the date of submission of the application) of the eligible entity, if applicable; and

(B) provide assurances that—

(i) the program funded with the grant will be integrated with the overall educational program of the children served through the proposed program; and

(ii) the application has been developed in consultation with parents and other representatives of the children to be served in such program.

(h) Approval of applications

An application for a grant under this subpart may be approved only if the Secretary determines that—

(1) the program proposed in the application will use qualified personnel, including personnel who are proficient in the language or languages used for instruction;

(2) in designing the program, the eligible entity has, after consultation with appropriate private school officials—

(A) taken into account the needs of children in nonprofit private elementary schools and secondary schools; and

(B) in a manner consistent with the number of such children enrolled in such schools in the area to be served, whose educational needs are of the type and whose language, and grade levels are of a similar type to the needs, language, and grade levels that the program is intended to address, provided for the participation of such children on a basis comparable to the basis on which public school children participate;

(3)(A) student evaluation and assessment procedures in the program are valid and reliable for limited English proficient children; and

(B) limited English proficient children with disabilities will be identified and served through the program in accordance with the requirements of the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(4) Federal funds made available for the program will be used to supplement the State and local funds that, in the absence of such Federal funds, would be expended for special programs for children of limited English proficient individuals, and in no case to supplant such State and local funds, except that nothing in this paragraph shall be construed to preclude a local educational agency from using funds made available under this subpart—

(A) for activities carried out under an order of a Federal or State court respecting services to be provided to such children; or

(B) to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] with respect to services to be provided to such children;

(5)(A) the assistance provided through the grant will contribute toward building the capacity of the eligible entity to provide a program on a regular basis, similar to the proposed program, that will be of sufficient size, scope, and quality to promise significant improvement in the education of limited English proficient children; and

(B) the eligible entity will have the resources and commitment to continue the program of sufficient size, scope, and quality when assistance under this subpart is reduced or no longer available; and

(6) the eligible entity will use State and national dissemination sources for program design and dissemination of results and products.

(i) Consideration

In determining whether to approve an application under this subpart, the Secretary shall give consideration to—

(1) the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate local educational agency and State educational agency, or businesses; and

(2) whether the application provides for training for personnel participating in, or preparing to participate in, a program that will assist such personnel in meeting State and local certification requirements.

(Pub. L. 89–10, title III, § 3214, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1712.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (h)(3)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (h)(4)(B), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

§ 6915. Capacity building

Each recipient of a grant under this subpart shall use the grant in ways that will build such recipient's capacity to continue to offer high-quality language instruction educational programs and special alternative instruction programs to limited English proficient children after Federal assistance is reduced or eliminated.

(Pub. L. 89–10, title III, § 3215, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1716.)

§ 6916. Programs for Native Americans and Puerto Rico

Notwithstanding any other provision of this part, programs authorized under this subpart that serve Native American (including Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training,

curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that an outcome of programs serving such children shall be increased English proficiency among such children.

(Pub. L. 89–10, title III, § 3216, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1716.)

§ 6917. Evaluations

(a) Evaluation

Each recipient of funds under this subpart for a program shall annually conduct an evaluation of the program and submit to the Secretary a report concerning the evaluation, in the form prescribed by the Secretary.

(b) Use of evaluation

Such evaluation shall be used by the grant recipient—

(1) for program improvement;

(2) to further define the program's goals and objectives; and

(3) to determine program effectiveness.

(c) Evaluation report components

In preparing the evaluation reports, the recipient shall—

(1) use the data provided in the application submitted by the recipient under section 6914 of this title as baseline data against which to report academic achievement and gains in English proficiency for children in the program;

(2) disaggregate the results of the evaluation by gender, native languages spoken by children, socioeconomic status, and whether the children have disabilities;

(3) include data on the progress of the recipient in achieving the objectives of the program, including data demonstrating the extent to which children served by the program are meeting the challenging State academic content and student academic achievement standards, and including data comparing limited English proficient children with English proficient children with regard to school retention and academic achievement concerning—

(A) reading and language arts;

(B) English proficiency;

(C) mathematics; and

(D) the native language of the children, if the program develops native language proficiency;

(4) include information on the extent that professional development activities carried out through the program have resulted in improved classroom practices and improved student academic achievement;

lude[1] a description of how the activities carried out through the program are coordinated and integrated with the other Federal, State, or local programs serving limited English proficient children; and

(6) include such other information as the Secretary may require.

(Pub. L. 89–10, title III, § 3217, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1716.)

[1] So in original. Probably should be ''(5) include''.

§ 6918. Construction

Nothing in this subpart shall be construed to prohibit a local educational agency from serving limited English proficient children simultaneously with children with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title III, § 3218, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1717.)

PRIOR PROVISIONS

Prior sections 6921 to 6928, which comprised former part C of this subchapter, were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6921, Pub. L. 89–10, title III, § 3301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3663, related to Ready-to-Learn television. See section 6775 of this title.

Section 6922, Pub. L. 89–10, title III, § 3302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3663, related to educational programming.

Section 6923, Pub. L. 89–10, title III, § 3303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3664, set forth duties of Secretary.

Section 6924, Pub. L. 89–10, title III, § 3304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665, related to applications.

Section 6925, Pub. L. 89–10, title III, § 3305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665, related to reports and evaluation of program activities.

Section 6926, Pub. L. 89–10, title III, § 3306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665, related to administrative costs.

Section 6927, Pub. L. 89–10, title III, § 3307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3665, defined ''distance learning''.

Section 6928, Pub. L. 89–10, title III, § 3308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666, authorized appropriations.

SUBPART 2—RESEARCH, EVALUATION, AND DISSEMINATION

§ 6931. Authority

(a) In general

The Secretary is authorized to conduct data collection, dissemination, research, and ongoing program evaluation activities in accordance with the provisions of this subpart for the purpose of improving language instruction educational programs and special alternative instruction programs for limited English proficient children.

(b) Competitive awards

Research and program evaluation activities carried out under this subpart shall be supported through competitive grants, contracts, and cooperative agreements awarded to institutions of higher education, nonprofit organizations, State educational agencies, and local educational agencies.

(c) Administration

The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this subpart through the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

(Pub. L. 89–10, title III, § 3221, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1717.)

INFORMATION REGARDING BILINGUAL EDUCATION

Pub. L. 100–297, title VI, § 6213, Apr. 28, 1988, 102 Stat. 429, as amended by Pub. L. 104–66, title I, § 1042(a), Dec.

21, 1995, 109 Stat. 715, provided that: ''The Secretary shall collect data for program management and accountability purposes regarding—

''(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

''(2) a plan, including cost estimates, to be carried out during the 5-year period beginning on such date [sic], for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary schoolchildren and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other education personnel necessary for such purpose;

''(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities; and

''(4)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under such title [sic] and those carried out under other programs for persons of limited English proficiency;

''(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

''(C) the number of other educational personnel needed to carry out programs of bilingual education in the States.''

§ 6932. Research

(a) Administration

The Secretary shall conduct research activities authorized by this subpart through the Institute of Education Sciences in coordination and collaboration with the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

(b) Requirements

Such research activities—

(1) shall have a practical application to teachers, counselors, paraprofessionals, school administrators, parents, and others involved in improving the education of limited English proficient children and their families;

(2) may include research on effective instruction practices for multilingual classes, and on effective instruction strategies to be used by a teacher or other staff member who does not know the native language of a limited English proficient child in the teacher's or staff member's classroom;

(3) may include establishing (through the National Center for Education Statistics in consultation with experts in second language acquisition and scientifically based research on teaching limited English proficient children) a common definition of ''limited English proficient child'' for purposes of national data collection; and

(4) shall be administered by individuals with expertise in second language acquisition, scientifically based research on teaching limited English proficient children, and the needs of limited English proficient children and their families.

(c) Field-initiated research

(1) In general

The Secretary shall reserve not less than 5 percent of the funds made available to carry out this section for field-initiated research conducted by recipients of grants under subpart 1 of this part or this subpart who have received such grants within the previous 5 years. Such research may provide for longitudinal studies of limited English proficient children or teachers who serve such children, monitoring the education of such children from entry into language instruction educational programs through secondary school completion.

(2) Applications

An applicant for assistance under this subsection may submit an application for such assistance to the Secretary at the same time as the applicant submits another application under subpart 1 of this part or this subpart. The Secretary shall complete a review of such applications on a timely basis to allow the activities carried out under research and program grants to be coordinated when recipients are awarded two or more of such grants.

(d) Consultation

The Secretary shall consult with agencies, organizations, and individuals that are engaged in research and practice on the education of limited English proficient children, language instruction educational programs, or related research, to identify areas of study and activities to be funded under this section.

(e) Data collection

The Secretary shall provide for the collection of data on limited English proficient children as part of the data systems operated by the Department.

(Pub. L. 89–10, title III, § 3222, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1717; amended Pub. L. 107–279, title IV, § 404(d)(5)(A), Nov. 5, 2002, 116 Stat. 1986.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–279 substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement''.

RESEARCH RELATING TO BILINGUAL EDUCATION

Pub. L. 100–297, title VI, § 6211, Apr. 28, 1988, 102 Stat. 429, provided that:

''(a) RESEARCH AND DEVELOPMENT.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

''(b) AUTHORIZED ACTIVITIES.—Research activities authorized to be assisted under this section shall include—

''(1) studies to determine and evaluate effective models for bilingual education programs;

''(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

''(3) longitudinal studies to measure the effect of title VII of the Elementary and Secondary Education Act of 1965 [former 20 U.S.C. 3281 et seq.] on students enrolled in programs under such title (including a

longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under such title and which provides information including data on grade retention, academic performance, and dropout rates);

''(4) studies to determine effective and reliable methods for identifying students who are entitled to services under such title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

''(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

''(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

''(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

''(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;

''(9) the effect of such title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this [such] title; and

''(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English.

''(c) CONSULTATION AND DELEGATION OF AUTHORITY.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources [now Committee on Health, Education, Labor, and Pensions] of the Senate, and the Committee on Education and Labor [now Committee on Education and the Workforce] of the House of Representatives.

''(d) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under such title.

''(e) LIMITATION OF AUTHORITY.—Nothing in this section shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.''

§ 6933. Academic excellence awards

(a) Authority

The Secretary may make grants to State educational agencies to assist the agencies in recognizing local educational agencies and other public and nonprofit entities whose programs have—

(1) demonstrated significant progress in assisting limited English proficient children to learn English according to age appropriate and developmentally appropriate standards; and

(2) demonstrated significant progress in assisting limited English proficient children to meet, according to age appropriate and developmentally appropriate standards, the same challenging State academic content and student academic achievement standards as all children are expected to meet.

(b) Applications

A State educational agency desiring a grant under this section shall include an application for such grant in the application submitted by the agency under section 6934(e) of this title.

(Pub. L. 89–10, title III, § 3223, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1718.)

§ 6934. State grant program

(a) State grant program

The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that such agency, through such agency's programs and other Federal education programs, effectively provides for the education of limited English proficient children within the State.

(b) Payments

The amount paid to a State educational agency under subsection (a) of this section shall not exceed 5 percent of the total amount awarded to local educational agencies and entities within the State under subpart 1 of this part for the previous fiscal year, except that in no case shall the amount paid by the Secretary to any State educational agency under this subsection for any fiscal year be less than $100,000.

(c) Use of funds

(1) In general

A State educational agency shall use funds awarded under this section—

(A) to assist local educational agencies in the State with activities that—

(i) consist of program design, capacity building, assessment of student academic achievement, program evaluation, and development of data collection and accountability systems for limited English proficient children; and

(ii) are aligned with State reform efforts; and

(B) to collect data on the State's limited English proficient populations and document the services available to all such populations.

(2) Training

The State educational agency may also use funds provided under this section for the training of State educational agency personnel in educational issues affecting limited English proficient children.

(3) Special rule

Recipients of funds under this section shall not restrict the provision of services under this section to federally funded programs.

(d) State consultation

A State educational agency receiving funds under this section shall consult with recipients of grants under this subpart and other individuals or organizations involved in the development or operation of programs serving limited English proficient children to ensure that such funds are used in a manner consistent with the requirements of this subpart.

(e) Applications

A State educational agency desiring to receive funds under this section shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

(f) Supplement, not supplant

Federal funds made available under this section for any fiscal year shall be used by the

State educational agency to supplement and, to the extent practical, to increase the State funds that, in the absence of such Federal funds, would be made available for the purposes described in this section, and in no case to supplant such State funds.

(g) Report to the Secretary

A State educational agency receiving an award under this section shall provide for the annual submission of a summary report to the Secretary describing such State's use of the funds made available through the award.

(Pub. L. 89–10, title III, § 3224, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1719.)

§ 6935. Instruction materials development

(a) In general

The Secretary may make grants for the development, publication, and dissemination of high-quality instruction materials—

(1) in Native American languages (including Native Hawaiian languages and the language of Native American Pacific Islanders), and the language of natives of the outlying areas, for which instruction materials are not readily available; and

(2) in other low-incidence languages in the United States for which instruction materials are not readily available.

(b) Priority

In making the grants, the Secretary shall give priority to applicants for the grants who propose—

(1) to develop instruction materials in languages indigenous to the United States or the outlying areas; and

(2) to develop and evaluate materials, in collaboration with entities carrying out activities assisted under subpart 1 of this part and this subpart, that are consistent with challenging State academic content and student academic achievement standards.

(Pub. L. 89–10, title III, § 3225, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1720.)

SUBPART 3—PROFESSIONAL DEVELOPMENT

§ 6951. Professional development grants

(a) Purpose

The purpose of this section is to provide assistance to prepare educators to improve educational services for limited English proficient children by—

(1) supporting professional development programs and activities to prepare teachers, pupil service personnel, administrators, and other educational personnel working in language instruction educational programs to provide effective services to limited English proficient children;

(2) incorporating curricula and resources concerning appropriate and effective instruction and assessment methodologies specific to limited English proficient children into preservice and inservice professional development programs;

(3) upgrading the qualifications and skills of non-certified educational personnel, including paraprofessionals, to enable such personnel to meet high professional standards for educating limited English proficient children;

(4) improving the quality of professional development programs in schools or departments of education at institutions of higher education, for educational personnel serving, or preparing to serve, limited English proficient children; and

(5) supporting the recruitment and training of prospective educational personnel to serve limited English proficient children by providing fellowships for undergraduate, graduate, doctoral, and post-doctoral study related to the instruction of such children.

(b) Authorization

(1) In general

The Secretary is authorized to award grants under this section to—

(A) State educational agencies;

(B) local educational agencies;

(C) institutions of higher education; or

(D) consortia of one or more local educational agencies, State educational agencies, institutions of higher education, for-profit organizations, or nonprofit organizations.

(2) Duration

Each grant awarded under this section shall be awarded for a period of not more than 4 years.

(c) Authorized activities

Grants awarded under this section shall be used to conduct high-quality professional development programs and effective activities to improve the quality of instruction and services provided to limited English proficient children, including—

(1) implementing preservice and inservice professional development programs for teachers who serve limited English proficient children, administrators, and other educational personnel who are preparing to provide educational services for limited English proficient children, including professional development programs that assist limited English proficient children to attain English proficiency;

(2) implementing school-based collaborative efforts among teachers to improve instruction in core academic subjects, especially reading, for limited English proficient children;

(3) developing and implementing programs to assist beginning teachers who serve limited English proficient children with transitioning to the teaching profession, including programs that provide mentoring and team teaching with trained and experienced teachers;

(4) implementing programs that support effective teacher use of education technologies to improve instruction and assessment;

(5) developing curricular materials and assessments for teachers that are appropriate to the needs of limited English proficient children, and that are aligned with challenging State academic content and student academic achievement standards, including materials and assessments that ensure limited English proficient children attain English proficiency;

(6) integrating and coordinating activities with entities carrying out other programs con-

sistent with the purpose of this section and supported under this chapter, or other Acts as appropriate;

(7) developing and implementing career ladder programs to upgrade the qualifications and skills of non-certified educational personnel working in, or preparing to work in, language instruction educational programs to enable such personnel to meet high professional standards, including standards for certification and licensure as teachers;

(8) developing and implementing activities to help recruit and train secondary school students as teachers who serve limited English proficient children;

(9) providing fellowships and assistance for costs related to enrollment in a course of study at an institution of higher education that addresses the instruction of limited English proficient children in such areas as teacher training, program administration, research, evaluation, and curriculum development, and for the support of dissertation research related to such study, except that any person receiving such a fellowship or assistance shall agree to—

(A) work in an activity related to improving the educational services for limited English proficient children authorized under this subpart, including work as a teacher that serves limited English proficient children, for a period of time equivalent to the period of time during which such person receives assistance under this paragraph; or

(B) repay such assistance; and

(10) carrying out such other activities as are consistent with the purpose of this section.

(d) Application

(1) In general

Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(2) Contents

Each application shall—

(A) describe the programs and activities proposed to be developed, implemented, and administered under the award;

(B) describe how the applicant has consulted with, and assessed the needs of, public and private schools serving limited English proficient children to determine such schools' need for, and the design of, the program for which funds are sought; and

(C) describe how the programs and activities to be carried out under the award will be used to ensure that limited English proficient children meet challenging State academic content and student academic achievement standards and attain English proficiency.

(3) Special rule

An eligible entity that proposes to conduct a master's-level or doctoral-level program with funds received under this section shall include in the entity's application an assurance that such program will include a training practicum in a local elementary school or secondary school program serving limited English proficient children.

(4) Outreach and technical assistance

The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible for assistance under title III of the Higher Education Act of 1965 [20 U.S.C. 1051 et seq.], and institutions of higher education that are operated or funded by the Bureau of Indian Affairs, to facilitate the participation of such institutions in programs and activities under this section.

(5) Distribution rule

In making awards under this section, the Secretary shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and experience in carrying out the programs and activities authorized under this section and that are otherwise qualified.

(e) Priorities in awarding grants

(1) Grants to agencies

In awarding grants to State educational agencies and local educational agencies under this section, the Secretary shall give priority to agencies that propose programs and activities designed to implement professional development programs for teachers and educational personnel who are providing or preparing to provide educational services for limited English proficient children, including services provided through language instruction educational programs, that ensure such children attain English proficiency and meet challenging State academic content and student academic achievement standards.

(2) Grants to institutions of higher education

In awarding grants to institutions of higher education under this section, the Secretary shall give priority to institutions that propose programs and activities to recruit and upgrade the qualifications and skills of certified and non-certified educational personnel by offering degree programs that prepare beginning teachers to serve limited English proficient children.

(f) Program evaluations

Each recipient of an award under this section for a program or activity shall annually conduct an independent evaluation of the program or activity and submit to the Secretary a report containing such evaluation. Such report shall include information on—

(1) the program or activity conducted by the recipient to provide high-quality professional development to participants in such program or activity;

(2) the number of participants served through the program or activity, the number of participants who completed the requirements of the program or activity, and the number of participants who took positions in an instruction setting with limited English proficient children;

(3) the effectiveness of the program or activity in imparting the professional skills nec-

essary for participants to achieve the objectives of the program or activity; and

(4) the teaching effectiveness of graduates of the program or activity or other participants who have completed the program or activity.

(Pub. L. 89–10, title III, § 3231, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1720.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (d)(4), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended. Title III of the Act is classified generally to subchapter III (§ 1051 et seq.) of chapter 28 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

PRIOR PROVISIONS

A prior section 6951, Pub. L. 89–10, title III, § 3401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666, authorized a national telecommunications-based demonstration project to improve the teaching of mathematics, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 6952 and 6953 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6952, Pub. L. 89–10, title III, § 3402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666, required application for demonstration project grant.

Section 6953, Pub. L. 89–10, title III, § 3403, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3666, authorized appropriations.

SUBPART 4—EMERGENCY IMMIGRANT EDUCATION PROGRAM

§ 6961. Purpose

The purpose of this subpart is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration—

(1) to provide high-quality instruction to immigrant children and youth; and

(2) to help such children and youth—

(A) with their transition into American society; and

(B) meet the same challenging State academic content and student academic achievement standards as all children are expected to meet.

(Pub. L. 89–10, title III, § 3241, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1723.)

§ 6962. State administrative costs

For any fiscal year, a State educational agency may reserve not more than 1.5 percent (2 percent if the State educational agency distributes funds received under this subpart to local educational agencies on a competitive basis) of the amount allotted to such agency under section 6964 of this title to pay the costs of performing such agency's administrative functions under this subpart.

(Pub. L. 89–10, title III, § 3242, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1723.)

§ 6963. Withholding

Whenever the Secretary, after providing reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to comply with a requirement of any provision of this subpart, the Secretary shall notify that agency that further payments will not be made to the agency under this subpart or, in the discretion of the Secretary, that the State educational agency shall not make further payments under this subpart to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this subpart, or payments by the State educational agency under this subpart shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

(Pub. L. 89–10, title III, § 3243, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1724.)

§ 6964. State allotments

(a) Payments

The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 2002 through 2008 for the purpose set forth in section 6961 of this title.

(b) Allotments

(1) In general

Except as provided in subsections (c) and (d) of this section, of the amount appropriated for each fiscal year for this subpart, each State participating in the program assisted under this subpart shall receive an allotment equal to the proportion of the number of immigrant children and youth who are enrolled in public elementary schools or secondary schools under the jurisdiction of each local educational agency described in paragraph (2), and in nonpublic elementary schools or secondary schools within the district served by each such local educational agency within such State, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this subpart.

(2) Eligible local educational agencies

A local educational agency referred to in paragraph (1) is a local educational agency for which the sum of the number of immigrant children and youth who are enrolled in public elementary schools or secondary schools under the jurisdiction of such agency, and in nonpublic elementary schools or secondary schools within the district served by such agency, during the fiscal year for which the payments are to be made under this subpart, is equal to at least—

(A) 500; or

(B) 3 percent of the total number of children enrolled in such public or nonpublic schools during such fiscal year,

whichever is less.

(c) Determinations of number of children and youth

(1) In general

Determinations by the Secretary under this section for any period with respect to the

number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

(2) Special rule

No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allotment under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

(d) Reallotment

(1) In general

Whenever the Secretary determines that any amount of a payment made to a State under this subpart for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose.

(2) Fiscal year

Any amount made available to a State from any appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this subpart, be regarded as part of such State's payment (as determined under subsection (b) of this section) for such year, but shall remain available until the end of the succeeding fiscal year.

(e) Reservation of funds

(1) In general

Notwithstanding any other provision of this subpart, if the amount appropriated to carry out this subpart exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this subpart for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

(A) Agencies with immigrant children and youth

At least ½ of the funds reserved under this paragraph shall be made available to eligible local educational agencies (as described in subsection (b)(2) of this section) within the State with the highest numbers and percentages of immigrant children and youth.

(B) Agencies with a sudden influx of children and youth

Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State that are experiencing a sudden influx of immigrant children and youth and that are otherwise not eligible for assistance under this subpart.

(2) Use of grant funds

Each local educational agency receiving a grant under paragraph (1) shall use such grant funds to carry out the activities described in section 6967 of this title.

(3) Information

Local educational agencies receiving funds under paragraph (1) with the highest number of immigrant children and youth may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children and youth.

(Pub. L. 89–10, title III, § 3244, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1724.)

§ 6965. State applications

(a) Submission

No State educational agency shall receive any payment under this subpart for any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this subpart are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this subpart will be used for purposes set forth in sections 6961 and 6967 of this title, including a description of how local educational agencies receiving funds under this subpart will use such funds to meet such purposes and will coordinate with entities carrying out other programs and activities assisted under this chapter, and other Acts as appropriate;

(3) provide an assurance that local educational agencies receiving funds under this subpart will coordinate the use of such funds with entities carrying out programs and activities assisted under part A of subchapter I of this chapter;

(4) provide assurances that such payments, with the exception of payments reserved under section 6964(e) of this title, will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 6964(b)(1) of this title;

(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this subpart without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this subpart;

(7) provide assurances—

(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary schools or secondary schools within the district served by a local educational agency, such

agency, after consultation with appropriate officials of such schools, shall provide for the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

(B) that the control of funds provided under this subpart for any materials or equipment, or property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purpose provided in this subpart, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such nonpublic elementary school or secondary school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

(8) provide that funds reserved under section 6964(e) of this title be awarded on a competitive basis based on merit and need in accordance with such section; and

(9) provide an assurance that the State educational agency and local educational agencies in the State receiving funds under this subpart will comply with the requirements of section 6320(b) of this title.

(b) Application review

(1) In general

The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

(2) Approval

The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

(3) Disapproval

The Secretary shall disapprove any application submitted by a State educational agency that does not meet the requirements of this section, but shall not finally disapprove an application except after providing reasonable notice, technical assistance, and an opportunity for a hearing to the State educational agency.

(Pub. L. 89–10, title III, §3245, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1725.)

§ 6966. Administrative provisions

(a) Notification of amount

The Secretary, not later than June 1 of each year, shall notify each State educational agency that has an application approved under section 6965 of this title of the amount of such agency's allotment under section 6964 of this title for the succeeding year.

(b) Services to immigrant children and youth enrolled in nonpublic schools

If by reason of any provision of law a local educational agency is prohibited from providing educational services for immigrant children and youth enrolled in nonpublic elementary schools and secondary schools, as required by section 6965(a)(7) of this title, or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of such children and youth enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this subpart, to such children and youth. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of subchapter I of this chapter.

(Pub. L. 89–10, title III, §3246, as added Pub. L. 107–110, title III, §301, Jan. 8, 2002, 115 Stat. 1727.)

§ 6967. Uses of funds

(a) Use of funds

Funds awarded under this subpart shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

(2) support of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

(4) identification and acquisition of curricular materials, educational software, and technologies;

(5) the provision of basic instruction services that are directly attributable to the presence in the school district of immigrant children and youth, including payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services; and

(6) such other activities, related to the purpose of this subpart, as the Secretary may authorize.

(b) Consortia

A local educational agency that receives a grant under this subpart may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out a program described in an application approved under this subpart.

(c) Subgrants

A local educational agency that receives a grant under this subpart may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such institutions or organizations to carry out a program described in an application approved under this subpart, including a program to serve out-of-school youth.

(d) Construction

Nothing in this subpart shall be construed to prohibit a local educational agency from serving

immigrant children and youth simultaneously with children and youth with similar educational needs, in the same educational settings where appropriate.

(Pub. L. 89–10, title III, § 3247, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1727.)

§ 6968. Reports

(a) Biennial report

Each State educational agency receiving funds under this subpart shall submit, once every 2 years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this subpart. Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information as may be necessary for such report.

(b) Report to Congress

The Secretary shall submit, once every 2 years, a report to the appropriate committees of Congress concerning programs assisted under this subpart.

(Pub. L. 89–10, title III, § 3248, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1728.)

PRIOR PROVISIONS

Prior sections 6971 to 6979 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 6971, Pub. L. 89–10, title III, § 3501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667, set forth short title of the Elementary Mathematics and Science Equipment Act.

Section 6972, Pub. L. 89–10, title III, § 3502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667, stated purpose of former provisions.

Section 6973, Pub. L. 89–10, title III, § 3503, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667, authorized program for the provision of equipment and materials to elementary schools to improve mathematics and science education.

Section 6974, Pub. L. 89–10, title III, § 3504, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3667, related to allotments of funds.

Section 6975, Pub. L. 89–10, title III, § 3505, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3668, related to State application for an allotment.

Section 6976, Pub. L. 89–10, title III, § 3506, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3669, related to local application for a grant.

Section 6977, Pub. L. 89–10, title III, § 3507, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3670, set forth program requirements.

Section 6978, Pub. L. 89–10, title III, § 3508, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3670, related to Federal administration of programs.

Section 6979, Pub. L. 89–10, title III, § 3509, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3671, authorized appropriations.

SUBPART 5—ADMINISTRATION

§ 6981. Release time

The Secretary shall allow entities carrying out professional development programs funded under this part to use funds provided under this part for professional release time to enable individuals to participate in programs assisted under this part.

(Pub. L. 89–10, title III, § 3251, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1728.)

§ 6982. Notification

A State educational agency, and when applicable, the State board for postsecondary education, shall be notified within 3 working days after the date an award under this part is made to an eligible entity within the State.

(Pub. L. 89–10, title III, § 3252, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1728.)

§ 6983. Coordination and reporting requirements

(a) Coordination with related programs

In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient children that are administered by the Department and other agencies. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, the Attorney General, and the heads of other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited English proficient children and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students and relevant programs operated by the Department, including programs under this part and other programs under this chapter, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high-quality educational opportunities to all language-minority and limited English proficient children.

(b) Data

The Secretary shall, to the extent feasible, ensure that all data collected by the Department shall include the collection and reporting of data on limited English proficient children.

(c) Publication of proposals

The Secretary shall publish and disseminate all requests for proposals for programs funded under this part.

(d) Report

The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

(1) on programs and activities carried out to serve limited English proficient children under this part, and the effectiveness of such programs and activities in improving the academic achievement and English proficiency of children who are limited English proficient;

(2) containing a critical synthesis of data reported by States under section 6934 of this title, when applicable;

(3) containing an estimate of the number of certified or licensed teachers working in language instruction educational programs and educating limited English proficient children, and an estimate of the number of such teachers that will be needed for the succeeding 5 fiscal years;

(4) containing the major findings of scientifically based research carried out under this part; and

(5) containing other information gathered from the reports submitted to the Secretary under this subchapter when applicable.

(Pub. L. 89–10, title III, § 3253, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1728.)

PRIOR PROVISIONS

A prior section 7001, Pub. L. 89–10, title III, § 3601, as added Pub. L. 106–554, § 1(a)(4) [div. B, title XVII, § 1711], Dec. 21, 2000, 114 Stat. 2763, 2763A–337, related to limitation on availability of certain funds for schools, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6777 of this title.

Another prior section 7001 and prior sections 7002 to 7005 were repealed by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 708(e)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–312.

Section 7001, Pub. L. 89–10, title III, § 3601, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3671, authorized elementary and secondary school library media resources program.

Section 7002, Pub. L. 89–10, title III, § 3602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3671, related to allocation of funds to States.

Section 7003, Pub. L. 89–10, title III, § 3603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3671, required State plans meeting certain criteria.

Section 7004, Pub. L. 89–10, title III, § 3604, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672, related to distribution of allocations to local educational agencies.

Section 7005, Pub. L. 89–10, title III, § 3605, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672, authorized appropriations.

PART C—GENERAL PROVISIONS

§ 7011. Definitions

Except as otherwise provided, in this subchapter:

(1) Child

The term ''child'' means any individual aged 3 through 21.

(2) Community-based organization

The term ''community-based organization'' means a private nonprofit organization of demonstrated effectiveness, Indian tribe, or tribally sanctioned educational authority, that is representative of a community or significant segments of a community and that provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.

(3) Community college

The term ''community college'' means an institution of higher education as defined in section 1001 of this title that provides not less than a 2-year program that is acceptable for full credit toward a bachelor's degree, including institutions receiving assistance under the Tribally Controlled College or University Assistance Act of 1978 [25 U.S.C. 1801 et seq.].

(4) Director

The term ''Director'' means the Director of the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students established under section 3420 of this title.

(5) Family education program

The term ''family education program'' means a language instruction educational program or special alternative instruction program that—

(A) is designed—

(i) to help limited English proficient adults and out-of-school youths achieve English proficiency; and

(ii) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

(B) when feasible, uses instructional programs based on models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children, the Parents as Teachers Program, and the Home Instruction Program for Preschool Youngsters; and

(C) gives preference to participation by parents and immediate family members of children attending school.

(6) Immigrant children and youth

The term ''immigrant children and youth'' means individuals who—

(A) are aged 3 through 21;

(B) were not born in any State; and

(C) have not been attending one or more schools in any one or more States for more than 3 full academic years.

(7) Indian tribe

The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Native village or Regional Corporation or Village Corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(8) Language instruction educational program

The term ''language instruction educational program'' means an instruction course—

(A) in which a limited English proficient child is placed for the purpose of developing and attaining English proficiency, while meeting challenging State academic content and student academic achievement standards, as required by section 6311(b)(1) of this title; and

(B) that may make instructional use of both English and a child's native language to enable the child to develop and attain English proficiency, and may include the participation of English proficient children if such course is designed to enable all participating children to become proficient in English and a second language.

(9) Native American and Native American language

The terms ''Native American'' and ''Native American language'' shall have the meanings given such terms in section 2902 of title 25.

(10) Native Hawaiian or Native American Pacific Islander native language educational organization

The term ''Native Hawaiian or Native American Pacific Islander native language educational organization'' means a nonprofit organization with—

(A) a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in the organization's educational programs; and

(B) not less than 5 years successful experience in providing educational services in traditional Native American languages.

(11) Native language

The term ''native language'', when used with reference to an individual of limited English proficiency, means—

(A) the language normally used by such individual; or

(B) in the case of a child or youth, the language normally used by the parents of the child or youth.

(12) Paraprofessional

The term ''paraprofessional'' means an individual who is employed in a preschool, elementary school, or secondary school under the supervision of a certified or licensed teacher, including individuals employed in language instruction educational programs, special education, and migrant education.

(13) Specially qualified agency

The term ''specially qualified agency'' means an eligible entity, as defined in section 6871 of this title, in a State whose State educational agency—

(A) does not participate in a program under subpart 1 of part A of this subchapter for a fiscal year; or

(B) submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of such subpart.

(14) State

The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(15) Tribally sanctioned educational authority

The term ''tribally sanctioned educational authority'' means—

(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

(B) any nonprofit institution or organization that is—

(i) chartered by the governing body of an Indian tribe to operate a school described in section 6822(a) of this title or otherwise to oversee the delivery of educational services to members of the tribe; and

(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 of part A of this subchapter for individuals served by a school described in section 6822(a) of this title.

(Pub. L. 89–10, title III, § 3301, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1729.)

REFERENCES IN TEXT

The Tribally Controlled College or University Assistance Act of 1978, referred to in par. (3), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§ 1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

The Alaska Native Claims Settlement Act, referred to in par. (7), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

PRIOR PROVISIONS

A prior section 3301 of Pub. L. 89–10 was classified to section 6921 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7012. Parental notification

(a) In general

Each eligible entity using funds provided under this subchapter to provide a language instruction educational program shall, not later than 30 days after the beginning of the school year, inform a parent or the parents of a limited English proficient child identified for participation in, or participating in, such program of—

(1) the reasons for the identification of their child as limited English proficient and in need of placement in a language instruction educational program;

(2) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;

(3) the method of instruction used in the program in which their child is, or will be, participating, and the methods of instruction used in other available programs, including how such programs differ in content, instruction goals, and use of English and a native language in instruction;

(4) how the program in which their child is, or will be participating will meet the educational strengths and needs of the child;

(5) how such program will specifically help their child learn English, and meet age appropriate academic achievement standards for grade promotion and graduation;

(6) the specific exit requirements for such program, the expected rate of transition from such program into classrooms that are not tailored for limited English proficient children, and the expected rate of graduation from secondary school for such program if funds under this subchapter are used for children in secondary schools;

(7) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child; and

(8) information pertaining to parental rights that includes written guidance—

(A) detailing—

(i) the right that parents have to have their child immediately removed from such program upon their request; and

(ii) the options that parents have to decline to enroll their child in such program

or to choose another program or method of instruction, if available; and

(B) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

(b) Separate notification

In addition to providing the information required to be provided under subsection (a) of this section, each eligible entity that is using funds provided under this subchapter to provide a language instruction educational program, and that has failed to make progress on the annual measurable achievement objectives described in section 6842 of this title for any fiscal year for which part A of this subchapter is in effect, shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

(c) Receipt of information

The information required to be provided under subsections (a) and (b) of this section to a parent shall be provided in an understandable and uniform format and, to the extent practicable, in a language that the parent can understand.

(d) Special rule applicable during school year

For a child who has not been identified for participation in a language instruction educational program prior to the beginning of the school year, the eligible entity shall carry out subsections (a) through (c) of this section with respect to the parents of the child within 2 weeks of the child being placed in such a program.

(e) Parental participation

(1) In general

Each eligible entity using funds provided under this subchapter to provide a language instruction educational program shall implement an effective means of outreach to parents of limited English proficient children to inform such parents of how they can—

(A) be involved in the education of their children; and

(B) be active participants in assisting their children—

(i) to learn English;

(ii) to achieve at high levels in core academic subjects; and

(iii) to meet the same challenging State academic content and student academic achievement standards as all children are expected to meet.

(2) Receipt of recommendations

The outreach described in paragraph (1) shall include holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents described in such paragraph.

(f) Basis for admission or exclusion

A child shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

(Pub. L. 89–10, title III, § 3302, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1732.)

PRIOR PROVISIONS

A prior section 3302 of Pub. L. 89–10 was classified to section 6922 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7013. National clearinghouse

The Secretary shall establish and support the operation of a National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, which shall collect, analyze, synthesize, and disseminate information about language instruction educational programs for limited English proficient children, and related programs. The National Clearinghouse shall—

(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system supported by the Institute of Education Sciences;

(2) coordinate activities with Federal data and information clearinghouses and entities operating Federal dissemination networks and systems;

(3) develop a system for improving the operation and effectiveness of federally funded language instruction educational programs;

(4) collect and disseminate information on—

(A) educational research and processes related to the education of limited English proficient children; and

(B) accountability systems that monitor the academic progress of limited English proficient children in language instruction educational programs, including information on academic content and English proficiency assessments for language instruction educational programs; and

(5) publish, on an annual basis, a list of grant recipients under this subchapter.

(Pub. L. 89–10, title III, § 3303, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1733; amended Pub. L. 107–279, title IV, § 404(d)(5)(B), Nov. 5, 2002, 116 Stat. 1986.)

PRIOR PROVISIONS

A prior section 3303 of Pub. L. 89–10 was classified to section 6923 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2002—Par. (1). Pub. L. 107–279 substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement''.

§ 7014. Regulations

In developing regulations under this subchapter, the Secretary shall consult with State educational agencies and local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in the education of limited English proficient children.

(Pub. L. 89–10, title III, § 3304, as added Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1734.)

PRIOR PROVISIONS

A prior section 3304 of Pub. L. 89–10 was classified to section 6924 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

SUBCHAPTER IV—21ST CENTURY SCHOOLS

CODIFICATION

Title IV of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title IV is shown, herein, as having been added by Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1734, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

PART A—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES

§ 7101. Short title

This part may be cited as the ''Safe and Drug-Free Schools and Communities Act''.

(Pub. L. 89–10, title IV, § 4001, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1734.)

PRIOR PROVISIONS

A prior section 7101, Pub. L. 89–10, title IV, § 4001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672, set forth short title of subchapter as the Safe and Drug-Free Schools and Communities Act of 1994, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4001 of Pub. L. 89–10 was classified to section 3041 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

DEVELOPMENT OF MODEL PROGRAM OF STRATEGIES AND TACTICS

Pub. L. 101–647, title XV, § 1501, Nov. 29, 1990, 104 Stat. 4836, required the Attorney General to develop a model program of strategies and tactics for establishing and maintaining drug-free school zones and to submit a report to Congress, at the conclusion of the program, describing the strategies and tactics that were found to be successful in establishing, enforcing, and maintaining drug-free school zones.

§ 7102. Purpose

The purpose of this part is to support programs that prevent violence in and around schools; that prevent the illegal use of alcohol, tobacco, and drugs; that involve parents and communities; and that are coordinated with related Federal, State, school, and community efforts and resources to foster a safe and drug-free learning environment that supports student academic achievement, through the provision of Federal assistance to—

(1) States for grants to local educational agencies and consortia of such agencies to establish, operate, and improve local programs of school drug and violence prevention and early intervention;

(2) States for grants to, and contracts with, community-based organizations and public and private entities for programs of drug and violence prevention and early intervention, including community-wide drug and violence prevention planning and organizing activities;

(3) States for development, training, technical assistance, and coordination activities; and

(4) public and private entities to provide technical assistance; conduct training, demonstrations, and evaluation; and to provide supplementary services and community-wide drug and violence prevention planning and organizing activities for the prevention of drug use and violence among students and youth.

(Pub. L. 89–10, title IV, § 4002, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1734.)

PRIOR PROVISIONS

A prior section 7102, Pub. L. 89–10, title IV, § 4002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3672, set forth findings, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 4002 of Pub. L. 89–10 was classified to section 3042 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7103. Authorization of appropriations

There are authorized to be appropriated—

(1) $650,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years, for State grants under subpart 1 of this part; and

(2) such sums for fiscal year 2002, and for each of the 5 succeeding fiscal years, for national programs under subpart 2 of this part.

(Pub. L. 89–10, title IV, § 4003, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1734.)

PRIOR PROVISIONS

A prior section 7103, Pub. L. 89–10, title IV, § 4003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3673, set forth purpose of former provisions, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7102 of this title.

A prior section 4003 of Pub. L. 89–10 was classified to section 3043 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

A prior section 7104, Pub. L. 89–10, title IV, § 4004, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3674, related to funding, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7103 of this title.

A prior section 4004 of Pub. L. 89–10 was classified to section 3044 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

A prior section 7105, Pub. L. 99–570, title IV, § 4302, Oct. 27, 1986, 100 Stat. 3207–153, which established National Trust for Drug-Free Youth to encourage private gifts of property to assist the Secretary of Education in carrying out the national programs of drug abuse research, education, and prevention under subtitle B of title IV of Pub. L. 99–570, Oct. 27, 1986, 100 Stat. 3207–125 (former 20 U.S.C. 4601 et seq.), was omitted from the Code because of the repeal of subtitle B. Section was formerly classified to section 4665, and subsequently section 3225, of this title.

SUBPART 1—STATE GRANTS

§ 7111. Reservations and allotments

(a) Reservations

(1) In general

From the amount made available under section 7103(1) of this title to carry out this subpart for each fiscal year, the Secretary—

(A) shall reserve 1 percent or $4,750,000 (whichever is greater) of such amount for grants to Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with the Secretary's determination of their respective needs and to carry out programs described in this subpart;

(B) shall reserve 1 percent or $4,750,000 (whichever is greater) of such amount for the Secretary of the Interior to carry out programs described in this subpart for Indian youth; and

(C) shall reserve 0.2 percent of such amount for Native Hawaiians to be used under section 7117 of this title to carry out programs described in this subpart.

(2) Other reservations

From the amount made available under section 7103(2) of this title to carry out subpart 2 of this part for each fiscal year, the Secretary—

(A) may reserve not more than $2,000,000 for the national impact evaluation required by section 7132(a) of this title;

(B) notwithstanding section 3 of the No Child Left Behind Act of 2001,[1] shall reserve an amount necessary to make continuation grants to grantees under the Safe Schools/Healthy Students initiative (under the same terms and conditions as provided for in the grants involved).

(b) State allotments

(1) In general

Except as provided in paragraph (2), the Secretary shall, for each fiscal year, allot among the States—

(A) one-half of the remainder not reserved under subsection (a) of this section according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

(B) one-half of such remainder according to the ratio between the amount each State received under section 6334 of this title for the preceding year and the sum of such amounts received by all the States.

(2) Minimum

For any fiscal year, no State shall be allotted under this subsection an amount that is less than the greater of—

(A) one-half of 1 percent of the total amount allotted to all the States under this subsection; or

(B) the amount such State received for fiscal year 2001 under section 4111 as such section was in effect the day preceding January 8, 2002.[1]

(3) Reallotment

(A) Reallotment for failure to apply

If any State does not apply for an allotment under this subpart for a fiscal year, the Secretary shall reallot the amount of the State's allotment to the remaining States in accordance with this section.

(B) Reallotment of unused funds

The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within 2 years of such allotment. Such reallotments shall be made on the same basis as allotments are made under paragraph (1).

(4) Definition

In this section the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) Limitation

Amounts appropriated under section 7103(2) of this title for a fiscal year may not be increased above the amounts appropriated under such section for the previous fiscal year unless the amounts appropriated under section 7103(1) of this title for the fiscal year involved are at least 10 percent greater that[2] the amounts appropriated under such section 7103(1) of this title for the previous fiscal year.

(Pub. L. 89–10, title IV, § 4111, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1735.)

REFERENCES IN TEXT

Section 3 of the No Child Left Behind Act of 2001, referred to in subsec. (a)(2)(B), is section 3 of Pub. L. 107–110, Jan. 8, 2002, 115 Stat. 1426, which is not classified to the Code. The reference probably should be to section 4 of the Act, which is set out as a note under section 6301 of this title, and which contains transition provisions

Section 4111 as such section was in effect the day preceding January 8, 2002, referred to in subsec. (b)(2)(B), probably means section 4011 of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3674, which was classified to this section prior to the general amendment of this subchapter by Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1734.

PRIOR PROVISIONS

A prior section 7111, Pub. L. 89–10, title IV, § 4011 [4111], as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3674, related to reservations and allotments, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7112. Reservation of State funds for safe and drug-free schools

(a) State reservation for the chief executive officer of a State

(1) In general

The chief executive officer of a State may reserve not more than 20 percent of the total amount allocated to a State under section 7111(b) of this title for each fiscal year to award competitive grants and contracts to local educational agencies, community-based organizations (including community anti-drug coalitions) other public entities and private organizations, and consortia thereof. Such grants and contracts shall be used to carry out the comprehensive State plan described in section 7113(a) of this title through programs or activities that complement and support activities of local educational agencies described in section 7115(b) of this title. Such officer shall award grants based on—

(A) the quality of the program or activity proposed; and

(B) how the program or activity meets the principles of effectiveness described in section 7115(a) of this title.

(2) Priority

In making such grants and contracts under this section, a chief executive officer shall

[1] See References in Text note below.

[2] So in original. Probably should be ''than''.

give priority to programs and activities that prevent illegal drug use and violence for—

(A) children and youth who are not normally served by State educational agencies or local educational agencies; or

(B) populations that need special services or additional resources (such as youth in juvenile detention facilities, runaway or homeless children and youth, pregnant and parenting teenagers, and school dropouts).

(3) Special consideration

In awarding funds under paragraph (1), a chief executive officer shall give special consideration to grantees that pursue a comprehensive approach to drug and violence prevention that includes providing and incorporating mental health services related to drug and violence prevention in their program.

(4) Peer review

Grants or contracts awarded under this section shall be subject to a peer review process.

(5) Use of funds

Grants and contracts under this section shall be used to implement drug and violence prevention activities, including—

(A) activities that complement and support local educational agency activities under section 7115 of this title, including developing and implementing activities to prevent and reduce violence associated with prejudice and intolerance;

(B) dissemination of information about drug and violence prevention; and

(C) development and implementation of community-wide drug and violence prevention planning and organizing.

(6) Administrative costs

The chief executive officer of a State may use not more than 3 percent of the amount described in paragraph (1) for the administrative costs incurred in carrying out the duties of such officer under this section.

(b) In State distribution

(1) In general

A State educational agency shall distribute not less than 93 percent of the amount made available to the State under section 7111(b) of this title, less the amount reserved under subsection (a) of this section, to its local educational agencies.

(2) State administration costs

(A) In general

A State educational agency may use not more than 3 percent of the amount made available to the State under section 7111(b) of this title for each fiscal year less the amount reserved under subsection (a) of this section, for State educational agency administrative costs, including the implementation of the uniform management information and reporting system as provided for under subsection (c)(3) of this section.

(B) Additional amounts for the uniform management information system

In the case of fiscal year 2002, a State educational agency may, in addition to amounts provided for in subparagraph (A), use 1 percent of the amount made available to the State educational agency under section 7111(b) of this title for each fiscal year less the amount reserved under subsection (a) of this section, for implementation of the uniform management information and reporting system as provided for under subsection (c)(3) of this section.

(c) State activities

(1) In general

A State educational agency may use not more than 5 percent of the amount made available to the State under section 7111(b) of this title for each fiscal year less the amount reserved under subsection (a) of this section, for activities described in this subsection.

(2) Activities

A State educational agency shall use the amounts described in paragraph (1), either directly, or through grants and contracts, to plan, develop, and implement capacity building, technical assistance and training, evaluation, program improvement services, and coordination activities for local educational agencies, community-based organizations, and other public and private entities. Such uses—

(A) shall meet the principles of effectiveness described in section 7115(a) of this title;

(B) shall complement and support local uses of funds under section 7115(b) of this title;

(C) shall be in accordance with the purposes of this part; and

(D) may include, among others activities—

(i) identification, development, evaluation, and dissemination of drug and violence prevention strategies, programs, activities, and other information;

(ii) training, technical assistance, and demonstration projects to address violence that is associated with prejudice and intolerance; and

(iii) financial assistance to enhance drug and violence prevention resources available in areas that serve large numbers of low-income children, are sparsely populated, or have other special needs.

(3) Uniform management information and reporting system

(A) Information and statistics

A State shall establish a uniform management information and reporting system.

(B) Uses of funds

A State may use funds described in subparagraphs (A) and (B) of subsection (b)(2) of this section, either directly or through grants and contracts, to implement the uniform management information and reporting system described in subparagraph (A), for the collection of information on—

(i) truancy rates;

(ii) the frequency, seriousness, and incidence of violence and drug-related offenses resulting in suspensions and expulsions in elementary schools and secondary schools in the State;

(iii) the types of curricula, programs, and services provided by the chief execu-

tive officer, the State educational agency, local educational agencies, and other recipients of funds under this subpart; and

(iv) the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities.

(C) Compilation of statistics

In compiling the statistics required for the uniform management information and reporting system, the offenses described in subparagraph (B)(ii) shall be defined pursuant to the State's criminal code, but shall not identify victims of crimes or persons accused of crimes. The collected data shall include incident reports by school officials, anonymous student surveys, and anonymous teacher surveys.

(D) Reporting

The information described under subparagraph (B) shall be reported to the public and the data referenced in clauses (i) and (ii) of such subparagraph shall be reported to the State on a school-by-school basis.

(E) Limitation

Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices with respect to crimes committed on school property or school security.

(Pub. L. 89–10, title IV, § 4112, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1736.)

PRIOR PROVISIONS

A prior section 7112, Pub. L. 89–10, title IV, § 4112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3675, related to State applications, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7113 of this title.

§ 7113. State application

(a) In general

In order to receive an allotment under section 7111(b) of this title for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

(1) contains a comprehensive plan for the use of funds by the State educational agency and the chief executive officer of the State to provide safe, orderly, and drug-free schools and communities through programs and activities that complement and support activities of local educational agencies under section 7115(b) of this title, that comply with the principles of effectiveness under section 7115(a) of this title, and that otherwise are in accordance with the purpose of this part;

(2) describes how activities funded under this subpart will foster a safe and drug-free learning environment that supports academic achievement;

(3) provides an assurance that the application was developed in consultation and coordination with appropriate State officials and others, including the chief executive officer, the chief State school officer, the head of the State alcohol and drug abuse agency, the heads of the State health and mental health agencies, the head of the State criminal justice planning agency, the head of the State child welfare agency, the head of the State board of education, or their designees, and representatives of parents, students, and community-based organizations;

(4) describes how the State educational agency will coordinate such agency's activities under this subpart with the chief executive officer's drug and violence prevention programs under this subpart and with the prevention efforts of other State agencies and other programs, as appropriate, in accordance with the provisions in section 7846 of this title;

(5) provides an assurance that funds reserved under section 7112(a) of this title will not duplicate the efforts of the State educational agency and local educational agencies with regard to the provision of school-based drug and violence prevention activities and that those funds will be used to serve populations not normally served by the State educational agencies and local educational agencies and populations that need special services, such as school dropouts, suspended and expelled students, youth in detention centers, runaway or homeless children and youth, and pregnant and parenting youth;

(6) provides an assurance that the State will cooperate with, and assist, the Secretary in conducting data collection as required by section 7132 of this title;

(7) provides an assurance that the local educational agencies in the State will comply with the provisions of section 7881 of this title pertaining to the participation of private school children and teachers in the programs and activities under this subpart;

(8) provides an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart, and in no case supplant such State, local, and other non-Federal funds;

(9) contains the results of a needs assessment conducted by the State for drug and violence prevention programs, which shall be based on ongoing State evaluation activities, including data on—

(A) the incidence and prevalence of illegal drug use and violence among youth in schools and communities, including the age of onset, the perception of health risks, and the perception of social disapproval among such youth;

(B) the prevalence of risk factors, including high or increasing rates of reported cases of child abuse or domestic violence;

(C) the prevalence of protective factors, buffers, or assets; and

(D) other variables in the school and community identified through scientifically based research;

(10) provides a statement of the State's performance measures for drug and violence prevention programs and activities to be funded under this subpart that will be focused on stu-

dent behavior and attitudes, derived from the needs assessment described in paragraph (9), and be developed in consultation between the State and local officials, and that consist of—

(A) performance indicators for drug and violence prevention programs and activities; and

(B) levels of performance for each performance indicator;

(11) describes the procedures the State will use for assessing and publicly reporting progress toward meeting the performance measures described in paragraph (10);

(12) provides an assurance that the State application will be available for public review after submission of the application;

(13) describes the special outreach activities that will be carried out by the State educational agency and the chief executive officer of the State to maximize the participation of community-based organizations of demonstrated effectiveness that provide services such as mentoring programs in low-income communities;

(14) describes how funds will be used by the State educational agency and the chief executive officer of the State to support, develop, and implement community-wide comprehensive drug and violence prevention planning and organizing activities;

(15) describes how input from parents will be sought regarding the use of funds by the State educational agency and the chief executive officer of the State;

(16) describes how the State educational agency will review applications from local educational agencies, including how the agency will receive input from parents in such review;

(17) describes how the State educational agency will monitor the implementation of activities under this subpart, and provide technical assistance for local educational agencies, community-based organizations, other public entities, and private organizations;

(18) describes how the chief executive officer of the State will award funds under section 7112(a) of this title and implement a plan for monitoring the performance of, and providing technical assistance to, recipients of such funds; and

(19) includes any other information the Secretary may require.

(b) Interim application

(1) Authority

Notwithstanding any other provision of this section, a State may submit for fiscal year 2002 a 1-year interim application and plan for the use of funds under this subpart that is consistent with the requirements of this section and contains such information as the Secretary may specify in regulations.

(2) Purpose

The purpose of such interim application and plan shall be to afford the State the opportunity to fully develop and review such State's application and comprehensive plan otherwise required by this section.

(3) Exception

A State may not receive a grant under this subpart for a fiscal year after fiscal year 2002 unless the Secretary has approved such State's application and comprehensive plan as described in subsection (a) of this section.

(c) Approval process

(1) Deemed approval

An application submitted by a State pursuant to this section shall undergo peer review by the Secretary and shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this subpart.

(2) Disapproval

The Secretary shall not finally disapprove the application, except after giving the State educational agency and the chief executive officer of the State notice and an opportunity for a hearing.

(3) Notification

If the Secretary finds that the application is not in compliance, in whole or in part, with this subpart, the Secretary shall—

(A) give the State educational agency and the chief executive officer of the State notice and an opportunity for a hearing; and

(B) notify the State educational agency and the chief executive officer of the State of the finding of noncompliance, and in such notification, shall—

(i) cite the specific provisions in the application that are not in compliance; and

(ii) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(4) Response

If the State educational agency and the chief executive officer of the State respond to the Secretary's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, and resubmit the application with the requested information described in paragraph (3)(B)(ii), the Secretary shall approve or disapprove such application prior to the later of—

(A) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(B) the expiration of the 120-day period described in paragraph (1).

(5) Failure to respond

If the State educational agency and the chief executive officer of the State do not respond to the Secretary's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

(Pub. L. 89–10, title IV, § 4113, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1739.)

PRIOR PROVISIONS

A prior section 7113, Pub. L. 89–10, title IV, § 4113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat.

3677, related to State and local educational agency programs, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7114 of this title.

§ 7114. Local educational agency program

(a) In general

(1) Funds to local educational agencies

A State shall provide the amount made available to the State under this subpart, less the amounts reserved under section 7112 of this title to local educational agencies for drug and violence prevention and education programs and activities as follows:

(A) 60 percent of such amount based on the relative amount such agencies received under part A of subchapter I of this chapter for the preceding fiscal year.

(B) 40 percent of such amount based on the relative enrollments in public and private nonprofit elementary schools and secondary schools within the boundaries of such agencies.

(2) Administrative costs

Of the amount received under paragraph (1), a local educational agency may use not more than 2 percent for the administrative costs of carrying out its responsibilities under this subpart.

(3) Return of funds to State; reallocation

(A) Return

Except as provided in subparagraph (B), upon the expiration of the 1-year period beginning on the date on which a local educational agency receives its allocation under this subpart—

(i) such agency shall return to the State educational agency any funds from such allocation that remain unobligated; and

(ii) the State educational agency shall reallocate any such amount to local educational agencies that have submitted plans for using such amount for programs or activities on a timely basis.

(B) Carryover

In any fiscal year, a local educational agency, may retain for obligation in the succeeding fiscal year—

(i) an amount equal to not more than 25 percent of the allocation it received under this subpart for such fiscal year; or

(ii) upon a demonstration of good cause by such agency and approval by the State educational agency, an amount that exceeds 25 percent of such allocation.

(C) Reallocation

If a local educational agency chooses not to apply to receive the amount allocated to such agency under this subsection, or if such agency's application under subsection (d) of this section is disapproved by the State educational agency, the State educational agency shall reallocate such amount to one or more of its other local educational agencies.

(b) Eligibility

To be eligible to receive a subgrant under this subpart, a local educational agency desiring a subgrant shall submit an application to the State educational agency in accordance with subsection (d) of this section. Such an application shall be amended, as necessary, to reflect changes in the activities and programs of the local educational agency.

(c) Development

(1) Consultation

(A) In general

A local educational agency shall develop its application through timely and meaningful consultation with State and local government representatives, representatives of schools to be served (including private schools), teachers and other staff, parents, students, community-based organizations, and others with relevant and demonstrated expertise in drug and violence prevention activities (such as medical, mental health, and law enforcement professionals).

(B) Continued consultation

On an ongoing basis, the local educational agency shall consult with such representatives and organizations in order to seek advice regarding how best to coordinate such agency's activities under this subpart with other related strategies, programs, and activities being conducted in the community.

(2) Design and development

To ensure timely and meaningful consultation under paragraph (1), a local educational agency at the initial stages of design and development of a program or activity shall consult, in accordance with this subsection, with appropriate entities and persons on issues regarding the design and development of the program or activity, including efforts to meet the principles of effectiveness described in section 7115(a) of this title.

(d) Contents of applications

An application submitted by a local educational agency under this section shall contain—

(1) an assurance that the activities or programs to be funded comply with the principles of effectiveness described in section 7115(a) of this title and foster a safe and drug-free learning environment that supports academic achievement;

(2) a detailed explanation of the local educational agency's comprehensive plan for drug and violence prevention, including a description of—

(A) how the plan will be coordinated with programs under this chapter, and other Federal, State, and local programs for drug and violence prevention, in accordance with section 7846 of this title;

(B) the local educational agency's performance measures for drug and violence prevention programs and activities, that shall consist of—

(i) performance indicators for drug and violence prevention programs and activities; including—

(I) specific reductions in the prevalence of identified risk factors; and

(II) specific increases in the prevalence of protective factors, buffers, or assets if any have been identified; and

(ii) levels of performance for each performance indicator;

(C) how such agency will assess and publicly report progress toward attaining its performance measures;

(D) the drug and violence prevention activity or program to be funded, including how the activity or program will meet the principles of effectiveness described in section 7115(a) of this title, and the means of evaluating such activity or program; and

(E) how the services will be targeted to schools and students with the greatest need;

(3) a description for how the results of the evaluations of the effectiveness of the program will be used to refine, improve, and strengthen the program;

(4) an assurance that funds under this subpart will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this subpart, be made available for programs and activities authorized under this subpart, and in no case supplant such State, local, and other non-Federal funds;

(5) a description of the mechanisms used to provide effective notice to the community of an intention to submit an application under this subpart;

(6) an assurance that drug and violence prevention programs supported under this subpart convey a clear and consistent message that acts of violence and the illegal use of drugs are wrong and harmful;

(7) an assurance that the applicant has, or the schools to be served have, a plan for keeping schools safe and drug-free that includes—

(A) appropriate and effective school discipline policies that prohibit disorderly conduct, the illegal possession of weapons, and the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs by students;

(B) security procedures at school and while students are on the way to and from school;

(C) prevention activities that are designed to create and maintain safe, disciplined, and drug-free environments;

(D) a crisis management plan for responding to violent or traumatic incidents on school grounds; and

(E) a code of conduct policy for all students that clearly states the responsibilities of students, teachers, and administrators in maintaining a classroom environment that—

(i) allows a teacher to communicate effectively with all students in the class;

(ii) allows all students in the class to learn;

(iii) has consequences that are fair, and developmentally appropriate;

(iv) considers the student and the circumstances of the situation; and

(v) is enforced accordingly;

(8) an assurance that the application and any waiver request under section 7115(a)(3) of this title will be available for public review after submission of the application; and

(9) such other assurances, goals, and objectives identified through scientifically based research that the State may reasonably require in accordance with the purpose of this part.

(e) Review of application

(1) In general

In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

(2) Considerations

In determining whether to approve the application of a local educational agency under this section, a State educational agency shall consider the quality of application and the extent to which the application meets the principles of effectiveness described in section 7115(a) of this title.

(f) Approval process

(1) Deemed approval

An application submitted by a local educational agency pursuant to this section shall be deemed to be approved by the State educational agency unless the State educational agency makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the State educational agency received the application, that the application is not in compliance with this subpart.

(2) Disapproval

The State educational agency shall not finally disapprove the application, except after giving the local educational agency notice and opportunity for a hearing.

(3) Notification

If the State educational agency finds that the application is not in compliance, in whole or in part, with this subpart, the State educational agency shall—

(A) give the local educational agency notice and an opportunity for a hearing; and

(B) notify the local educational agency of the finding of noncompliance, and in such notification, shall—

(i) cite the specific provisions in the application that are not in compliance; and

(ii) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(4) Response

If the local educational agency responds to the State educational agency's notification described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in paragraph (3)(B)(ii), the State educational agency shall approve or disapprove such application prior to the later of—

(A) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(B) the expiration of the 120-day period described in paragraph (1).

(5) Failure to respond

If the local educational agency does not respond to the State educational agency's notifi-

cation described in paragraph (3)(B) during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

(Pub. L. 89–10, title IV, § 4114, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1742.)

PRIOR PROVISIONS

A prior section 7114, Pub. L. 89–10, title IV, § 4114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3679, related to governor's programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7115. Authorized activities

(a) Principles of effectiveness

(1) In general

For a program or activity developed pursuant to this subpart to meet the principles of effectiveness, such program or activity shall—

(A) be based on an assessment of objective data regarding the incidence of violence and illegal drug use in the elementary schools and secondary schools and communities to be served, including an objective analysis of the current conditions and consequences regarding violence and illegal drug use, including delinquency and serious discipline problems, among students who attend such schools (including private school students who participate in the drug and violence prevention program) that is based on ongoing local assessment or evaluation activities;

(B) be based on an established set of performance measures aimed at ensuring that the elementary schools and secondary schools and communities to be served by the program have a safe, orderly, and drug-free learning environment;

(C) be based on scientifically based research that provides evidence that the program to be used will reduce violence and illegal drug use;

(D) be based on an analysis of the data reasonably available at the time, of the prevalence of risk factors, including high or increasing rates of reported cases of child abuse and domestic violence; protective factors, buffers, assets; or other variables in schools and communities in the State identified through scientifically based research; and

(E) include meaningful and ongoing consultation with and input from parents in the development of the application and administration of the program or activity.

(2) Periodic evaluation

(A) Requirement

The program or activity shall undergo a periodic evaluation to assess its progress toward reducing violence and illegal drug use in schools to be served based on performance measures described in section 7114(d)(2)(B) of this title.

(B) Use of results

The results shall be used to refine, improve, and strengthen the program, and to refine the performance measures, and shall also be made available to the public upon request, with public notice of such availability provided.

(3) Waiver

A local educational agency may apply to the State for a waiver of the requirement of subsection (a)(1)(C) of this section to allow innovative activities or programs that demonstrate substantial likelihood of success.

(b) Local educational agency activities

(1) Program requirements

A local educational agency shall use funds made available under section 7114 of this title to develop, implement, and evaluate comprehensive programs and activities, which are coordinated with other school and community-based services and programs, that shall—

(A) foster a safe and drug-free learning environment that supports academic achievement;

(B) be consistent with the principles of effectiveness described in subsection (a)(1) of this section;

(C) be designed to—

(i) prevent or reduce violence; the use, possession and distribution of illegal drugs; and delinquency; and

(ii) create a well disciplined environment conducive to learning, which includes consultation between teachers, principals, and other school personnel to identify early warning signs of drug use and violence and to provide behavioral interventions as part of classroom management efforts; and

(D) include activities to—

(i) promote the involvement of parents in the activity or program;

(ii) promote coordination with community groups and coalitions, and government agencies; and

(iii) distribute information about the local educational agency's needs, goals, and programs under this subpart.

(2) Authorized activities

Each local educational agency, or consortium of such agencies, that receives a subgrant under this subpart may use such funds to carry out activities that comply with the principles of effectiveness described in subsection (a) of this section, such as the following:

(A) Age appropriate and developmentally based activities that—

(i) address the consequences of violence and the illegal use of drugs, as appropriate;

(ii) promote a sense of individual responsibility;

(iii) teach students that most people do not illegally use drugs;

(iv) teach students to recognize social and peer pressure to use drugs illegally and the skills for resisting illegal drug use;

(v) teach students about the dangers of emerging drugs;

(vi) engage students in the learning process; and

(vii) incorporate activities in secondary schools that reinforce prevention activities implemented in elementary schools.

(B) Activities that involve families, community sectors (which may include appropriately trained seniors), and a variety of drug and violence prevention providers in setting clear expectations against violence and illegal use of drugs and appropriate consequences for violence and illegal use of drugs.

(C) Dissemination of drug and violence prevention information to schools and the community.

(D) Professional development and training for, and involvement of, school personnel, pupil services personnel, parents, and interested community members in prevention, education, early identification and intervention, mentoring, or rehabilitation referral, as related to drug and violence prevention.

(E) Drug and violence prevention activities that may include the following:

(i) Community-wide planning and organizing activities to reduce violence and illegal drug use, which may include gang activity prevention.

(ii) Acquiring and installing metal detectors, electronic locks, surveillance cameras, or other related equipment and technologies.

(iii) Reporting criminal offenses committed on school property.

(iv) Developing and implementing comprehensive school security plans or obtaining technical assistance concerning such plans, which may include obtaining a security assessment or assistance from the School Security and Technology Resource Center at the Sandia National Laboratory located in Albuquerque, New Mexico.

(v) Supporting safe zones of passage activities that ensure that students travel safely to and from school, which may include bicycle and pedestrian safety programs.

(vi) The hiring and mandatory training, based on scientific research, of school security personnel (including school resource officers) who interact with students in support of youth drug and violence prevention activities under this part that are implemented in the school.

(vii) Expanded and improved school-based mental health services related to illegal drug use and violence, including early identification of violence and illegal drug use, assessment, and direct or group counseling services provided to students, parents, families, and school personnel by qualified school-based mental health service providers.

(viii) Conflict resolution programs, including peer mediation programs that educate and train peer mediators and a designated faculty supervisor, and youth anti-crime and anti-drug councils and activities.

(ix) Alternative education programs or services for violent or drug abusing students that reduce the need for suspension or expulsion or that serve students who have been suspended or expelled from the regular educational settings, including programs or services to assist students to make continued progress toward meeting the State academic achievement standards and to reenter the regular education setting.

(x) Counseling, mentoring, referral services, and other student assistance practices and programs, including assistance provided by qualified school-based mental health services providers and the training of teachers by school-based mental health services providers in appropriate identification and intervention techniques for students at risk of violent behavior and illegal use of drugs.

(xi) Programs that encourage students to seek advice from, and to confide in, a trusted adult regarding concerns about violence and illegal drug use.

(xii) Drug and violence prevention activities designed to reduce truancy.

(xiii) Age-appropriate, developmentally-based violence prevention and education programs that address victimization associated with prejudice and intolerance, and that include activities designed to help students develop a sense of individual responsibility and respect for the rights of others, and to resolve conflicts without violence.

(xiv) Consistent with the fourth amendment to the Constitution of the United States, the testing of a student for illegal drug use or the inspecting of a student's locker for weapons or illegal drugs or drug paraphernalia, including at the request of or with the consent of a parent or legal guardian of the student, if the local educational agency elects to so test or inspect.

(xv) Emergency intervention services following traumatic crisis events, such as a shooting, major accident, or a drug-related incident that have disrupted the learning environment.

(xvi) Establishing or implementing a system for transferring suspension and expulsion records, consistent with section 1232g of this title, by a local educational agency to any public or private elementary school or secondary school.

(xvii) Developing and implementing character education programs, as a component of drug and violence prevention programs, that take into account the views of parents of the students for whom the program is intended and such students, such as a program described in subpart 3 of part D of subchapter V of this chapter.

(xviii) Establishing and maintaining a school safety hotline.

(xix) Community service, including community service performed by expelled students, and service-learning projects.

(xx) Conducting a nationwide background check of each local educational agency employee, regardless of when hired, and prospective employees for the purpose of determining whether the employee or prospective employee has been convicted of a crime that bears upon the employee's fitness—

(I) to be responsible for the safety or well-being of children;

(II) to serve in the particular capacity in which the employee or prospective employee is or will be employed; or

(III) to otherwise be employed by the local educational agency.

(xxi) Programs to train school personnel to identify warning signs of youth suicide and to create an action plan to help youth at risk of suicide.

(xxii) Programs that respond to the needs of students who are faced with domestic violence or child abuse.

(F) The evaluation of any of the activities authorized under this subsection and the collection of objective data used to assess program needs, program implementation, or program success in achieving program goals and objectives.

(c) Limitation

(1) In general

Except as provided in paragraph (2), not more than 40 percent of the funds available to a local educational agency under this subpart may be used to carry out the activities described in clauses (ii) through (vi) of subsection (b)(2)(E) of this section, of which not more than 50 percent of such amount may be used to carry out the activities described in clauses (ii) through (v) of such subsection.

(2) Exception

A local educational agency may use funds under this subpart for activities described in clauses (ii) through (v) of subsection (b)(2)(E) of this section only if funding for these activities is not received from other Federal agencies.

(d) Rule of construction

Nothing in this section shall be construed to prohibit the use of funds under this subpart by any local educational agency or school for the establishment or implementation of a school uniform policy if such policy is part of the overall comprehensive drug and violence prevention plan of the State involved and is supported by the State's needs assessment and other scientifically based research information.

(Pub. L. 89–10, title IV, § 4115, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1745.)

PRIOR PROVISIONS

A prior section 7115, Pub. L. 89–10, title IV, § 4115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3681, related to local applications, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7116. Reporting

(a) State report

(1) In general

By December 1, 2003, and every 2 years thereafter, the chief executive officer of the State, in cooperation with the State educational agency, shall submit to the Secretary a report—

(A) on the implementation and outcomes of State programs under section 7112(a)(1) of this title and section 7112(c) of this title and local educational agency programs under section 7115(b) of this title, as well as an assessment of their effectiveness;

(B) on the State's progress toward attaining its performance measures for drug and violence prevention under section 7113(a)(10) of this title; and

(C) on the State's efforts to inform parents of, and include parents in, violence and drug prevention efforts.

(2) Special rule

The report required by this subsection shall be—

(A) in the form specified by the Secretary;

(B) based on the State's ongoing evaluation activities, and shall include data on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence by youth in schools and communities; and

(C) made readily available to the public.

(b) Local educational agency report

(1) In general

Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information that the State requires to complete the State report required by subsection (a) of this section, including a description of how parents were informed of, and participated in, violence and drug prevention efforts.

(2) Availability

Information under paragraph (1) shall be made readily available to the public.

(3) Provision of documentation

Not later than January 1 of each year that a State is required to report under subsection (a) of this section, the Secretary shall provide to the State educational agency all of the necessary documentation required for compliance with this section.

(Pub. L. 89–10, title IV, § 4116, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1750.)

PRIOR PROVISIONS

A prior section 7116, Pub. L. 89–10, title IV, § 4116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3682; amended Pub. L. 106–554, § 1(a)(1) [title III, § 314], Dec. 21, 2000, 114 Stat. 2763, 2763A–47, related to local drug and violence prevention programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7117. Programs for Native Hawaiians

(a) General authority

From the funds made available pursuant to section 7111(a)(1)(C) of this title to carry out this section, the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Native Hawaiians for the benefit of Native Hawaiians to plan, conduct, and administer programs, or portions thereof, that are authorized by and consistent with the provisions of this subpart.

(b) Definition of Native Hawaiian

For the purposes of this section, the term ''Native Hawaiian'' means any individual any of

whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

(Pub. L. 89–10, title IV, § 4117, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1750.)

PRIOR PROVISIONS

A prior section 7117, Pub. L. 89–10, title IV, § 4117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3685, related to evaluation and reporting, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7116 of this title.

A prior section 7118, Pub. L. 89–10, title IV, § 4118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3685, related to programs for Native Hawaiians, and was omitted in the general amendment of this subchapter by Pub. L. 107–110. See section 7117 of this title.

SUBPART 2—NATIONAL PROGRAMS

§ 7131. Federal activities

(a) Program authorized

From funds made available to carry out this subpart under section 7103(2) of this title, the Secretary, in consultation with the Secretary of Health and Human Services, the Director of the Office of National Drug Control Policy, and the Attorney General, shall carry out programs to prevent the illegal use of drugs and violence among, and promote safety and discipline for, students. The Secretary shall carry out such programs directly, or through grants, contracts, or cooperative agreements with public and private entities and individuals, or through agreements with other Federal agencies, and shall coordinate such programs with other appropriate Federal activities. Such programs may include—

(1) the development and demonstration of innovative strategies for the training of school personnel, parents, and members of the community for drug and violence prevention activities based on State and local needs;

(2) the development, demonstration, scientifically based evaluation, and dissemination of innovative and high quality drug and violence prevention programs and activities, based on State and local needs, which may include—

(A) alternative education models, either established within a school or separate and apart from an existing school, that are designed to promote drug and violence prevention, reduce disruptive behavior, reduce the need for repeat suspensions and expulsions, enable students to meet challenging State academic standards, and enable students to return to the regular classroom as soon as possible;

(B) community service and service-learning projects, designed to rebuild safe and healthy neighborhoods and increase students' sense of individual responsibility;

(C) video-based projects developed by noncommercial telecommunications entities that provide young people with models for conflict resolution and responsible decisionmaking; and

(D) child abuse education and prevention programs for elementary and secondary students;

(3) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination;

(4) the provision of information on violence prevention and education and school safety to the Department of Justice for dissemination;

(5) technical assistance to chief executive officers, State agencies, local educational agencies, and other recipients of funding under this part to build capacity to develop and implement high-quality, effective drug and violence prevention programs consistent with the principles of effectiveness in section 7115(a) of this title;

(6) assistance to school systems that have particularly severe drug and violence problems, including hiring drug prevention and school safety coordinators, or assistance to support appropriate response efforts to crisis situations;

(7) the development of education and training programs, curricula, instructional materials, and professional training and development for preventing and reducing the incidence of crimes and conflicts motivated by hate in localities most directly affected by hate crimes;

(8) activities in communities designated as empowerment zones or enterprise communities that will connect schools to community-wide efforts to reduce drug and violence problems; and

(9) other activities in accordance with the purpose of this part, based on State and local needs.

(b) Peer review

The Secretary shall use a peer review process in reviewing applications for funds under this section.

(Pub. L. 89–10, title IV, § 4121, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1751.)

PRIOR PROVISIONS

A prior section 7131, Pub. L. 89–10, title IV, § 4121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3686, related to Federal activities, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7132. Impact evaluation

(a) Biennial evaluation

The Secretary, in consultation with the Safe and Drug-Free Schools and Communities Advisory Committee described in section 7134 of this title, shall conduct an independent biennial evaluation of the impact of programs assisted under this subpart and of other recent and new initiatives to combat violence and illegal drug use in schools. The evaluation shall report on whether community and local educational agency programs funded under this subpart—

(1) comply with the principles of effectiveness described in section 7115(a) of this title;

(2) have appreciably reduced the level of illegal drug, alcohol, and tobacco use, and school violence and the illegal presence of weapons at schools; and

(3) have conducted effective parent involvement and training programs.

(b) Data collection

The National Center for Education Statistics shall collect data, that is subject to independent

review, to determine the incidence and prevalence of illegal drug use and violence in elementary schools and secondary schools in the States. The collected data shall include incident reports by schools officials, anonymous student surveys, and anonymous teacher surveys.

(c) Biennial report

Not later than January 1, 2003, and every 2 years thereafter, the Secretary shall submit to the President and Congress a report on the findings of the evaluation conducted under subsection (a) of this section together with the data collected under subsection (b) of this section and data available from other sources on the incidence and prevalence, age of onset, perception of health risk, and perception of social disapproval of drug use and violence in elementary schools and secondary schools in the States. The Secretary shall include data submitted by the States pursuant to subsection 7116(a) of this title.

(Pub. L. 89–10, title IV, § 4122, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1752.)

PRIOR PROVISIONS

A prior section 7132, Pub. L. 89–10, title IV, § 4122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3687, related to grants to institutions of higher education, prior to repeal by Pub. L. 105–244, § 3, title IX, § 981, Oct. 7, 1998, 112 Stat. 1585, 1837, effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244.

§ 7133. Hate crime prevention

(a) Grant authorization

From funds made available to carry out this subpart under section 7103(2) of this title the Secretary may make grants to local educational agencies and community-based organizations for the purpose of providing assistance to localities most directly affected by hate crimes.

(b) Use of funds

(1) Program development

Grants under this section may be used to improve elementary and secondary educational efforts, including—

(A) development of education and training programs designed to prevent and to reduce the incidence of crimes and conflicts motivated by hate;

(B) development of curricula for the purpose of improving conflict or dispute resolution skills of students, teachers, and administrators;

(C) development and acquisition of equipment and instructional materials to meet the needs of, or otherwise be part of, hate crime or conflict programs; and

(D) professional training and development for teachers and administrators on the causes, effects, and resolutions of hate crimes or hate-based conflicts.

(2) Application

In order to be eligible to receive a grant under this section for any fiscal year, a local educational agency, or a local educational agency in conjunction with a community-based organization, shall submit an application to the Secretary in such form and containing such information as the Secretary may reasonably require.

(3) Requirements

Each application under paragraph (2) shall include—

(A) a request for funds for the purpose described in this section;

(B) a description of the schools and communities to be served by the grants; and

(C) assurances that Federal funds received under this section shall be used to supplement, and not supplant, non-Federal funds.

(4) Comprehensive plan

Each application shall include a comprehensive plan that contains—

(A) a description of the hate crime or conflict problems within the schools or the community targeted for assistance;

(B) a description of the program to be developed or augmented by such Federal and matching funds;

(C) assurances that such program or activity shall be administered by or under the supervision of the applicant;

(D) procedures for the proper and efficient administration of such program; and

(E) fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this section.

(c) Award of grants

(1) Selection of recipients

The Secretary shall consider the incidence of crimes and conflicts motivated by bias in the targeted schools and communities in awarding grants under this section.

(2) Geographic distribution

The Secretary shall attempt, to the extent practicable, to achieve an equitable geographic distribution of grant awards.

(3) Dissemination of information

The Secretary shall attempt, to the extent practicable, to make available information regarding successful hate crime prevention programs, including programs established or expanded with grants under this section.

(d) Reports

The Secretary shall submit to Congress a report every 2 years that shall contain a detailed statement regarding grants and awards, activities of grant recipients, and an evaluation of programs established under this section.

(Pub. L. 89–10, title IV, § 4123, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1752.)

PRIOR PROVISIONS

A prior section 7133, Pub. L. 89–10, title IV, § 4123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3687, related to hate crime prevention, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7134. Safe and Drug-Free Schools and Communities Advisory Committee

(a) Establishment

(1) In general

There is hereby established an advisory committee to be known as the ''Safe and Drug

Free Schools and Communities Advisory Committee'' (referred to in this section as the ''Advisory Committee'') to—

(A) consult with the Secretary under subsection (b) of this section;

(B) coordinate Federal school- and community-based substance abuse and violence prevention programs and reduce duplicative research or services;

(C) develop core data sets and evaluation protocols for safe and drug-free school- and community-based programs;

(D) provide technical assistance and training for safe and drug-free school- and community-based programs;

(E) provide for the diffusion of scientifically based research to safe and drug-free school- and community-based programs; and

(F) review other regulations and standards developed under this subchapter.

(2) Composition

The Advisory Committee shall be composed of representatives from—

(A) the Department of Education;

(B) the Centers for Disease Control and Prevention;

(C) the National Institute on Drug Abuse;

(D) the National Institute on Alcoholism and Alcohol Abuse;

(E) the Center for Substance Abuse Prevention;

(F) the Center for Mental Health Services;

(G) the Office of Juvenile Justice and Delinquency Prevention;

(H) the Office of National Drug Control Policy;

(I) State and local governments, including education agencies; and

(J) researchers and expert practitioners.

(3) Consultation

In carrying out its duties under this section, the Advisory Committee shall annually consult with interested State and local coordinators of school- and community-based substance abuse and violence prevention programs and other interested groups.

(b) Programs

(1) In general

From amounts made available under section 7103(2) of this title to carry out this subpart, the Secretary, in consultation with the Advisory Committee, shall carry out scientifically based research programs to strengthen the accountability and effectiveness of the State, chief executive officer's, and national programs under this part.

(2) Grants, contracts or cooperative agreements

The Secretary shall carry out paragraph (1) directly or through grants, contracts, or cooperative agreements with public and private entities and individuals or through agreements with other Federal agencies.

(3) Coordination

The Secretary shall coordinate programs under this section with other appropriate Federal activities.

(4) Activities

Activities that may be carried out under programs funded under this section may include—

(A) the provision of technical assistance and training, in collaboration with other Federal agencies utilizing their expertise and national and regional training systems, for Governors, State educational agencies and local educational agencies to support high quality, effective programs that—

(i) provide a thorough assessment of the substance abuse and violence problem;

(ii) utilize objective data and the knowledge of a wide range of community members;

(iii) develop measurable goals and objectives; and

(iv) implement scientifically based research activities that have been shown to be effective and that meet identified needs;

(B) the provision of technical assistance and training to foster program accountability;

(C) the diffusion and dissemination of best practices and programs;

(D) the development of core data sets and evaluation tools;

(E) program evaluations;

(F) the provision of information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 290aa(d)(16) of title 42; and

(G) other activities that meet unmet needs related to the purpose of this part and that are undertaken in consultation with the Advisory Committee.

(Pub. L. 89–10, title IV, § 4124, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1754.)

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 7135. National Coordinator Program

(a) In general

From funds made available to carry out this subpart under section 7103(2) of this title, the Secretary may provide for the establishment of a National Coordinator Program under which the Secretary shall award grants to local educational agencies for the hiring of drug prevention and school safety program coordinators.

(b) Use of funds

Amounts received under a grant under subsection (a) of this section shall be used by local educational agencies to recruit, hire, and train individuals to serve as drug prevention and

school safety program coordinators in schools with significant drug and school safety problems. Such coordinators shall be responsible for developing, conducting, and analyzing assessments of drug and crime problems at their schools, and administering the safe and drug-free grant program at such schools.

(Pub. L. 89–10, title IV, § 4125, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1755.)

§ 7136. Community service grant program

(a) In general

From funds made available to carry out this subpart under section 7103(2) of this title, the Secretary may make grants to States to carry out programs under which students expelled or suspended from school are required to perform community service.

(b) Allocation

From the amount described in subsection (a) of this section, the Secretary shall allocate among the States—

(1) one-half according to the ratio between the school-aged population of each State and the school-aged population of all the States; and

(2) one-half according to the ratio between the amount each State received under section 6334 of this title for the preceding year and the sum of such amounts received by all the States.

(c) Minimum

For any fiscal year, no State shall be allotted under this section an amount that is less than one-half of 1 percent of the total amount allotted to all the States under this section.

(d) Reallotment

The Secretary may reallot any amount of any allotment to a State if the Secretary determines that the State will be unable to use such amount within 2 years of such allotment. Such reallotments shall be made on the same basis as allotments are made under subsection (b) of this section.

(e) Definition

In this section, the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title IV, § 4126, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1756.)

§ 7137. School Security Technology and Resource Center

(a) Center

From funds made available to carry out this subpart under section 7103(2) of this title, the Secretary, the Attorney General, and the Secretary of Energy may enter into an agreement for the establishment at the Sandia National Laboratories, in partnership with the National Law Enforcement and Corrections Technology Center—Southeast and the National Center for Rural Law Enforcement in Little Rock, Arkansas, of a center to be known as the ''School Security Technology and Resource Center'' (hereafter in this section ''the Center'').

(b) Administration

The Center established under subsection (a) of this section shall be administered by the Attorney General.

(c) Functions

The center established under subsection (a) of this section shall be a resource to local educational agencies for school security assessments, security technology development, evaluation and implementation, and technical assistance relating to improving school security. The Center will also conduct and publish school violence research, coalesce data from victim communities, and monitor and report on schools that implement school security strategies.

(Pub. L. 89–10, title IV, § 4127, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1756.)

§ 7138. National Center for School and Youth Safety

(a) Establishment

From funds made available to carry out this subpart under section 7103(2) of this title, the Secretary of Education and the Attorney General may jointly establish a National Center for School and Youth Safety (in this section referred to as the ''Center''). The Secretary of Education and the Attorney General may establish the Center at an existing facility, if the facility has a history of performing two or more of the duties described in subsection (b) of this section. The Secretary of Education and the Attorney General shall jointly appoint a Director of the Center to oversee the operation of the Center.

(b) Duties

The Center shall carry out emergency response, anonymous student hotline, consultation, and information and outreach activities with respect to elementary and secondary school safety, including the following:

(1) Emergency response

The staff of the Center, and such temporary contract employees as the Director of the Center shall determine necessary, shall offer emergency assistance to local communities to respond to school safety crises. Such assistance shall include counseling for victims and the community, assistance to law enforcement to address short-term security concerns, and advice on how to enhance school safety, prevent future incidents, and respond to future incidents.

(2) Anonymous student hotline

The Center shall establish a toll-free telephone number for students to report criminal activity, threats of criminal activity, and other high-risk behaviors such as substance abuse, gang or cult affiliation, depression, or other warning signs of potentially violent behavior. The Center shall relay the reports, without attribution, to local law enforcement or appropriate school hotlines. The Director of the Center shall work with the Attorney General to establish guidelines for Center staff to work with law enforcement around the Nation to relay information reported through the hotline.

(3) Consultation

The Center shall establish a toll-free number for the public to contact staff of the Center for consultation regarding school safety. The Director of the Center shall hire administrative staff and individuals with expertise in enhancing school safety, including individuals with backgrounds in counseling and psychology, education, law enforcement and criminal justice, and community development to assist in the consultation.

(4) Information and outreach

The Center shall compile information about the best practices in school violence prevention, intervention, and crisis management, and shall serve as a clearinghouse for model school safety program information. The staff of the Center shall work to ensure local governments, school officials, parents, students, and law enforcement officials and agencies are aware of the resources, grants, and expertise available to enhance school safety and prevent school crime. The staff of the Center shall give special attention to providing outreach to rural and impoverished communities.

(Pub. L. 89–10, title IV, § 4128, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1756.)

§ 7139. Grants to reduce alcohol abuse

(a) In general

The Secretary, in consultation with the Administrator of the Substance Abuse and Mental Health Services Administration, may award grants from funds made available to carry out this subpart under section 7103(2) of this title, on a competitive basis, to local educational agencies to enable such agencies to develop and implement innovative and effective programs to reduce alcohol abuse in secondary schools.

(b) Eligibility

To be eligible to receive a grant under subsection (a) of this section, a local educational agency shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including—

(1) a description of the activities to be carried out under the grant;

(2) an assurance that such activities will include one or more of the proven strategies for reducing underage alcohol abuse as determined by the Substance Abuse and Mental Health Services Administration;

(3) an explanation of how activities to be carried out under the grant that are not described in paragraph (2) will be effective in reducing underage alcohol abuse, including references to the past effectiveness of such activities;

(4) an assurance that the applicant will submit to the Secretary an annual report concerning the effectiveness of the programs and activities funded under the grant; and

(5) such other information as the Secretary determines appropriate.

(c) Streamlining of process for low-income and rural LEAs

The Secretary, in consultation with the Administrator of the Substance Abuse and Mental Health Services Administration, shall develop procedures to make the application process for grants under this section more user-friendly, particularly for low-income and rural local educational agencies.

(d) Reservations

(1) SAMHSA

The Secretary may reserve 20 percent of any amount used to carry out this section to enable the Administrator of the Substance Abuse and Mental Health Services Administration to provide alcohol abuse resources and start-up assistance to local educational agencies receiving grants under this section.

(2) Low-income and rural areas

The Secretary may reserve 25 percent of any amount used to carry out this section to award grants to low-income and rural local educational agencies.

(Pub. L. 89–10, title IV, § 4129, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1757.)

§ 7140. Mentoring programs

(a) Purpose; definitions

(1) Purpose

The purpose of this section is to make assistance available to promote mentoring programs for children with greatest need—

(A) to assist such children in receiving support and guidance from a mentor;

(B) to improve the academic achievement of such children;

(C) to improve interpersonal relationships between such children and their peers, teachers, other adults, and family members;

(D) to reduce the dropout rate of such children; and

(E) to reduce juvenile delinquency and involvement in gangs by such children.

(2) Definitions

In this part:

(A) Child with greatest need

The term ''child with greatest need'' means a child who is at risk of educational failure, dropping out of school, or involvement in criminal or delinquent activities, or who lacks strong positive role models.

(B) Eligible entity

The term ''eligible entity'' means—

(i) a local educational agency;

(ii) a nonprofit, community-based organization; or

(iii) a partnership between a local educational agency and a nonprofit, community-based organization.

(C) Mentor

The term ''mentor'' means a responsible adult, a postsecondary school student, or a secondary school student who works with a child—

(i) to provide a positive role model for the child;

(ii) to establish a supportive relationship with the child; and

(iii) to provide the child with academic assistance and exposure to new experi-

ences and examples of opportunity that enhance the ability of the child to become a responsible adult.

(D) State

The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) Grant program

(1) In general

The Secretary may award grants from funds made available to carry out this subpart under section 7103(2) of this title to eligible entities to assist such entities in establishing and supporting mentoring programs and activities for children with greatest need that—

(A) are designed to link such children (particularly children living in rural areas, high-crime areas, or troubled home environments, or children experiencing educational failure) with mentors who—

(i) have received training and support in mentoring;

(ii) have been screened using appropriate reference checks, child and domestic abuse record checks, and criminal background checks; and

(iii) are interested in working with children with greatest need; and

(B) are intended to achieve one or more of the following goals with respect to children with greatest need:

(i) Provide general guidance.

(ii) Promote personal and social responsibility.

(iii) Increase participation in, and enhance the ability to benefit from, elementary and secondary education.

(iv) Discourage illegal use of drugs and alcohol, violence, use of dangerous weapons, promiscuous behavior, and other criminal, harmful, or potentially harmful activity.

(v) Encourage participation in community service and community activities.

(vi) Encourage setting goals and planning for the future, including encouragement of graduation from secondary school and planning for postsecondary education or training.

(viii)[1] Discourage involvement in gangs.

(2) Use of funds

(A) In general

Each eligible entity awarded a grant under this subsection shall use the grant funds for activities that establish or implement a mentoring program, that may include—

(i) hiring of mentoring coordinators and support staff;

(ii) providing for the professional development of mentoring coordinators and support staff;

(iii) recruitment, screening, and training of mentors;

(iv) reimbursement to schools, if appropriate, for the use of school materials or supplies in carrying out the mentoring program;

(v) dissemination of outreach materials;

(vi) evaluation of the mentoring program using scientifically based methods; and

(vii) such other activities as the Secretary may reasonably prescribe by rule.

(B) Prohibited uses

Notwithstanding subparagraph (A), an eligible entity awarded a grant under this section may not use the grant funds—

(i) to directly compensate mentors;

(ii) to obtain educational or other materials or equipment that would otherwise be used in the ordinary course of the eligible entity's operations;

(iii) to support litigation of any kind; or

(iv) for any other purpose reasonably prohibited by the Secretary by rule.

(3) Availability of funds

Funds made available through a grant under this section shall be available for obligation for a period not to exceed 3 years.

(4) Application

Each eligible entity seeking a grant under this section shall submit to the Secretary an application that includes—

(A) a description of the plan for the mentoring program the eligible entity proposes to carry out with such grant;

(B) information on the children expected to be served by the mentoring program for which such grant is sought;

(C) a description of the mechanism the eligible entity will use to match children with mentors based on the needs of the children;

(D) an assurance that no mentor will be assigned to mentor so many children that the assignment will undermine the mentor's ability to be an effective mentor or the mentor's ability to establish a close relationship (a one-to-one relationship, where practicable) with each mentored child;

(E) an assurance that the mentoring program will provide children with a variety of experiences and support, including—

(i) emotional support;

(ii) academic assistance; and

(iii) exposure to experiences that the children might not otherwise encounter on their own;

(F) an assurance that the mentoring program will be monitored to ensure that each child assigned a mentor benefits from that assignment and that the child will be assigned a new mentor if the relationship between the original mentor and the child is not beneficial to the child;

(G) information regarding how mentors and children will be recruited to the mentoring program;

(H) information regarding how prospective mentors will be screened;

(I) information on the training that will be provided to mentors; and

(J) information on the system that the eligible entity will use to manage and monitor

[1] So in original. No cl. (vii) has been enacted.

information relating to the mentoring program's—

(i) reference checks;

(ii) child and domestic abuse record checks;

(iii) criminal background checks; and

(iv) procedure for matching children with mentors.

(5) Selection

(A) Competitive basis

In accordance with this subsection, the Secretary shall award grants to eligible entities on a competitive basis.

(B) Priority

In awarding grants under subparagraph (A), the Secretary shall give priority to each eligible entity that—

(i) serves children with greatest need living in rural areas, high-crime areas, or troubled home environments, or who attend schools with violence problems;

(ii) provides high quality background screening of mentors, training of mentors, and technical assistance in carrying out mentoring programs; or

(iii) proposes a school-based mentoring program.

(C) Other considerations

In awarding grants under subparagraph (A), the Secretary shall also consider—

(i) the degree to which the location of the mentoring program proposed by each eligible entity contributes to a fair distribution of mentoring programs with respect to urban and rural locations;

(ii) the quality of the mentoring program proposed by each eligible entity, including—

(I) the resources, if any, the eligible entity will dedicate to providing children with opportunities for job training or postsecondary education;

(II) the degree to which parents, teachers, community-based organizations, and the local community have participated, or will participate, in the design and implementation of the proposed mentoring program;

(III) the degree to which the eligible entity can ensure that mentors will develop longstanding relationships with the children they mentor;

(IV) the degree to which the mentoring program will serve children with greatest need in the 4th through 8th grades; and

(V) the degree to which the mentoring program will continue to serve children from the 9th grade through graduation from secondary school, as needed; and

(iii) the capability of each eligible entity to effectively implement its mentoring program.

(D) Grant to each State

Notwithstanding any other provision of this subsection, in awarding grants under subparagraph (A), the Secretary shall select not less than one grant recipient from each State for which there is an eligible entity that submits an application of sufficient quality pursuant to paragraph (4).

(6) Model screening guidelines

(A) In general

Based on model screening guidelines developed by the Office of Juvenile Programs of the Department of Justice, the Secretary shall develop and distribute to each eligible entity awarded a grant under this section specific model guidelines for the screening of mentors who seek to participate in mentoring programs assisted under this section.

(B) Background checks

The guidelines developed under this subsection shall include, at a minimum, a requirement that potential mentors be subject to reference checks, child and domestic abuse record checks, and criminal background checks.

(Pub. L. 89–10, title IV, § 4130, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1758.)

PRIOR PROVISIONS

Prior sections 7141 to 7144 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7141, Pub. L. 89–10, title IV, § 4131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3689, defined terms. See section 7161 of this title.

Section 7142, Pub. L. 89–10, title IV, § 4132, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3689, related to materials. See section 7162 of this title.

Section 7143, Pub. L. 89–10, title IV, § 4133, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3690, set forth prohibited uses of funds. See section 7164 of this title.

Section 7144, Pub. L. 89–10, title IV, § 4134, as added Pub. L. 105–277, div. D, title I, § 122, Oct. 21, 1998, 112 Stat. 2681–756, related to quality rating of drug, alcohol, and tobacco prevention programs implemented in public elementary schools and secondary schools.

SUBPART 3—GUN POSSESSION

§ 7151. Gun-free requirements

(a) Short title

This subpart may be cited as the ''Gun-Free Schools Act''.

(b) Requirements

(1) In general

Each State receiving Federal funds under any subchapter of this chapter shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than 1 year a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of a local educational agency to modify such expulsion requirement for a student on a case-by-case basis if such modification is in writing.

(2) Construction

Nothing in this subpart shall be construed to prevent a State from allowing a local educational agency that has expelled a student from such a student's regular school setting

from providing educational services to such student in an alternative setting.

(3) Definition

For the purpose of this section, the term ''firearm'' has the same meaning given such term in section 921(a) of title 18.

(c) Special rule

The provisions of this section shall be construed in a manner consistent with the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(d) Report to State

Each local educational agency requesting assistance from the State educational agency that is to be provided from funds made available to the State under any subchapter of this chapter shall provide to the State, in the application requesting such assistance—

(1) an assurance that such local educational agency is in compliance with the State law required by subsection (b) of this section; and

(2) a description of the circumstances surrounding any expulsions imposed under the State law required by subsection (b) of this section, including—

(A) the name of the school concerned;

(B) the number of students expelled from such school; and

(C) the type of firearms concerned.

(e) Reporting

Each State shall report the information described in subsection (d) of this section to the Secretary on an annual basis.

(f) Definition

For the purpose of subsection (d) of this section, the term ''school'' means any setting that is under the control and supervision of the local educational agency for the purpose of student activities approved and authorized by the local educational agency.

(g) Exception

Nothing in this section shall apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the local educational agency and the local educational agency adopts appropriate safeguards to ensure student safety.

(h) Policy regarding criminal justice system referral

(1) In general

No funds shall be made available under any subchapter of this chapter to any local educational agency unless such agency has a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to a school served by such agency.

(2) Definition

For the purpose of this subsection, the term ''school'' has the same meaning given to such term by section 921(a) of title 18.

(Pub. L. 89–10, title IV, § 4141, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1762.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (c), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

SUBPART 4—GENERAL PROVISIONS

§ 7161. Definitions

In this part:

(1) Controlled substance

The term ''controlled substance'' means a drug or other substance identified under Schedule I, II, III, IV, or V in section 812(c) of title 21.

(2) Drug

The term ''drug'' includes controlled substances; the illegal use of alcohol and tobacco; and the harmful, abusive, or addictive use of substances, including inhalants and anabolic steroids.

(3) Drug and violence prevention

The term ''drug and violence prevention'' means—

(A) with respect to drugs, prevention, early intervention, rehabilitation referral, or education related to the illegal use of drugs;

(B) with respect to violence, the promotion of school safety, such that students and school personnel are free from violent and disruptive acts, including sexual harassment and abuse, and victimization associated with prejudice and intolerance, on school premises, going to and from school, and at school-sponsored activities, through the creation and maintenance of a school environment that is free of weapons and fosters individual responsibility and respect for the rights of others.

(4) Hate crime

The term ''hate crime'' means a crime as described in section 1(b) of the Hate Crime Statistics Act of 1990.

(5) Nonprofit

The term ''nonprofit'', as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(6) Protective factor, buffer, or asset

The terms ''protective factor'', ''buffer'', and ''asset'' mean any one of a number of the community, school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, or which are grounded in a well-established theoretical model of prevention, and have been shown to prevent alcohol, tobacco, or illegal drug use, as well as violent behavior, by youth in the community, and which promote positive youth development.

(7) Risk factor

The term ''risk factor'' means any one of a number of characteristics of the community,

school, family, or peer-individual domains that are known, through prospective, longitudinal research efforts, to be predictive of alcohol, tobacco, and illegal drug use, as well as violent behavior, by youth in the school and community.

(8) School-aged population

The term ''school-aged population'' means the population aged five through 17, as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

(9) School based mental health services provider

The term ''school based mental health services provider'' includes a State licensed or State certified school counselor, school psychologist, school social worker, or other State licensed or certified mental health professional qualified under State law to provide such services to children and adolescents.

(10) School personnel

The term ''school personnel'' includes teachers, principals, administrators, counselors, social workers, psychologists, nurses, librarians, and other support staff who are employed by a school or who perform services for the school on a contractual basis.

(11) School resource officer

The term ''school resource officer'' means a career law enforcement officer, with sworn authority, deployed in community oriented policing, and assigned by the employing police department to a local educational agency to work in collaboration with schools and community based organizations to—

(A) educate students in crime and illegal drug use prevention and safety;

(B) develop or expand community justice initiatives for students; and

(C) train students in conflict resolution, restorative justice, and crime and illegal drug use awareness.

(Pub. L. 89–10, title IV, § 4151, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1763.)

REFERENCES IN TEXT

Section 1(b) of the Hate Crime Statistics Act of 1990, referred to in par. (4), is section 1(b) of Pub. L. 101–275, which is set out as a note under section 534 of Title 28, Judiciary and Judicial Procedure.

§ 7162. Message and materials

(a) "Wrong and harmful" message

Drug and violence prevention programs supported under this part shall convey a clear and consistent message that the illegal use of drugs and acts of violence are wrong and harmful.

(b) Curriculum

The Secretary shall not prescribe the use of specific curricula for programs supported under this part.

(Pub. L. 89–10, title IV, § 4152, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1764.)

§ 7163. Parental consent

Upon receipt of written notification from the parents or legal guardians of a student, the local educational agency shall withdraw such student from any program or activity funded under this part. The local educational agency shall make reasonable efforts to inform parents or legal guardians of the content of such programs or activities funded under this part, other than classroom instruction.

(Pub. L. 89–10, title IV, § 4153, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1765.)

§ 7164. Prohibited uses of funds

No funds under this part may be used for—

(1) construction (except for minor remodeling needed to accomplish the purposes of this part); or

(2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of, or witnesses to, crime or who illegally use drugs.

(Pub. L. 89–10, title IV, § 4154, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1765.)

§ 7165. Transfer of school disciplinary records

(a) Nonapplication of provisions

This section shall not apply to any disciplinary records with respect to a suspension or expulsion that are transferred from a private, parochial or other nonpublic school, person, institution, or other entity, that provides education below the college level.

(b) Disciplinary records

In accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), not later than 2 years after January 8, 2002, each State receiving Federal funds under this chapter shall provide an assurance to the Secretary that the State has a procedure in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school.

(Pub. L. 89–10, title IV, § 4155, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1765.)

REFERENCES IN TEXT

The Family Educational Rights and Privacy Act of 1974, referred to in subsec. (b), is section 513 of Pub. L. 93–380, title V, Aug. 21, 1974, 88 Stat. 571, as amended, which enacted section 1232g of this title and provisions set out as notes under sections 1221 and 1232g of this title. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 1221 of this title and Tables.

PART B—21ST CENTURY COMMUNITY LEARNING CENTERS

§ 7171. Purpose; definitions

(a) Purpose

The purpose of this part is to provide opportunities for communities to establish or expand activities in community learning centers that—

(1) provide opportunities for academic enrichment, including providing tutorial serv-

ices to help students, particularly students who attend low-performing schools, to meet State and local student academic achievement standards in core academic subjects, such as reading and mathematics;

(2) offer students a broad array of additional services, programs, and activities, such as youth development activities, drug and violence prevention programs, counseling programs, art, music, and recreation programs, technology education programs, and character education programs, that are designed to reinforce and complement the regular academic program of participating students; and

(3) offer families of students served by community learning centers opportunities for literacy and related educational development.

(b) Definitions

In this part:

(1) Community learning center

The term ''community learning center'' means an entity that—

(A) assists students in meeting State and local academic achievement standards in core academic subjects, such as reading and mathematics, by providing the students with opportunities for academic enrichment activities and a broad array of other activities (such as drug and violence prevention, counseling, art, music, recreation, technology, and character education programs) during nonschool hours or periods when school is not in session (such as before and after school or during summer recess) that reinforce and complement the regular academic programs of the schools attended by the students served; and

(B) offers families of students served by such center opportunities for literacy and related educational development.

(2) Covered program

The term ''covered program'' means a program for which—

(A) the Secretary made a grant under part I of title X (as such part was in effect on the day before January 8, 2002); and

(B) the grant period had not ended on January 8, 2002.

(3) Eligible entity

The term ''eligible entity'' means a local educational agency, community-based organization, another public or private entity, or a consortium of two or more of such agencies, organizations, or entities.

(4) State

The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title IV, § 4201, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1765.)

REFERENCES IN TEXT

Part I of title X (as such part was in effect on the day before January 8, 2002), referred to in subsec. (b)(2)(A), means part I of title X of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3844, which was classified generally to part I (§ 8241 et seq.) of subchapter X of this chapter, prior to repeal by Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986.

§ 7172. Allotments to States

(a) Reservation

From the funds appropriated under section 7176 of this title for any fiscal year, the Secretary shall reserve—

(1) such amount as may be necessary to make continuation awards to grant recipients under covered programs (under the terms of those grants);

(2) not more than 1 percent for national activities, which the Secretary may carry out directly or through grants and contracts, such as providing technical assistance to eligible entities carrying out programs under this part or conducting a national evaluation; and

(3) not more than 1 percent for payments to the outlying areas and the Bureau of Indian Affairs, to be allotted in accordance with their respective needs for assistance under this part, as determined by the Secretary, to enable the outlying areas and the Bureau to carry out the purpose of this part.

(b) State allotments

(1) Determination

From the funds appropriated under section 7176 of this title for any fiscal year and remaining after the Secretary makes reservations under subsection (a) of this section, the Secretary shall allot to each State for the fiscal year an amount that bears the same relationship to the remainder as the amount the State received under subpart 2 of part A of subchapter I of this chapter for the preceding fiscal year bears to the amount all States received under that subpart for the preceding fiscal year, except that no State shall receive less than an amount equal to one-half of 1 percent of the total amount made available to all States under this subsection.

(2) Reallotment of unused funds

If a State does not receive an allotment under this part for a fiscal year, the Secretary shall reallot the amount of the State's allotment to the remaining States in accordance with this section.

(c) State use of funds

(1) In general

Each State that receives an allotment under this part shall reserve not less than 95 percent of the amount allotted to such State under subsection (b) of this section, for each fiscal year for awards to eligible entities under section 7174 of this title.

(2) State administration

A State educational agency may use not more than 2 percent of the amount made available to the State under subsection (b) of this section for—

(A) the administrative costs of carrying out its responsibilities under this part;

(B) establishing and implementing a peer review process for grant applications described in section 7174(b) of this title (including consultation with the Governor and other State agencies responsible for administering youth development programs and adult learning activities); and

(C)[1] supervising the awarding of funds to eligible entities (in consultation with the Governor and other State agencies responsible for administering youth development programs and adult learning activities).

(3) State activities

A State educational agency may use not more than 3 percent of the amount made available to the State under subsection (b) of this section for the following activities:

(A) Monitoring and evaluation of programs and activities assisted under this part.

(B) Providing capacity building, training, and technical assistance under this part.

(C) Comprehensive evaluation (directly, or through a grant or contract) of the effectiveness of programs and activities assisted under this part.

(D) Providing training and technical assistance to eligible entities who are applicants for or recipients of awards under this part.

(Pub. L. 89–10, title IV, § 4202, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1766.)

§ 7173. State application

(a) In general

In order to receive an allotment under section 7172 of this title for any fiscal year, a State shall submit to the Secretary, at such time as the Secretary may require, an application that—

(1) designates the State educational agency as the agency responsible for the administration and supervision of programs assisted under this part;

(2) describes how the State educational agency will use funds received under this part, including funds reserved for State-level activities;

(3) contains an assurance that the State educational agency will make awards under this part only to eligible entities that propose to serve—

(A) students who primarily attend—

(i) schools eligible for schoolwide programs under section 6314 of this title; or

(ii) schools that serve a high percentage of students from low-income families; and

(B) the families of students described in subparagraph (A);

(4) describes the procedures and criteria the State educational agency will use for reviewing applications and awarding funds to eligible entities on a competitive basis, which shall include procedures and criteria that take into consideration the likelihood that a proposed community learning center will help participating students meet local content and student academic achievement standards;

(5) describes how the State educational agency will ensure that awards made under this part are—

(A) of sufficient size and scope to support high-quality, effective programs that are consistent with the purpose of this part; and

(B) in amounts that are consistent with section 7174(h) of this title;

(6) describes the steps the State educational agency will take to ensure that programs implement effective strategies, including providing ongoing technical assistance and training, evaluation, and dissemination of promising practices;

(7) describes how programs under this part will be coordinated with programs under this chapter, and other programs as appropriate;

(8) contains an assurance that the State educational agency—

(A) will make awards for programs for a period of not less than 3 years and not more than 5 years; and

(B) will require each eligible entity seeking such an award to submit a plan describing how the community learning center to be funded through the award will continue after funding under this part ends;

(9) contains an assurance that funds appropriated to carry out this part will be used to supplement, and not supplant, other Federal, State, and local public funds expended to provide programs and activities authorized under this part and other similar programs;

(10) contains an assurance that the State educational agency will require eligible entities to describe in their applications under section 7174(b) of this title how the transportation needs of participating students will be addressed;

(11) provides an assurance that the application was developed in consultation and coordination with appropriate State officials, including the chief State school officer, and other State agencies administering before and after school (or summer school) programs, the heads of the State health and mental health agencies or their designees, and representatives of teachers, parents, students, the business community, and community-based organizations;

(12) describes the results of the State's needs and resources assessment for before and after school activities, which shall be based on the results of on-going State evaluation activities;

(13) describes how the State educational agency will evaluate the effectiveness of programs and activities carried out under this part, which shall include, at a minimum—

(A) a description of the performance indicators and performance measures that will be used to evaluate programs and activities; and

(B) public dissemination of the evaluations of programs and activities carried out under this part; and

(14) provides for timely public notice of intent to file an application and an assurance that the application will be available for public review after submission.

(b) Deemed approval

An application submitted by a State educational agency pursuant to subsection (a) of this section shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the application, that the application is not in compliance with this part.

[1] Subparagraph designation editorially supplied.

(c) Disapproval

The Secretary shall not finally disapprove the application, except after giving the State educational agency notice and opportunity for a hearing.

(d) Notification

If the Secretary finds that the application is not in compliance, in whole or in part, with this part, the Secretary shall—

(1) give the State educational agency notice and an opportunity for a hearing; and

(2) notify the State educational agency of the finding of noncompliance, and, in such notification, shall—

(A) cite the specific provisions in the application that are not in compliance; and

(B) request additional information, only as to the noncompliant provisions, needed to make the application compliant.

(e) Response

If the State educational agency responds to the Secretary's notification described in subsection (d)(2) of this section during the 45-day period beginning on the date on which the agency received the notification, and resubmits the application with the requested information described in subsection (d)(2)(B) of this section, the Secretary shall approve or disapprove such application prior to the later of—

(1) the expiration of the 45-day period beginning on the date on which the application is resubmitted; or

(2) the expiration of the 120-day period described in subsection (b) of this section.

(f) Failure to respond

If the State educational agency does not respond to the Secretary's notification described in subsection (d)(2) of this section during the 45-day period beginning on the date on which the agency received the notification, such application shall be deemed to be disapproved.

(Pub. L. 89–10, title IV, § 4203, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1767.)

§ 7174. Local competitive grant program

(a) In general

A State that receives funds under this part for a fiscal year shall provide the amount made available under section 7172(c)(1) of this title to eligible entities for community learning centers in accordance with this part.

(b) Application

(1) In general

To be eligible to receive an award under this part, an eligible entity shall submit an application to the State educational agency at such time, in such manner, and including such information as the State educational agency may reasonably require.

(2) Contents

Each application submitted under paragraph (1) shall include—

(A) a description of the before and after school or summer recess activities to be funded, including—

(i) an assurance that the program will take place in a safe and easily accessible facility;

(ii) a description of how students participating in the program carried out by the community learning center will travel safely to and from the center and home; and

(iii) a description of how the eligible entity will disseminate information about the community learning center (including its location) to the community in a manner that is understandable and accessible;

(B) a description of how the activity is expected to improve student academic achievement;

(C) an identification of Federal, State, and local programs that will be combined or coordinated with the proposed program to make the most effective use of public resources;

(D) an assurance that the proposed program was developed, and will be carried out, in active collaboration with the schools the students attend;

(E) a description of how the activities will meet the principles of effectiveness described in section 7175(b) of this title;

(F) an assurance that the program will primarily target students who attend schools eligible for schoolwide programs under section 6314 of this title and the families of such students;

(G) an assurance that funds under this part will be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this part, be made available for programs and activities authorized under this part, and in no case supplant Federal, State, local, or non-Federal funds;

(H) a description of the partnership between a local educational agency, a community-based organization, and another public entity or private entity, if appropriate;

(I) an evaluation of the community needs and available resources for the community learning center and a description of how the program proposed to be carried out in the center will address those needs (including the needs of working families);

(J) a demonstration that the eligible entity has experience, or promise of success, in providing educational and related activities that will complement and enhance the academic performance, achievement, and positive youth development of the students;

(K) a description of a preliminary plan for how the community learning center will continue after funding under this part ends;

(L) an assurance that the community will be given notice of an intent to submit an application and that the application and any waiver request will be available for public review after submission of the application;

(M) if the eligible entity plans to use senior volunteers in activities carried out through the community learning center, a description of how the eligible entity will encourage and use appropriately qualified seniors to serve as the volunteers; and

(N) such other information and assurances as the State educational agency may reasonably require.

(c) Approval of certain applications

The State educational agency may approve an application under this part for a program to be located in a facility other than an elementary school or secondary school only if the program will be at least as available and accessible to the students to be served as if the program were located in an elementary school or secondary school.

(d) Permissive local match

(1) In general

A State educational agency may require an eligible entity to match funds awarded under this part, except that such match may not exceed the amount of the grant award and may not be derived from other Federal or State funds.

(2) Sliding scale

The amount of a match under paragraph (1) shall be established based on a sliding fee scale that takes into account—

(A) the relative poverty of the population to be targeted by the eligible entity; and

(B) the ability of the eligible entity to obtain such matching funds.

(3) In-kind contributions

Each State educational agency that requires an eligible entity to match funds under this subsection shall permit the eligible entity to provide all or any portion of such match in the form of in-kind contributions.

(4) Consideration

Notwithstanding this subsection, a State educational agency shall not consider an eligible entity's ability to match funds when determining which eligible entities will receive awards under this part.

(e) Peer review

In reviewing local applications under this section, a State educational agency shall use a peer review process or other methods of assuring the quality of such applications.

(f) Geographic diversity

To the extent practicable, a State educational agency shall distribute funds under this part equitably among geographic areas within the State, including urban and rural communities.

(g) Duration of awards

Grants under this part may be awarded for a period of not less than 3 years and not more than 5 years.

(h) Amount of awards

A grant awarded under this part may not be made in an amount that is less than $50,000.

(i) Priority

(1) In general

In awarding grants under this part, a State educational agency shall give priority to applications—

(A) proposing to target services to students who attend schools that have been identified as in need of improvement under section 6316 of this title; and

(B) submitted jointly by eligible entities consisting of not less than 1—

(i) local educational agency receiving funds under part A of subchapter I of this chapter; and

(ii) community-based organization or other public or private entity.

(2) Special rule

The State educational agency shall provide the same priority under paragraph (1) to an application submitted by a local educational agency if the local educational agency demonstrates that it is unable to partner with a community-based organization in reasonable geographic proximity and of sufficient quality to meet the requirements of this part.

(Pub. L. 89–10, title IV, § 4204, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1769.)

§ 7175. Local activities

(a) Authorized activities

Each eligible entity that receives an award under this part may use the award funds to carry out a broad array of before and after school activities (including during summer recess periods) that advance student academic achievement, including—

(1) remedial education activities and academic enrichment learning programs, including providing additional assistance to students to allow the students to improve their academic achievement;

(2) mathematics and science education activities;

(3) arts and music education activities;

(4) entrepreneurial education programs;

(5) tutoring services (including those provided by senior citizen volunteers) and mentoring programs;

(6) programs that provide after school activities for limited English proficient students that emphasize language skills and academic achievement;

(7) recreational activities;

(8) telecommunications and technology education programs;

(9) expanded library service hours;

(10) programs that promote parental involvement and family literacy;

(11) programs that provide assistance to students who have been truant, suspended, or expelled to allow the students to improve their academic achievement; and

(12) drug and violence prevention programs, counseling programs, and character education programs.

(b) Principles of effectiveness

(1) In general

For a program or activity developed pursuant to this part to meet the principles of effectiveness, such program or activity shall—

(A) be based upon an assessment of objective data regarding the need for before and after school programs (including during summer recess periods) and activities in the schools and communities;

(B) be based upon an established set of performance measures aimed at ensuring the availability of high quality academic enrichment opportunities; and

(C) if appropriate, be based upon scientifically based research that provides evidence that the program or activity will help students meet the State and local student academic achievement standards.

(2) Periodic evaluation

(A) In general

The program or activity shall undergo a periodic evaluation to assess its progress toward achieving its goal of providing high quality opportunities for academic enrichment.

(B) Use of results

The results of evaluations under subparagraph (A) shall be—

(i) used to refine, improve, and strengthen the program or activity, and to refine the performance measures; and

(ii) made available to the public upon request, with public notice of such availability provided.

(Pub. L. 89–10, title IV, § 4205, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1772.)

§ 7176. Authorization of appropriations

There are authorized to be appropriated—

(1) $1,250,000,000 for fiscal year 2002;
(2) $1,500,000,000 for fiscal year 2003;
(3) $1,750,000,000 for fiscal year 2004;
(4) $2,000,000,000 for fiscal year 2005;
(5) $2,250,000,000 for fiscal year 2006; and
(6) $2,500,000,000 for fiscal year 2007.

(Pub. L. 89–10, title IV, § 4206, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1773.)

PART C—ENVIRONMENTAL TOBACCO SMOKE

CODIFICATION

Similar provisions relating to environmental tobacco smoke are contained in part B (§ 6081 et seq.) of subchapter X of chapter 68 of this title.

§ 7181. Short title

This part may be cited as the ''Pro-Children Act of 2001''.

(Pub. L. 89–10, title IV, § 4301, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1773.)

PRIOR PROVISIONS

A prior section 4301 of Pub. L. 89–10 was classified to section 3081 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7182. Definitions

As used in this part:

(1) Children

The term ''children'' means individuals who have not attained the age of 18.

(2) Children's services

The term ''children's services'' means the provision on a routine or regular basis of health, day care, education, or library services—

(A) that are funded, after January 8, 2002, directly by the Federal Government or through State or local governments, by Federal grant, loan, loan guarantee, or contract programs—

(i) administered by either the Secretary of Health and Human Services or the Secretary of Education (other than services provided and funded solely under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.]); or

(ii) administered by the Secretary of Agriculture in the case of a clinic (as defined in part 246.2 of title 7, Code of Federal Regulations (or any corresponding similar regulation or ruling)) under section 17(b)(6) of the Child Nutrition Act of 1966 [42 U.S.C. 1786(b)(6)]; or

(B) that are provided in indoor facilities that are constructed, operated, or maintained with such Federal funds, as determined by the appropriate head of a Federal agency in any enforcement action carried out under this part,

except that nothing in clause (ii) of subparagraph (A) is intended to include facilities (other than clinics) where coupons are redeemed under the Child Nutrition Act of 1966 [42 U.S.C. 1771 et seq.].

(3) Indoor facility

The term ''indoor facility'' means a building that is enclosed.

(4) Person

The term ''person'' means any State or local subdivision of a State, agency of such State or subdivision, corporation, or partnership that owns or operates or otherwise controls and provides children's services or any individual who owns or operates or otherwise controls and provides such services.

(5) Secretary

The term ''Secretary'' means the Secretary of Health and Human Services.

(Pub. L. 89–10, title IV, § 4302, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1773.)

REFERENCES IN TEXT

The Child Nutrition Act of 1966, referred to in par. (2), is Pub. L. 89–642, Oct. 11, 1966, 80 Stat. 885, as amended, which is classified generally to chapter 13A (§ 1771 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1771 of Title 42 and Tables.

The Social Security Act, referred to in par. (2)(A)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.), respectively, of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

§ 7183. Nonsmoking policy for children's services

(a) Prohibition

After January 8, 2002, no person shall permit smoking within any indoor facility owned or leased or contracted for, and utilized, by such person for provision of routine or regular kindergarten, elementary, or secondary education or library services to children.

(b) Additional prohibition

(1) In general

After January 8, 2002, no person shall permit smoking within any indoor facility (or portion

of such a facility) owned or leased or contracted for, and utilized by, such person for the provision of regular or routine health care or day care or early childhood development (Head Start) services.

(2) Exception

Paragraph (1) shall not apply to—

(A) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(B) any private residence.

(c) Federal agencies

(1) Kindergarten, elementary, or secondary education or library services

After January 8, 2002, no Federal agency shall permit smoking within any indoor facility in the United States operated by such agency, directly or by contract, to provide routine or regular kindergarten, elementary, or secondary education or library services to children.

(2) Health or day care or early childhood development services

(A) In general

After January 8, 2002, no Federal agency shall permit smoking within any indoor facility (or portion of such facility) operated by such agency, directly or by contract, to provide routine or regular health or day care or early childhood development (Head Start) services to children.

(B) Exception

Subparagraph (A) shall not apply to—

(i) any portion of such facility that is used for inpatient hospital treatment of individuals dependent on, or addicted to, drugs or alcohol; and

(ii) any private residence.

(3) Application of provisions

The provisions of paragraph (2) shall also apply to the provision of such routine or regular kindergarten, elementary or secondary education or library services in the facilities described in paragraph (2) not subject to paragraph (1).

(d) Notice

The prohibitions in subsections (a) through (c) of this section shall be published in a notice in the Federal Register by the Secretary (in consultation with the heads of other affected agencies) and by such agency heads in funding arrangements involving the provision of children's services administered by such heads. Such prohibitions shall be effective 90 days after such notice is published, or 270 days after January 8, 2002, whichever occurs first.

(e) Civil penalties

(1) In general

Any failure to comply with a prohibition in this section shall be considered to be a violation of this section and any person subject to such prohibition who commits such violation may be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each violation, or may be subject to an administrative compliance order, or both, as determined by the Secretary. Each day a violation continues shall constitute a separate violation. In the case of any civil penalty assessed under this section, the total amount shall not exceed 50 percent of the amount of Federal funds received under any subchapter of this chapter by such person for the fiscal year in which the continuing violation occurred. For the purpose of the prohibition in subsection (c) of this section, the term ''person'', as used in this paragraph, shall mean the head of the applicable Federal agency or the contractor of such agency providing the services to children.

(2) Administrative proceeding

A civil penalty may be assessed in a written notice, or an administrative compliance order may be issued under paragraph (1), by the Secretary only after an opportunity for a hearing in accordance with section 554 of title 5. Before making such assessment or issuing such order, or both, the Secretary shall give written notice of the assessment or order to such person by certified mail with return receipt and provide information in the notice of an opportunity to request in writing, not later than 30 days after the date of receipt of such notice, such hearing. The notice shall reasonably describe the violation and be accompanied with the procedures for such hearing and a simple form that may be used to request such hearing if such person desires to use such form. If a hearing is requested, the Secretary shall establish by such certified notice the time and place for such hearing, which shall be located, to the greatest extent possible, at a location convenient to such person. The Secretary (or the Secretary's designee) and such person may consult to arrange a suitable date and location where appropriate.

(3) Circumstances affecting penalty or order

In determining the amount of the civil penalty or the nature of the administrative compliance order, the Secretary shall take into account, as appropriate—

(A) the nature, circumstances, extent, and gravity of the violation;

(B) with respect to the violator, any good faith efforts to comply, the importance of achieving early and permanent compliance, the ability to pay or comply, the effect of the penalty or order on the ability to continue operation, any prior history of the same kind of violation, the degree of culpability, and any demonstration of willingness to comply with the prohibitions of this section in a timely manner; and

(C)[1] such other matters as justice may require.

(4) Modification

The Secretary may, as appropriate, compromise, modify, or remit, with or without conditions, any civil penalty or administrative compliance order. In the case of a civil penalty, the amount, as finally determined by the Secretary or agreed upon in compromise, may

[1] Opening parenthesis editorially supplied.

be deducted from any sums that the United States or the agencies or instrumentalities of the United States owe to the person against whom the penalty is assessed.

(5) Petition for review

Any person aggrieved by a penalty assessed or an order issued, or both, by the Secretary under this section may file a petition for judicial review of the order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which the person resides or transacts business. Such person shall provide a copy of the petition to the Secretary or the Secretary's designee. The petition shall be filed within 30 days after the Secretary's assessment or order, or both, are final and have been provided to such person by certified mail. The Secretary shall promptly provide to the court a certified copy of the transcript of any hearing held under this section and a copy of the notice or order.

(6) Failure to comply

If a person fails to pay an assessment of a civil penalty or comply with an order, after the assessment or order, or both, are final under this section, or after a court has entered a final judgment under paragraph (5) in favor of the Secretary, the Attorney General, at the request of the Secretary, shall recover the amount of the civil penalty (plus interest at prevailing rates from the day the assessment or order, or both, are final) or enforce the order in an action brought in the appropriate district court of the United States. In such action, the validity and appropriateness of the penalty or order or the amount of the penalty shall not be subject to review.

(Pub. L. 89–10, title IV, § 4303, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1774.)

§ 7184. Preemption

Nothing in this part is intended to preempt any provision of law of a State or political subdivision of a State that is more restrictive than a provision of this part.

(Pub. L. 89–10, title IV, § 4304, as added Pub. L. 107–110, title IV, § 401, Jan. 8, 2002, 115 Stat. 1776.)

SUBCHAPTER V—PROMOTING INFORMED PARENTAL CHOICE AND INNOVATIVE PROGRAMS

CODIFICATION

Title V of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title V is shown, herein, as having been added by Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1776, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

PART A—INNOVATIVE PROGRAMS

§ 7201. Purposes, State and local responsibility

(a) Purposes

The purposes of this part are the following:

(1) To support local education reform efforts that are consistent with and support statewide education reform efforts.

(2) To provide funding to enable State educational agencies and local educational agencies to implement promising educational reform programs and school improvement programs based on scientifically based research.

(3) To provide a continuing source of innovation and educational improvement, including support programs to provide library services and instructional and media materials.

(4) To meet the educational needs of all students, including at-risk youth.

(5) To develop and implement education programs to improve school, student, and teacher performance, including professional development activities and class size reduction programs.

(b) State and local responsibility

The State educational agency shall bear the basic responsibility for the administration of funds made available under this part, but it is the intent of Congress that the responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this part be mainly that of local educational agencies, school superintendents and principals, and classroom teachers and supporting personnel, because local educational agencies and individuals have the most direct contact with students and are most likely to be able to design programs to meet the educational needs of students in their own school districts.

(Pub. L. 89–10, title V, § 5101, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1776.)

PRIOR PROVISIONS

A prior section 7201, Pub. L. 89–10, title V, § 5101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3690, set forth findings relating to magnet schools assistance, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7231 of this title.

A prior section 5101 of Pub. L. 89–10 was classified to section 3171 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Prior sections 7202 to 7210 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7202, Pub. L. 89–10, title V, § 5102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3691, related to purpose of magnet schools assistance. See section 7231 of this title.

A prior section 5102 of Pub. L. 89–10 was classified to section 3172 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7203, Pub. L. 89–10, title V, § 5103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3691, authorized program. See section 7231b of this title.

A prior section 5103 of Pub. L. 89–10 was classified to section 3173 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Section 7204, Pub. L. 89–10, title V, § 5104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3691, defined ''magnet school''. See section 7231a of this title.

Section 7205, Pub. L. 89–10, title V, § 5105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3692, related to eligibility for assistance. See section 7231c of this title.

Section 7206, Pub. L. 89–10, title V, § 5106, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3692, related to applications and requirements. See section 7231d of this title.

Section 7207, Pub. L. 89–10, title V, § 5107, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3693,

related to priority in approving applications. See section 7231e of this title.

Section 7208, Pub. L. 89–10, title V, § 5108, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3693, related to use of funds. See section 7231f of this title.

Section 7209, Pub. L. 89–10, title V, § 5109, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3694, set forth prohibitions. See section 7231g of this title.

Section 7210, Pub. L. 89–10, title V, § 5110, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3694, related to limitations. See section 7231h of this title.

SUBPART 1—STATE AND LOCAL PROGRAMS

§ 7211. Allotment to States

(a) In general

From the sums appropriated to carry out this part for each fiscal year and not reserved under subsection (b) of this section, the Secretary shall allot, and make available in accordance with this part, to each State educational agency an amount that bears the same ratio to such sums as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such sums.

(b) Reservation

From the sums appropriated to carry out this part for each fiscal year, the Secretary shall reserve not more than 1 percent for payments to the outlying areas, to be allotted in accordance with their respective needs for assistance under this part.

(Pub. L. 89–10, title V, § 5111, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1777.)

PRIOR PROVISIONS

A prior section 7211, Pub. L. 89–10, title V, § 5111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3694, related to innovative programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 5111 of Pub. L. 89–10 was classified to section 3181 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7211a. Allocation to local educational agencies

(a) Distribution rule

(1) Allocation of base amounts

From the amount made available to a State educational agency under this part for a fiscal year, the State educational agency shall distribute, to local educational agencies within the State, an amount that is not less than 85 percent of the amount made available to the State educational agency under this part for fiscal year 2002, according to the relative enrollments in public and in private nonprofit schools within the jurisdictions of such local educational agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per-pupil allocations to local educational agencies that have the greatest numbers or percentages of children whose education imposes a higher-than-average cost per child, such as—

(A) children living in areas with high concentrations of economically disadvantaged families;

(B) children from economically disadvantaged families; and

(C) children living in sparsely populated areas.

(2) Allocation of increased amounts

From the amount made available to a State educational agency under this part for a fiscal year that exceeds the amount made available to the agency under this part for fiscal year 2002, the State educational agency shall distribute 100 percent (or, in the case of a State educational agency receiving a minimum allotment under section 7211(a) of this title, not less than 50 percent, notwithstanding subsection (b) of this section) to local educational agencies within the State, on the same basis as the State educational agency distributes amounts under paragraph (1).

(b) Limitations and requirements

Not more than 15 percent of funds made available under section 7211 of this title for State programs under this part for any fiscal year may be used for State administration under section 7213 of this title.

(c) Calculation of enrollments

(1) In general

The calculation of relative enrollments under subsection (a)(1) of this section shall be on the basis of the total of—

(A) the number of children enrolled in public schools; and

(B) the number of children enrolled in private nonprofit schools that participated in programs assisted under this part, for the fiscal year preceding the fiscal year for which the determination is made.

(2) Rule of construction

Nothing in this subsection shall diminish the responsibility of each local educational agency to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this part.

(3) Adjustments

(A) State criteria

Relative enrollments calculated under subsection (a)(1) of this section shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per-pupil allocations only to local educational agencies that serve the greatest numbers or percentages of—

(i) children living in areas with high concentrations of economically disadvantaged families;

(ii) children from economically disadvantaged families; or

(iii) children living in sparsely populated areas.

(B) Review of criteria

The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted

allocation that reflects the relative needs of the State's local educational agencies based on the factors set forth in subparagraph (A).

(d) Payment of allocations

(1) Distribution

From the funds paid to a State educational agency under this subpart for a fiscal year, the State educational agency shall distribute to each eligible local educational agency that has submitted an application as required by section 7215b of this title the amount of such local educational agency's allocation, as determined under subsection (a) of this section.

(2) Additional funds

(A) Use

Additional funds resulting from higher per-pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a)(1) of this section may, in the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public schools and private nonprofit schools in direct proportion to the number of children described in subsection (a)(1) of this section and enrolled in such schools within the area served by the local educational agency.

(B) Allocation

In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the area served by the local educational agency in such manner.

(C) Rule of construction

Subparagraphs (A) and (B) may not be construed to require any school to limit the use of the additional funds described in subparagraph (A) to the provision of services to specific students or categories of students.

(Pub. L. 89–10, title V, §5112, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1777.)

PRIOR PROVISIONS

A prior section 5112 of Pub. L. 89–10 was classified to section 7212 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 5112 of Pub. L. 89–10 was classified to section 3182 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

A prior section 7212, Pub. L. 89–10, title V, §5112, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3695, which related to evaluations, was omitted in the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 2—STATE PROGRAMS

§ 7213. State uses of funds

A State educational agency may use funds made available for State use under section 7211a(b) of this title only for one or more of the following:

(1) State administration of programs under this part, including—

(A) allocating funds to local educational agencies;

(B) planning, supervising, and processing State educational agency funds; and

(C) monitoring and evaluating programs under this part.

(2) Support for the planning, design, and initial implementation of charter schools as described in part B of this subchapter.

(3) Statewide education reform, school improvement programs and technical assistance and direct grants to local educational agencies, which assist such agencies under section 7215 of this title.

(4) Support for the design and implementation of high-quality yearly student assessments.

(5) Support for implementation of challenging State and local academic achievement standards.

(6) Support for arrangements that provide for independent analysis to measure and report on school district achievement.

(7) Support for the program described in section 321 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554).

(8) Support for programs to assist in the implementation of the policy described in section 9507[1] which may include payment of reasonable transportation costs and tuition costs for such students.

(Pub. L. 89–10, title V, §5121, as added Pub. L. 107–110, title V, §501, Jan. 8, 2002, 115 Stat. 1779.)

REFERENCES IN TEXT

Section 321 of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by section 1(a)(1) of Public Law 106–554), referred to in par. (7), is section 1(a)(1) [title III, §321] of Pub. L. 106–554, Dec. 21, 2000, 114 Stat. 2763, 2763A–50, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 7213, Pub. L. 89–10, title V, §5113, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3695, related to authorization of appropriations and reservation of funds, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7231j of this title.

A prior section 5121 of Pub. L. 89–10 was classified to section 3191 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7213a. State applications

(a) Application requirements

Any State that desires to receive assistance under this part shall submit to the Secretary an application that includes each of the following:

(1) Designation of the State educational agency as the State agency responsible for administration and supervision of programs assisted under this part.

(2) Provision for an annual statewide summary of how assistance under this part is contributing toward improving student academic achievement or improving the quality of education for students.

[1] So in original. Pub. L. 89–10 does not contain a section 9507.

(3) Information setting forth the allocation of funds required to implement section 7217a of this title.

(4) A provision that the State educational agency will keep such records, and provide such information to the Secretary, as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this section).

(5) An assurance that, apart from providing technical and advisory assistance and monitoring compliance with this part, the State educational agency has not exercised, and will not exercise, any influence in the decision-making processes of local educational agencies as to the expenditure made pursuant to an application submitted under section 7215b of this title.

(6) An assurance that there is compliance with the specific requirements of this part.

(7) Provision for timely public notice and public dissemination of the information provided under paragraph (3).

(b) Statewide summary

The statewide summary referred to in subsection (a)(2) of this section shall be submitted annually to the Secretary and shall be derived from the evaluation information submitted by local educational agencies to the State educational agency under section 7215b(b)(8) of this title. The State educational agency shall determine the format and content of such summary and may include in the summary statistical measures, such as the number of students served by each type of innovative assistance program described in section 7215 of this title and the number of teachers trained.

(c) Period of application

An application submitted by the State educational agency under subsection (a) of this section shall be for a period not to exceed 3 years. The agency may amend the application annually, as may be necessary to reflect changes, without filing a new application.

(d) Audit rule

A local educational agency that receives less than an average of $10,000 under this part for any 3 consecutive fiscal years shall not be audited more frequently than once every 5 years.

(Pub. L. 89–10, title V, § 5122, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1780.)

PRIOR PROVISIONS

A prior section 5122 of Pub. L. 89–10 was classified to section 3192 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 3—LOCAL INNOVATIVE EDUCATION PROGRAMS

§ 7215. Local uses of funds

(a) Innovative assistance programs

Funds made available to local educational agencies under section 7211a of this title shall be used for innovative assistance programs, which may include any of the following:

(1) Programs to recruit, train, and hire highly qualified teachers to reduce class size, especially in the early grades, and professional development activities carried out in accordance with subchapter II of this chapter, that give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State or local academic content standards and student academic achievement standards.

(2) Technology activities related to the implementation of school-based reform efforts, including professional development to assist teachers and other school personnel (including school library media personnel) regarding how to use technology effectively in the classrooms and the school library media centers involved.

(3) Programs for the development or acquisition and use of instructional and educational materials, including library services and materials (including media materials), academic assessments, reference materials, computer software and hardware for instructional use, and other curricular materials that are tied to high academic standards, that will be used to improve student academic achievement, and that are part of an overall education reform program.

(4) Promising education reform projects, including magnet schools.

(5) Programs to improve the academic achievement of educationally disadvantaged elementary school and secondary school students, including activities to prevent students from dropping out of school.

(6) Programs to improve the literacy skills of adults, especially the parents of children served by the local educational agency, including adult education and family literacy programs.

(7) Programs to provide for the educational needs of gifted and talented children.

(8) The planning, design, and initial implementation of charter schools as described in part B of this subchapter.

(9) School improvement programs or activities under sections 6316 and 6317 of this title.

(10) Community service programs that use qualified school personnel to train and mobilize young people to measurably strengthen their communities through nonviolence, responsibility, compassion, respect, and moral courage.

(11) Activities to promote consumer, economic, and personal finance education, such as disseminating information on and encouraging use of the best practices for teaching the basic principles of economics and promoting the concept of achieving financial literacy through the teaching of personal financial management skills (including the basic principles involved with earning, spending, saving, and investing).

(12) Activities to promote, implement, or expand public school choice.

(13) Programs to hire and support school nurses.

(14) Expansion and improvement of school-based mental health services, including early identification of drug use and violence, assessment, and direct individual or group counseling services provided to students, parents,

and school personnel by qualified school-based mental health services personnel.

(15) Alternative educational programs for those students who have been expelled or suspended from their regular educational setting, including programs to assist students to reenter the regular educational setting upon return from treatment or alternative educational programs.

(16) Programs to establish or enhance prekindergarten programs for children.

(17) Academic intervention programs that are operated jointly with community-based organizations and that support academic enrichment, and counseling programs conducted during the school day (including during extended school day or extended school year programs), for students most at risk of not meeting challenging State academic achievement standards or not completing secondary school.

(18) Programs for cardiopulmonary resuscitation (CPR) training in schools.

(19) Programs to establish smaller learning communities.

(20) Activities that encourage and expand improvements throughout the area served by the local educational agency that are designed to advance student academic achievement.

(21) Initiatives to generate, maintain, and strengthen parental and community involvement.

(22) Programs and activities that expand learning opportunities through best-practice models designed to improve classroom learning and teaching.

(23) Programs to provide same-gender schools and classrooms (consistent with applicable law).

(24) Service learning activities.

(25) School safety programs, including programs to implement the policy described in section 9507[1] and which may include payment of reasonable transportation costs and tuition costs for such students.

(26) Programs that employ research-based cognitive and perceptual development approaches and rely on a diagnostic-prescriptive model to improve students' learning of academic content at the preschool, elementary, and secondary levels.

(27) Supplemental educational services, as defined in section 6316(e) of this title.

(b) Requirements

The innovative assistance programs described in subsection (a) of this section shall be—

(1) tied to promoting challenging academic achievement standards;

(2) used to improve student academic achievement; and

(3) part of an overall education reform strategy.

(c) Guidelines

Not later than 120 days after January 8, 2002, the Secretary shall issue guidelines for local educational agencies seeking funding for programs described in subsection (a)(23) of this section.

(Pub. L. 89–10, title V, § 5131, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1781.)

[1] So in original. Pub. L. 89–10 does not contain a section 9507.

PRIOR PROVISIONS

A prior section 5131 of Pub. L. 89–10 was classified to section 3211 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7215a. Administrative authority

In order to conduct the programs authorized by this part, each State educational agency or local educational agency may use funds made available under this part to make grants to, and to enter into contracts with, local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

(Pub. L. 89–10, title V, § 5132, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1783.)

PRIOR PROVISIONS

A prior section 5132 of Pub. L. 89–10 was classified to section 3212 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7215b. Local applications

(a) Submission of application

A local educational agency may receive an allocation of funds under this part for any year for which the agency submits an application under this section that the State educational agency certifies under subsection (b) of this section.

(b) Certification and contents of application

The State educational agency shall certify each application submitted under subsection (a) of this section that includes each of the following:

(1) A description of locally identified needs relative to the purposes of this part and to the innovative assistance programs described in section 7215 of this title.

(2) A statement that sets forth the planned allocation of funds, based on the needs identified in subparagraph (A), among innovative assistance programs described in section 7215 of this title, a description of the programs that the local educational agency intends to support, and a description of the reasons for the selection of such programs.

(3) Information setting forth the allocation of such funds required to implement section 7217a of this title.

(4) A description of how assistance under this part will contribute to improving student academic achievement or improving the quality of education for students.

(5) An assurance that the local educational agency will comply with this part, including the provisions of section 7217a of this title concerning the participation of children enrolled in private nonprofit schools.

(6) An assurance that the local educational agency will keep such records, and provide such information to the State educational agency, as may be reasonably required for fiscal audit and program evaluation (consistent with the responsibilities of the State educational agency under this part).

(7) Provision, in the allocation of funds for the assistance authorized by this part and in the planning, design, and implementation of

such innovative assistance programs, for systematic consultation with parents of children attending elementary schools and secondary schools in the area served by the local educational agency, with teachers and administrative personnel in such schools, and with such other groups involved in the implementation of this part (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

(8) An assurance that—

(A) programs carried out under this part will be evaluated annually;

(B) the evaluation will be used to make decisions about appropriate changes in programs for the subsequent year;

(C) the evaluation will describe how assistance under this part affected student academic achievement and will include, at a minimum, information and data on the use of funds, the types of services furnished, and the students served under this part; and

(D) the evaluation will be submitted to the State educational agency at the time and in the manner requested by the State educational agency.

(9) If the local educational agency seeks funds under section 7215(a)(23) of this title, a description of how the agency will comply with the guidelines issued by the Secretary regarding same-gender schools and classrooms under section 7215(c) of this title.

(c) Period of application

An application submitted by a local educational agency under subsection (a) of this section may seek allocations under this part for a period not to exceed 3 fiscal years. The agency may amend the application annually, as may be necessary to reflect changes, without the filing of a new application.

(d) Local educational agency discretion

(1) In general

Subject to the limitations and requirements of this part, a local educational agency shall have complete discretion in determining how funds made available to carry out this subpart will be divided among programs described in section 7215 of this title.

(2) Limitation

In exercising the discretion described in paragraph (1), a local educational agency shall ensure that expenditures under this subpart carry out the purposes of this part and are used to meet the educational needs within the schools served by the local educational agency.

(Pub. L. 89–10, title V, § 5133, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1783.)

PRIOR PROVISIONS

A prior section 5133 of Pub. L. 89–10 was classified to section 3213 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 4—GENERAL PROVISIONS

§ 7217. Maintenance of effort

(a) In general

Except as provided in subsection (b) of this section, a State educational agency is entitled to receive its full allotment of funds under this part for any fiscal year only if the Secretary determines that either the combined fiscal effort per student or the aggregate expenditures within the State, with respect to the provision of free public education for the fiscal year preceding the fiscal year for which the determination is made, was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second fiscal year preceding the fiscal year for which the determination is made.

(b) Reduction of funds

The Secretary shall reduce the amount of the allotment of funds under this part in any fiscal year in the exact proportion by which the State educational agency fails to meet the requirements of subsection (a) of this section by falling below 90 percent of the fiscal effort per student or aggregate expenditures (using the measure most favorable to the State educational agency), and no such lesser amount shall be used for computing the effort or expenditures required under paragraph (1) for subsequent years.

(c) Waiver

The Secretary may waive, for 1 fiscal year only, the requirements of this section, if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State educational agency.

(Pub. L. 89–10, title V, § 5141, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1784.)

PRIOR PROVISIONS

A prior section 5141 of Pub. L. 89–10 was classified to section 3221 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7217a. Participation of children enrolled in private schools

(a) Participation on equitable basis

(1) In general

To the extent consistent with the number of children in the school district of a local educational agency that is eligible to receive funds under this part, or that serves the area in which a program assisted under this part is located, who are enrolled in private nonprofit elementary schools and secondary schools, or, with respect to instructional or personnel training programs funded by the State educational agency from funds made available for State educational agency use, the local educational agency, after consultation with appropriate private school officials—

(A) shall provide, as may be necessary, for the benefit of such children in such schools—

(i) secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of

such children (and other educational personnel serving such children) in training programs; and

(ii) the repair, minor remodeling, or construction of public facilities (consistent with subsection (c) of this section); or

(B) if such services, materials, and equipment are not feasible or necessary in one or more such private schools, as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this part.

(2) Other provisions for services

If no program is carried out under paragraph (1) in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in the district are provided with services and materials to the same extent as would have occurred if the local educational agency had received funds under this part.

(3) Application of requirements

The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs carried out under this part by a State educational agency or local educational agency, whether directly or through grants to, or contracts with, other public or private agencies, institutions, or organizations.

(b) Equal expenditures

(1) In general

Expenditures for programs under subsection (a) of this section shall be equal (consistent with the number of children to be served) to expenditures for programs under this part for children enrolled in the public schools of the local educational agency.

(2) Concentrated programs

Taking into account the needs of the individual children and other factors that relate to the expenditures referred to in paragraph (1), and when funds available to a local educational agency under this part are used to concentrate programs on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs.

(c) Administrative requirements

(1) Funds and property

The control of funds provided under this part, and title to materials, equipment, and property repaired, remodeled, or constructed with such funds, shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property.

(2) Provision of services

Services provided under this part shall be provided by employees of a public agency or through contract by such a public agency with a person, association, agency, or corporation that, in the provision of such services, is independent of the private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such a public agency. The funds provided under this part shall not be commingled with State or local funds.

(d) Waiver

(1) State prohibition

If a State educational agency or local educational agency is prohibited, by reason of any provision of law, from providing for the participation in programs of children enrolled in private elementary schools and secondary schools as required by subsections (a) through (c) of this section, the Secretary shall waive such requirements for the agency involved and shall arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section.

(2) Failure to comply

If the Secretary determines that a State educational agency or a local educational agency has substantially failed, or is unwilling, to provide for the participation on an equitable basis of children enrolled in private elementary schools and secondary schools as required by subsections (a) through (c) of this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements that shall be subject to the requirements of this section.

(e) Withholding of allotment or allocation

Pending final resolution of any investigation or complaint that could result in a waiver under subsection (d)(1) or (d)(2) of this section, the Secretary may withhold from the allotment or allocation of the affected State educational agency or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of services to be provided by the Secretary under such subsection.

(f) Duration of determination

Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency or local educational agency to meet the requirements of subsections (a) through (c) of this section.

(g) Payment from State allotment

When the Secretary arranges for services under subsection (d) of this section, the Secretary shall, after consultation with the appropriate public school and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State educational agency under this part.

(h) Review of determination

(1) Written objections

The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

(2) Court action

If a State educational agency or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), such agency may, not later than 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28.

(3) Remand to Secretary

The findings of fact by the Secretary with respect to a proceeding under paragraph (1), if supported by substantial evidence, shall be conclusive. The court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive, if supported by substantial evidence.

(4) Court review

Upon the filing of a petition under paragraph (2), the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court upon certiorari or certification, as provided in section 1254 of title 28.

(i) Prior determination

Any bypass determination by the Secretary under title VI (as such title was in effect on the day preceding January 8, 2002) shall, to the extent consistent with the purposes of this part, apply to programs under this part.

(Pub. L. 89–10, title V, § 5142, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1785.)

REFERENCES IN TEXT

Title VI (as such title was in effect on the day preceding January 8, 2002), referred to in subsec. (i), means title VI of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707, as amended, which was classified generally to subchapter VI (§ 7301 et seq.) of this chapter prior to the general amendment of subchapter VI by Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1873.

PRIOR PROVISIONS

A prior section 5142 of Pub. L. 89–10 was classified to section 3222 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7217b. Federal administration

(a) Technical assistance

The Secretary, upon request, shall provide technical assistance to State educational agencies and local educational agencies under this part.

(b) Rulemaking

The Secretary shall issue regulations under this part only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this part.

(c) Availability of appropriations

Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out programs under this part shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

(Pub. L. 89–10, title V, § 5143, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1787.)

PRIOR PROVISIONS

A prior section 5143 of Pub. L. 89–10 was classified to section 3223 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7217c. Supplement, not supplant

Funds made available under this part shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

(Pub. L. 89–10, title V, § 5144, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1788.)

PRIOR PROVISIONS

A prior section 5144 of Pub. L. 89–10 was classified to section 3224 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7217d. Definitions

In this part:

(1) Local educational agency

The term ''local educational agency'' means a local educational agency or a consortium of such agencies.

(2) Public school

The term ''public school'' means a public elementary school or a public secondary school.

(3) School-age population

The term ''school-age population'' means the population aged 5 through 17.

(4) State

The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title V, § 5145, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1788.)

PRIOR PROVISIONS

A prior section 5145 of Pub. L. 89–10 was classified to section 3224a of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7217e. Authorization of appropriations

There are authorized to be appropriated to carry out this part—

(1) $450,000,000 for fiscal year 2002;
(2) $475,000,000 for fiscal year 2003;
(3) $500,000,000 for fiscal year 2004;
(4) $525,000,000 for fiscal year 2005;
(5) $550,000,000 for fiscal year 2006; and
(6) $600,000,000 for fiscal year 2007.

(Pub. L. 89–10, title V, § 5146, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1788.)

PRIOR PROVISIONS

A prior section 5146 of Pub. L. 89–10 was classified to section 3224b of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

PART B—PUBLIC CHARTER SCHOOLS

SUBPART 1—CHARTER SCHOOL PROGRAMS

§ 7221. Purpose

It is the purpose of this subpart to increase national understanding of the charter schools model by—

(1) providing financial assistance for the planning, program design, and initial implementation of charter schools;

(2) evaluating the effects of such schools, including the effects on students, student academic achievement, staff, and parents;

(3) expanding the number of high-quality charter schools available to students across the Nation; and

(4) encouraging the States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount the States have typically provided for traditional public schools.

(Pub. L. 89–10, title V, § 5201, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1788.)

PRIOR PROVISIONS

A prior section 5201 of Pub. L. 89–10 was classified to section 7231 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221a. Program authorized

(a) In general

The Secretary may award grants to State educational agencies having applications approved pursuant to section 7221b of this title to enable such agencies to conduct a charter school grant program in accordance with this subpart.

(b) Special rule

If a State educational agency elects not to participate in the program authorized by this subpart or does not have an application approved under section 7221b of this title, the Secretary may award a grant to an eligible applicant that serves such State and has an application approved pursuant to section 7221b(c) of this title.

(c) Program periods

(1) Grants to States

Grants awarded to State educational agencies under this subpart shall be for a period of not more than 3 years.

(2) Grants to eligible applicants

Grants awarded by the Secretary to eligible applicants or subgrants awarded by State educational agencies to eligible applicants under this subpart shall be for a period of not more than 3 years, of which the eligible applicant may use—

(A) not more than 18 months for planning and program design;

(B) not more than 2 years for the initial implementation of a charter school; and

(C) not more than 2 years to carry out dissemination activities described in section 7221c(f)(6)(B) of this title.

(d) Limitation

A charter school may not receive—

(1) more than one grant for activities described in subparagraphs (A) and (B) of subsection (c)(2) of this section; or

(2) more than one grant for activities under subparagraph (C) of subsection (c)(2) of this section.

(e) Priority treatment

(1) In general

In awarding grants under this subpart for fiscal year 2002 or any succeeding fiscal year from any funds appropriated under section 7221j of this title (other than funds reserved to carry out section 7221d(b) of this title), the Secretary shall give priority to States to the extent that the States meet the criteria described in paragraph (2) and one or more of the criteria described in subparagraph (A), (B), or (C) of paragraph (3).

(2) Review and evaluation priority criteria

The criteria referred to in paragraph (1) are that the State provides for periodic review and evaluation by the authorized public chartering agency of each charter school, at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the student academic achievement requirements and goals for charter schools as set forth under State law or the school's charter.

(3) Priority criteria

The criteria referred to in paragraph (1) are the following:

(A) The State has demonstrated progress, in increasing the number of high-quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which a State educational agency or eligible applicant applies for a grant under this subpart.

(B) The State—

(i) provides for one authorized public chartering agency that is not a local educational agency, such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to such State law; or

(ii) in the case of a State in which local educational agencies are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

(C) The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

(f) Amount criteria

In determining the amount of a grant to be awarded under this subpart to a State educational agency, the Secretary shall take into consideration the number of charter schools that are operating, or are approved to open, in the State.

(Pub. L. 89–10, title V, § 5202, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1788.)

PRIOR PROVISIONS

A prior section 5202 of Pub. L. 89–10 was classified to section 7232 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221b. Applications

(a) Applications from State agencies

Each State educational agency desiring a grant from the Secretary under this subpart shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(b) Contents of a State educational agency application

Each application submitted pursuant to subsection (a) of this section shall—

(1) describe the objectives of the State educational agency's charter school grant program and a description of how such objectives will be fulfilled, including steps taken by the State educational agency to inform teachers, parents, and communities of the State educational agency's charter school grant program; and

(2) describe how the State educational agency—

(A) will inform each charter school in the State regarding—

(i) Federal funds that the charter school is eligible to receive; and

(ii) Federal programs in which the charter school may participate;

(B) will ensure that each charter school in the State receives the charter school's commensurate share of Federal education funds that are allocated by formula each year, including during the first year of operation of the charter school; and

(C) will disseminate best or promising practices of charter schools to each local educational agency in the State; and

(3) contain assurances that the State educational agency will require each eligible applicant desiring to receive a subgrant to submit an application to the State educational agency containing—

(A) a description of the educational program to be implemented by the proposed charter school, including—

(i) how the program will enable all students to meet challenging State student academic achievement standards;

(ii) the grade levels or ages of children to be served; and

(iii) the curriculum and instructional practices to be used;

(B) a description of how the charter school will be managed;

(C) a description of—

(i) the objectives of the charter school; and

(ii) the methods by which the charter school will determine its progress toward achieving those objectives;

(D) a description of the administrative relationship between the charter school and the authorized public chartering agency;

(E) a description of how parents and other members of the community will be involved in the planning, program design, and implementation of the charter school;

(F) a description of how the authorized public chartering agency will provide for continued operation of the school once the Federal grant has expired, if such agency determines that the school has met the objectives described in subparagraph (C)(i);

(G) a request and justification for waivers of any Federal statutory or regulatory provisions that the eligible applicant believes are necessary for the successful operation of the charter school, and a description of any State or local rules, generally applicable to public schools, that will be waived for, or otherwise not apply to, the school;

(H) a description of how the subgrant funds or grant funds, as appropriate, will be used, including a description of how such funds will be used in conjunction with other Federal programs administered by the Secretary;

(I) a description of how students in the community will be—

(i) informed about the charter school; and

(ii) given an equal opportunity to attend the charter school;

(J) an assurance that the eligible applicant will annually provide the Secretary and the State educational agency such information as may be required to determine if the charter school is making satisfactory progress toward achieving the objectives described in subparagraph (C)(i);

(K) an assurance that the eligible applicant will cooperate with the Secretary and the State educational agency in evaluating the program assisted under this subpart;

(L) a description of how a charter school that is considered a local educational agency under State law, or a local educational agency in which a charter school is located, will comply with sections 1413(a)(5) and 1413(e)(1)(B) of this title;

(M) if the eligible applicant desires to use subgrant funds for dissemination activities under section 7221a(c)(2)(C) of this title, a description of those activities and how those activities will involve charter schools and other public schools, local educational agencies, developers, and potential developers; and

(N) such other information and assurances as the Secretary and the State educational agency may require.

(c) Eligible applicant application

Each eligible applicant desiring a grant pursuant to section 7221a(b) of this title shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(d) Contents of eligible applicant application

Each application submitted pursuant to subsection (c) of this section shall contain—

(1) the information and assurances described in subparagraphs (A) through (N) of subsection (b)(3) of this section, except that for purposes of this subsection subparagraphs (J), (K), and (N) of such subsection shall be applied by striking ''and the State educational agency'' each place such term appears;

(2) assurances that the State educational agency—

(A) will grant, or will obtain, waivers of State statutory or regulatory requirements; and

(B) will assist each subgrantee in the State in receiving a waiver under section 7221c(e) of this title; and

(3) assurances that the eligible applicant has provided its authorized public chartering authority timely notice, and a copy, of the application, except that the State educational agency (or the Secretary, in the case of an application submitted to the Secretary) may waive the requirement of this paragraph in the case of an application for a precharter planning grant or subgrant if the authorized public chartering authority to which a charter school proposal will be submitted has not been determined at the time the grant or subgrant application is submitted.

(Pub. L. 89–10, title V, § 5203, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1790.)

PRIOR PROVISIONS

A prior section 5203 of Pub. L. 89–10 was classified to section 7233 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221c. Administration

(a) Selection criteria for State educational agencies

The Secretary shall award grants to State educational agencies under this subpart on the basis of the quality of the applications submitted under section 7221b(b) of this title, after taking into consideration such factors as—

(1) the contribution that the charter schools grant program will make to assisting educationally disadvantaged and other students in meeting State academic content standards and State student academic achievement standards;

(2) the degree of flexibility afforded by the State educational agency to charter schools under the State's charter schools law;

(3) the ambitiousness of the objectives for the State charter school grant program;

(4) the quality of the strategy for assessing achievement of those objectives;

(5) the likelihood that the charter school grant program will meet those objectives and improve educational results for students;

(6) the number of high-quality charter schools created under this subpart in the State; and

(7) in the case of State educational agencies that propose to use grant funds to support dissemination activities under subsection (f)(6)(B) of this section, the quality of those activities and the likelihood that those activities will improve student academic achievement.

(b) Selection criteria for eligible applicants

The Secretary shall award grants to eligible applicants under this subpart on the basis of the quality of the applications submitted under section 7221b(c) of this title, after taking into consideration such factors as—

(1) the quality of the proposed curriculum and instructional practices;

(2) the degree of flexibility afforded by the State educational agency and, if applicable, the local educational agency to the charter school;

(3) the extent of community support for the application;

(4) the ambitiousness of the objectives for the charter school;

(5) the quality of the strategy for assessing achievement of those objectives;

(6) the likelihood that the charter school will meet those objectives and improve educational results for students; and

(7) in the case of an eligible applicant that proposes to use grant funds to support dissemination activities under subsection (f)(6)(B) of this section, the quality of those activities and the likelihood that those activities will improve student achievement.

(c) Peer review

The Secretary, and each State educational agency receiving a grant under this subpart, shall use a peer review process to review applications for assistance under this subpart.

(d) Diversity of projects

The Secretary and each State educational agency receiving a grant under this subpart, shall award grants and subgrants under this subpart in a manner that, to the extent possible, ensures that such grants and subgrants—

(1) are distributed throughout different areas of the Nation and each State, including urban and rural areas; and

(2) will assist charter schools representing a variety of educational approaches, such as approaches designed to reduce school size.

(e) Waivers

The Secretary may waive any statutory or regulatory requirement over which the Secretary exercises administrative authority except any such requirement relating to the elements of a charter school described in section 7221i(1) of this title, if—

(1) the waiver is requested in an approved application under this subpart; and

(2) the Secretary determines that granting such a waiver will promote the purpose of this subpart.

(f) Use of funds

(1) State educational agencies

Each State educational agency receiving a grant under this subpart shall use such grant

funds to award subgrants to one or more eligible applicants in the State to enable such applicant to plan and implement a charter school in accordance with this subpart, except that the State educational agency may reserve not more than 10 percent of the grant funds to support dissemination activities described in paragraph (6).

(2) Eligible applicants

Each eligible applicant receiving funds from the Secretary or a State educational agency shall use such funds to plan and implement a charter school, or to disseminate information about the charter school and successful practices in the charter school, in accordance with this subpart.

(3) Allowable activities

An eligible applicant receiving a grant or subgrant under this subpart may use the grant or subgrant funds only for—

(A) post-award planning and design of the educational program, which may include—

(i) refinement of the desired educational results and of the methods for measuring progress toward achieving those results; and

(ii) professional development of teachers and other staff who will work in the charter school; and

(B) initial implementation of the charter school, which may include—

(i) informing the community about the school;

(ii) acquiring necessary equipment and educational materials and supplies;

(iii) acquiring or developing curriculum materials; and

(iv) other initial operational costs that cannot be met from State or local sources.

(4) Administrative expenses

(A) State educational agency administrative expenses

Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 5 percent of such grant funds for administrative expenses associated with the charter school grant program assisted under this subpart.

(B) Local administrative expenses

A local educational agency may not deduct funds for administrative fees or expenses from a subgrant awarded to an eligible applicant, unless the eligible applicant enters voluntarily into a mutually agreed upon arrangement for administrative services with the relevant local educational agency. Absent such approval, the local educational agency shall distribute all such subgrant funds to the eligible applicant without delay.

(5) Revolving loan funds

Each State educational agency receiving a grant pursuant to this subpart may reserve not more than 10 percent of the grant funds for the establishment of a revolving loan fund. Such fund may be used to make loans to eligible applicants that have received a subgrant under this subpart, under such terms as may be determined by the State educational agency, for the initial operation of the charter school grant program of the eligible applicant until such time as the recipient begins receiving ongoing operational support from State or local financing sources.

(6) Dissemination

(A) In general

A charter school may apply for funds under this subpart, whether or not the charter school has applied for or received funds under this subpart for planning, program design, or implementation, to carry out the activities described in subparagraph (B) if the charter school has been in operation for at least 3 consecutive years and has demonstrated overall success, including—

(i) substantial progress in improving student academic achievement;

(ii) high levels of parent satisfaction; and

(iii) the management and leadership necessary to overcome initial start-up problems and establish a thriving, financially viable charter school.

(B) Activities

A charter school described in subparagraph (A) may use funds reserved under paragraph (1) to assist other schools in adapting the charter school's program (or certain aspects of the charter school's program), or to disseminate information about the charter school, through such activities as—

(i) assisting other individuals with the planning and start-up of one or more new public schools, including charter schools, that are independent of the assisting charter school and the assisting charter school's developers, and that agree to be held to at least as high a level of accountability as the assisting charter school;

(ii) developing partnerships with other public schools, including charter schools, designed to improve student academic achievement in each of the schools participating in the partnership;

(iii) developing curriculum materials, assessments, and other materials that promote increased student achievement and are based on successful practices within the assisting charter school; and

(iv) conducting evaluations and developing materials that document the successful practices of the assisting charter school and that are designed to improve student performance in other schools.

(g) Tribally controlled schools

Each State that receives a grant under this subpart and designates a tribally controlled school as a charter school shall not consider payments to a school under the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.] in determining—

(1) the eligibility of the school to receive any other Federal, State, or local aid; or

(2) the amount of such aid.

(Pub. L. 89–10, title V, § 5204, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1792.)

REFERENCES IN TEXT

The Tribally Controlled Schools Act of 1988, referred to in subsec. (g), is part B (§ 5201–5212) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 385, as amended, which is classified generally to chapter 27 (§ 2501 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 5204 of Pub. L. 89–10 was classified to section 7234 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221d. National activities

(a) In general

The Secretary shall reserve for each fiscal year the greater of 5 percent or $5,000,000 of the amount appropriated to carry out this subpart, except that in no fiscal year shall the total amount so reserved exceed $8,000,000, to carry out the following activities:

(1) To provide charter schools, either directly or through State educational agencies, with—

(A) information regarding—

(i) Federal funds that charter schools are eligible to receive; and

(ii) other Federal programs in which charter schools may participate; and

(B) assistance in applying for Federal education funds that are allocated by formula, including assistance with filing deadlines and submission of applications.

(2) To provide for other evaluations or studies that include the evaluation of the impact of charter schools on student academic achievement, including information regarding—

(A) students attending charter schools reported on the basis of race, age, disability, gender, limited English proficiency, and previous enrollment in public school; and

(B) the professional qualifications of teachers within a charter school and the turnover of the teaching force.

(3) To provide—

(A) information to applicants for assistance under this subpart;

(B) assistance to applicants for assistance under this subpart with the preparation of applications under section 7221b of this title;

(C) assistance in the planning and startup of charter schools;

(D) training and technical assistance to existing charter schools; and

(E) for the dissemination to other public schools of best or promising practices in charter schools.

(4) To provide (including through the use of one or more contracts that use a competitive bidding process) for the collection of information regarding the financial resources available to charter schools, including access to private capital, and to widely disseminate to charter schools any such relevant information and model descriptions of successful programs.

(5) To carry out evaluations of, technical assistance for, and information dissemination regarding, the per-pupil facilities aid programs. In carrying out the evaluations, the Secretary may carry out one or more evaluations of State programs assisted under this subsection, which shall, at a minimum, address—

(A) how, and the extent to which, the programs promote educational equity and excellence; and

(B) the extent to which charter schools supported through the programs are—

(i) held accountable to the public;

(ii) effective in improving public education; and

(iii) open and accessible to all students.

(b) Per-pupil facilities aid programs

(1) Definition of per-pupil facilities aid program

In this subsection, the term ''per-pupil facilities aid program'' means a program in which a State makes payments, on a per-pupil basis, to charter schools to provide the schools with financing—

(A) that is dedicated solely for funding charter school facilities; or

(B) a portion of which is dedicated for funding charter school facilities.

(2) Grants

(A) In general

From the amount made available to carry out this subsection under paragraphs (2) and (3)(B) of section 7221j(b) of this title for any fiscal year, the Secretary shall make grants, on a competitive basis, to States to pay for the Federal share of the cost of establishing or enhancing, and administering per-pupil facilities aid programs.

(B) Period

The Secretary shall award grants under this subsection for periods of not more than 5 years.

(C) Federal share

The Federal share of the cost described in subparagraph (A) for a per-pupil facilities aid program shall be not more than—

(i) 90 percent of the cost, for the first fiscal year for which the program receives assistance under this subsection;

(ii) 80 percent in the second such year;

(iii) 60 percent in the third such year;

(iv) 40 percent in the fourth such year; and

(v) 20 percent in the fifth such year.

(3) Use of funds

(A) In general

A State that receives a grant under this subsection shall use the funds made available through the grant to establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State.

(B) Evaluations; technical assistance; dissemination

From the amount made available to a State through a grant under this subsection for a fiscal year, the State may reserve not more than 5 percent to carry out evalua-

tions, to provide technical assistance, and to disseminate information.

(C) Supplement, not supplant

Funds made available under this subsection shall be used to supplement, and not supplant, State and local public funds expended to provide per pupil[1] facilities aid programs, operations financing programs, or other programs, for charter schools.

(4) Requirements

(A) Voluntary participation

No State may be required to participate in a program carried out under this subsection.

(B) State law

To be eligible to receive a grant under this subsection, a State shall establish or enhance, and administer, a per-pupil facilities aid program for charter schools in the State, that—

(i) is specified in State law; and

(ii) provides annual financing, on a per-pupil basis, for charter school facilities.

(5) Applications

To be eligible to receive a grant under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(6) Priorities

In making grants under this subsection, the Secretary shall give priority to States that meet the criteria described in paragraph (2), and subparagraphs (A), (B), and (C) of paragraph (3), of section 7221a(e) of this title.

(c) Rule of construction

Nothing in this section shall be construed to require charter schools to collect any data described in subsection (a) of this section.

(Pub. L. 89–10, title V, § 5205, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1795.)

PRIOR PROVISIONS

A prior section 5205 of Pub. L. 89–10 was classified to section 7235 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221e. Federal formula allocation during first year and for successive enrollment expansions

(a) In general

For purposes of the allocation to schools by the States or their agencies of funds under part A of subchapter I of this chapter, and any other Federal funds which the Secretary allocates to States on a formula basis, the Secretary and each State educational agency shall take such measures as are necessary to ensure that every charter school receives the Federal funding for which the charter school is eligible not later than 5 months after the charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in that charter school are not fully and completely determined until that charter school actually opens. The measures similarly shall ensure that every charter school expanding its enrollment in any subsequent year of operation receives the Federal funding for which the charter school is eligible not later than 5 months after such expansion.

(b) Adjustment and late openings

(1) In general

The measures described in subsection (a) of this section shall include provision for appropriate adjustments, through recovery of funds or reduction of payments for the succeeding year, in cases where payments made to a charter school on the basis of estimated or projected enrollment data exceed the amounts that the school is eligible to receive on the basis of actual or final enrollment data.

(2) Rule

For charter schools that first open after November 1 of any academic year, the State, in accordance with guidance provided by the Secretary and applicable Federal statutes and regulations, shall ensure that such charter schools that are eligible for the funds described in subsection (a) of this section for such academic year have a full and fair opportunity to receive those funds during the charter schools' first year of operation.

(Pub. L. 89–10, title V, § 5206, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1797.)

PRIOR PROVISIONS

A prior section 5206 of Pub. L. 89–10 was classified to section 7236 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221f. Solicitation of input from charter school operators

To the extent practicable, the Secretary shall ensure that administrators, teachers, and other individuals directly involved in the operation of charter schools are consulted in the development of any rules or regulations required to implement this subpart, as well as in the development of any rules or regulations relevant to charter schools that are required to implement part A of subchapter I of this chapter, the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], or any other program administered by the Secretary that provides education funds to charter schools or regulates the activities of charter schools.

(Pub. L. 89–10, title V, § 5207, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1798.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in text, is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 5207 of Pub. L. 89–10 was classified to section 7237 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7221g. Records transfer

State educational agencies and local educational agencies, to the extent practicable,

[1] So in original. Probably should be ''per-pupil''.

shall ensure that a student's records and, if applicable, a student's individualized education program as defined in section 1401 of this title, are transferred to a charter school upon the transfer of the student to the charter school, and to another public school upon the transfer of the student from a charter school to another public school, in accordance with applicable State law.

(Pub. L. 89–10, title V, § 5208, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1798; amended Pub. L. 108–446, title III, § 305(g)(2), Dec. 3, 2004, 118 Stat. 2805.)

PRIOR PROVISIONS

A prior section 5208 of Pub. L. 89–10 was classified to section 7238 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2004—Pub. L. 108–446 substituted ''section 1401'' for ''section 1401(11)''.

§ 7221h. Paperwork reduction

To the extent practicable, the Secretary and each authorized public chartering agency shall ensure that implementation of this subpart results in a minimum of paperwork for any eligible applicant or charter school.

(Pub. L. 89–10, title V, § 5209, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1798.)

§ 7221i. Definitions

In this subpart:

(1) Charter school

The term ''charter school'' means a public school that—

(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(D) provides a program of elementary or secondary education, or both;

(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(F) does not charge tuition;

(G) complies with the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 et seq.];

(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

(I) agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

(J) meets all applicable Federal, State, and local health and safety requirements;

(K) operates in accordance with State law; and

(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school.

(2) Developer

The term ''developer'' means an individual or group of individuals (including a public or private nonprofit organization), which may include teachers, administrators and other school staff, parents, or other members of the local community in which a charter school project will be carried out.

(3) Eligible applicant

The term ''eligible applicant'' means a developer that has—

(A) applied to an authorized public chartering authority to operate a charter school; and

(B) provided adequate and timely notice to that authority under section 7221b(d)(3) of this title.

(4) Authorized public chartering agency

The term ''authorized public chartering agency'' means a State educational agency, local educational agency, or other public entity that has the authority pursuant to State law and approved by the Secretary to authorize or approve a charter school.

(Pub. L. 89–10, title V, § 5210, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1798.)

REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in par. (1)(G), is title III of Pub. L. 94–135, Nov. 28, 1975, 89 Stat. 728, as amended, which is classified generally to chapter 76 (§ 6101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of Title 42 and Tables.

The Civil Rights Act of 1964, referred to in par. (1)(G), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Education Amendments of 1972, referred to in par. (1)(G), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in par. (1)(G), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended. Part B of the Act is classified generally to subchapter II (§ 1411 et seq.) of chapter 33 of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

§ 7221j. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subpart $300,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) Reservation

From the amount appropriated under subsection (a) of this section for each fiscal year, the Secretary shall reserve—

(1) $200,000,000 to carry out this subpart, other than section 7221d(b) of this title; and

(2) any funds in excess of $200,000,000, that do not exceed $300,000,000, to carry out section 7221d(b) of this title; and

(3)(A) 50 percent of any funds in excess of $300,000,000 to carry out this subpart, other than section 7221d(b) of this title; and

(B) 50 percent of any funds in excess of $300,000,000 to carry out section 7221d(b) of this title.

(Pub. L. 89–10, title V, § 5211, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1799.)

SUBPART 2—CREDIT ENHANCEMENT INITIATIVES TO ASSIST CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION

§ 7223. Purpose

The purpose of this subpart is to provide grants to eligible entities to permit the eligible entities to demonstrate innovative credit enhancement initiatives that assist charter schools to address the cost of acquiring, constructing, and renovating facilities.

(Pub. L. 89–10, title V, § 5221, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1800.)

§ 7223a. Grants to eligible entities

(a) Grants

The Secretary shall use 100 percent of the amount available to carry out this subpart to award not less than three grants to eligible entities that have applications approved under this subpart to demonstrate innovative methods of assisting charter schools to address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans or bond financing.

(b) Grantee selection

(1) Evaluation of application

The Secretary shall evaluate each application submitted under section 7223b of this title, and shall determine whether the application is sufficient to merit approval.

(2) Distribution of grants

The Secretary shall award at least one grant to an eligible entity described in section 7223i(2)(A) of this title, at least one grant to an eligible entity described in section 7223i(2)(B) of this title, and at least one grant to an eligible entity described in section 7223i(2)(C) of this title, if applications are submitted that permit the Secretary to do so without approving an application that is not of sufficient quality to merit approval.

(c) Grant characteristics

Grants under this subpart shall be of a sufficient size, scope, and quality so as to ensure an effective demonstration of an innovative means of enhancing credit for the financing of charter school acquisition, construction, or renovation.

(d) Special rule

In the event the Secretary determines that the funds made available under this subpart are insufficient to permit the Secretary to award not less than three grants in accordance with subsections (a) through (c) of this section, such three-grant minimum and subsection (b)(2) of this section shall not apply, and the Secretary may determine the appropriate number of grants to be awarded in accordance with subsection (c) of this section.

(Pub. L. 89–10, title V, § 5222, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1800.)

§ 7223b. Applications

(a) In general

To receive a grant under this subpart, an eligible entity shall submit to the Secretary an application in such form as the Secretary may reasonably require.

(b) Contents

An application submitted under subsection (a) of this section shall contain—

(1) a statement identifying the activities proposed to be undertaken with funds received under this subpart, including how the eligible entity will determine which charter schools will receive assistance, and how much and what types of assistance charter schools will receive;

(2) a description of the involvement of charter schools in the application's development and the design of the proposed activities;

(3) a description of the eligible entity's expertise in capital market financing;

(4) a description of how the proposed activities will leverage the maximum amount of private-sector financing capital relative to the amount of government funding used and otherwise enhance credit available to charter schools;

(5) a description of how the eligible entity possesses sufficient expertise in education to evaluate the likelihood of success of a charter school program for which facilities financing is sought;

(6) in the case of an application submitted by a State governmental entity, a description of the actions that the entity has taken, or will take, to ensure that charter schools within the State receive the funding the charter schools need to have adequate facilities; and

(7) such other information as the Secretary may reasonably require.

(Pub. L. 89–10, title V, § 5223, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1800.)

§ 7223c. Charter school objectives

An eligible entity receiving a grant under this subpart shall use the funds deposited in the reserve account established under section 7223d(a) of this title to assist one or more charter schools to access private sector capital to accomplish one or both of the following objectives:

(1) The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.

(2) The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.

(Pub. L. 89–10, title V, § 5224, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1801.)

§ 7223d. Reserve account

(a) Use of funds

To assist charter schools to accomplish the objectives described in section 7223c of this title, an eligible entity receiving a grant under this subpart shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received under this subpart (other than funds used for administrative costs in accordance with section 7223e of this title) in a reserve account established and maintained by the eligible entity for this purpose. Amounts deposited in such account shall be used by the eligible entity for one or more of the following purposes:

(1) Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein, the proceeds of which are used for an objective described in section 7223c of this title.

(2) Guaranteeing and insuring leases of personal and real property for an objective described in section 7223c of this title.

(3) Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.

(4) Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

(b) Investment

Funds received under this subpart and deposited in the reserve account established under subsection (a) of this section shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities.

(c) Reinvestment of earnings

Any earnings on funds received under this subpart shall be deposited in the reserve account established under subsection (a) of this section and used in accordance with such subsection.

(Pub. L. 89–10, title V, § 5225, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1801.)

§ 7223e. Limitation on administrative costs

An eligible entity may use not more than 0.25 percent of the funds received under this subpart for the administrative costs of carrying out its responsibilities under this subpart.

(Pub. L. 89–10, title V, § 5226, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1802.)

§ 7223f. Audits and reports

(a) Financial record maintenance and audit

The financial records of each eligible entity receiving a grant under this subpart shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

(b) Reports

(1) Grantee annual reports

Each eligible entity receiving a grant under this subpart annually shall submit to the Secretary a report of its operations and activities under this subpart.

(2) Contents

Each annual report submitted under paragraph (1) shall include—

(A) a copy of the most recent financial statements, and any accompanying opinion on such statements, prepared by the independent public accountant reviewing the financial records of the eligible entity;

(B) a copy of any report made on an audit of the financial records of the eligible entity that was conducted under subsection (a) of this section during the reporting period;

(C) an evaluation by the eligible entity of the effectiveness of its use of the Federal funds provided under this subpart in leveraging private funds;

(D) a listing and description of the charter schools served during the reporting period;

(E) a description of the activities carried out by the eligible entity to assist charter schools in meeting the objectives set forth in section 7223c of this title; and

(F) a description of the characteristics of lenders and other financial institutions participating in the activities undertaken by the eligible entity under this subpart during the reporting period.

(3) Secretarial report

The Secretary shall review the reports submitted under paragraph (1) and shall provide a comprehensive annual report to Congress on the activities conducted under this subpart.

(Pub. L. 89–10, title V, § 5227, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1802.)

§ 7223g. No full faith and credit for grantee obligations

No financial obligation of an eligible entity entered into pursuant to this subpart (such as an obligation under a guarantee, bond, note, evidence of debt, or loan) shall be an obligation of,

or guaranteed in any respect by, the United States. The full faith and credit of the United States is not pledged to the payment of funds which may be required to be paid under any obligation made by an eligible entity pursuant to any provision of this subpart.

(Pub. L. 89–10, title V, § 5228, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1803.)

§ 7223h. Recovery of funds

(a) In general

The Secretary, in accordance with chapter 37 of title 31, shall collect—

(1) all of the funds in a reserve account established by an eligible entity under section 7223d(a) of this title if the Secretary determines, not earlier than 2 years after the date on which the eligible entity first received funds under this subpart, that the eligible entity has failed to make substantial progress in carrying out the purposes described in section 7223d(a) of this title; or

(2) all or a portion of the funds in a reserve account established by an eligible entity under section 7223d(a) of this title if the Secretary determines that the eligible entity has permanently ceased to use all or a portion of the funds in such account to accomplish any purpose described in section 7223d(a) of this title.

(b) Exercise of authority

The Secretary shall not exercise the authority provided in subsection (a) of this section to collect from any eligible entity any funds that are being properly used to achieve one or more of the purposes described in section 7223d(a) of this title.

(c) Procedures

The provisions of sections 451, 452, and 458 of the General Education Provisions Act [20 U.S.C. 1234, 1234a, 1234g] shall apply to the recovery of funds under subsection (a) of this section.

(d) Construction

This section shall not be construed to impair or affect the authority of the Secretary to recover funds under part D of the General Education Provisions Act [20 U.S.C. 1234 et seq.].

(Pub. L. 89–10, title V, § 5229, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1803.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (d), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended. Part D of the Act is classified generally to subchapter IV (§ 1234 et seq.) of chapter 31 of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

§ 7223i. Definitions

In this subpart:

(1) Charter school

The term ''charter school'' has the meaning given such term in section 7221i of this title.

(2) Eligible entity

The term ''eligible entity'' means—

(A) a public entity, such as a State or local governmental entity;

(B) a private nonprofit entity; or

(C) a consortium of entities described in subparagraphs (A) and (B).

(Pub. L. 89–10, title V, § 5230, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1803.)

§ 7223j. Authorization of appropriations

For the purpose of carrying out this subpart, there are authorized to be appropriated $150,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal year 2003.

(Pub. L. 89–10, title V, § 5231, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1803.)

SUBPART 3—VOLUNTARY PUBLIC SCHOOL CHOICE PROGRAMS

§ 7225. Grants

(a) Authorization

From funds made available under section 7225g of this title to carry out this subpart, the Secretary shall award grants, on a competitive basis, to eligible entities to enable the entities to establish or expand a program of public school choice (referred to in this subpart as a ''program'') in accordance with this subpart.

(b) Duration

Grants awarded under subsection (a) of this section may be awarded for a period of not more than 5 years.

(Pub. L. 89–10, title V, § 5241, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1803.)

§ 7225a. Uses of funds

(a) Required use of funds

An eligible entity that receives a grant under this subpart shall use the grant funds to provide students selected to participate in the program with transportation services or the cost of transportation to and from the public elementary schools and secondary schools, including charter schools, that the students choose to attend under the program.

(b) Permissible uses of funds

An eligible entity that receives a grant under this subpart may use the grant funds for—

(1) planning or designing a program (for not more than 1 year);

(2) the cost of making tuition transfer payments to public elementary schools or secondary schools to which students transfer under the program;

(3) the cost of capacity-enhancing activities that enable high-demand public elementary schools or secondary schools to accommodate transfer requests under the program;

(4) the cost of carrying out public education campaigns to inform students and parents about the program; and

(5) other costs reasonably necessary to implement the program.

(c) Nonpermissible uses of funds

An eligible entity that receives a grant under this subpart may not use the grant funds for school construction.

(d) Administrative expenses

The eligible entity may use not more than 5 percent of the funds made available through the

grant for any fiscal year for administrative expenses.

(Pub. L. 89–10, title V, § 5242, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1804.)

§ 7225b. Applications

(a) Submission

An eligible entity that desires a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(b) Contents

An application submitted under subsection (a) of this section shall include—

(1) a description of the program for which the eligible entity seeks funds and the goals for such program;

(2) a description of how and when parents of students will be given the notice required under section 7225d(a)(2) of this title;

(3) a description of how students will be selected for the program;

(4) a description of how the program will be coordinated with, and will complement and enhance, other related Federal and non-Federal projects;

(5) if the program is to be carried out by a partnership, the name of each partner and a description of the partner's responsibilities; and

(6) such other information as the Secretary may require.

(Pub. L. 89–10, title V, § 5243, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1804.)

§ 7225c. Priorities

In awarding grants under this subpart, the Secretary shall give priority to an eligible entity—

(1) whose program would provide the widest variety of choices to all students in participating schools;

(2) whose program would, through various choice options, have the most impact in allowing students in low-performing schools to attend higher-performing schools; and

(3) that is a partnership that seeks to implement an interdistrict approach to carrying out a program.

(Pub. L. 89–10, title V, § 5244, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1804.)

§ 7225d. Requirements and voluntary participation

(a) Parent and community involvement and notice

In carrying out a program under this subpart, an eligible entity shall—

(1) develop the program with—

(A) the involvement of parents and others in the community to be served; and

(B) individuals who will carry out the program, including administrators, teachers, principals, and other staff; and

(2) provide to parents of students in the area to be served by the program with prompt notice of—

(A) the existence of the program;

(B) the program's availability; and

(C) a clear explanation of how the program will operate.

(b) Selection of students

An eligible entity that receives a grant under this subpart shall select students to participate in a program on the basis of a lottery, if more students apply for admission to the program than can be accommodated.

(c) Voluntary participation

Student participation in a program funded under this subpart shall be voluntary.

(Pub. L. 89–10, title V, § 5245, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1805.)

§ 7225e. Evaluations

(a) In general

From the amount made available to carry out this subpart for any fiscal year, the Secretary may reserve not more than 5 percent—

(1) to carry out evaluations;

(2) to provide technical assistance; and

(3) to disseminate information.

(b) Evaluations

In carrying out the evaluations under subsection (a) of this section, the Secretary shall, at a minimum, address—

(1) how, and the extent to which, the programs promote educational equity and excellence;

(2) the characteristics of the students participating in the programs; and

(3) the effect of the programs on the academic achievement of students participating in the programs, particularly students who move from schools identified under section 6316 of this title to schools not so identified, and on the overall quality of participating schools and districts.

(Pub. L. 89–10, title V, § 5246, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1805.)

§ 7225f. Definitions

In this subpart:

(1) Charter school

The term ''charter school'' has the meaning given such term in section 7221i of this title.

(2) Eligible entity

The term ''eligible entity'' means—

(A) one or more State educational agencies;

(B) one or more local educational agencies; or

(C) a partnership of—

(i) one or more—

(I) State educational agencies; and

(II) local educational agencies or other public, for-profit, or nonprofit entities; or

(ii) one or more—

(I) local educational agencies; and

(II) public, for-profit, or nonprofit entities.

(3) Low-performing school

The term ''low-performing school'' means a public elementary school or secondary school

that has failed to make adequate yearly progress, as described in section 6311(b) of this title, for two or more consecutive years.

(Pub. L. 89–10, title V, § 5247, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1805.)

§ 7225g. Authorization of appropriations

There are authorized to be appropriated to carry out this subpart $100,000,000 for fiscal year 2002 and each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title V, § 5248, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1806.)

PART C—MAGNET SCHOOLS ASSISTANCE

§ 7231. Findings and purpose

(a) Findings

Congress makes the following findings:

(1) Magnet schools are a significant part of the Nation's effort to achieve voluntary desegregation in our Nation's schools.

(2) The use of magnet schools has increased dramatically since the inception of the magnet schools assistance program under this chapter, with approximately 2,000,000 students nationwide attending such schools, of whom more than 65 percent are non-white.

(3) Magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts.

(4) It is in the best interests of the United States—

(A) to continue the Federal Government's support of local educational agencies that are implementing court-ordered desegregation plans and local educational agencies that are voluntarily seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of such students' education;

(B) to ensure that all students have equitable access to a high quality education that will prepare all students to function well in a technologically oriented and a highly competitive economy comprised of people from many different racial and ethnic backgrounds; and

(C) to continue to desegregate and diversify schools by supporting magnet schools, recognizing that segregation exists between minority and nonminority students as well as among students of different minority groups.

(5) Desegregation efforts through magnet school programs are a significant part of our Nation's effort to achieve voluntary desegregation in schools and help to ensure equal educational opportunities for all students.

(b) Purpose

The purpose of this part is to assist in the desegregation of schools served by local educational agencies by providing financial assistance to eligible local educational agencies for—

(1) the elimination, reduction, or prevention of minority group isolation in elementary schools and secondary schools with substantial proportions of minority students, which shall include assisting in the efforts of the United States to achieve voluntary desegregation in public schools;

(2) the development and implementation of magnet school programs that will assist local educational agencies in achieving systemic reforms and providing all students the opportunity to meet challenging State academic content standards and student academic achievement standards;

(3) the development and design of innovative educational methods and practices that promote diversity and increase choices in public elementary schools and public secondary schools and public educational programs;

(4) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the attainment of tangible and marketable vocational, technological, and professional skills of students attending such schools;

(5) improving the capacity of local educational agencies, including through professional development, to continue operating magnet schools at a high performance level after Federal funding for the magnet schools is terminated; and

(6) ensuring that all students enrolled in the magnet school programs have equitable access to high quality education that will enable the students to succeed academically and continue with postsecondary education or productive employment.

(Pub. L. 89–10, title V, § 5301, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1806.)

PRIOR PROVISIONS

A prior section 7231, Pub. L. 89–10, title V, § 5201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3695, set forth short title and findings for the Women's Educational Equity Act of 1994, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 5301 of Pub. L. 89–10 was classified to section 7261 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231a. Definition

For the purpose of this part, the term ''magnet school'' means a public elementary school, public secondary school, public elementary education center, or public secondary education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

(Pub. L. 89–10, title V, § 5302, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1807.)

PRIOR PROVISIONS

A prior section 5302 of Pub. L. 89–10 was classified to section 7262 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231b. Program authorized

The Secretary, in accordance with this part, is authorized to award grants to eligible local educational agencies, and consortia of such agencies where appropriate, to carry out the purpose of this part for magnet schools that are—

(1) part of an approved desegregation plan; and

(2) designed to bring students from different social, economic, ethnic, and racial backgrounds together.

(Pub. L. 89–10, title V, § 5303, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1807.)

PRIOR PROVISIONS

A prior section 5303 of Pub. L. 89–10 was classified to section 7263 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231c. Eligibility

A local educational agency, or consortium of such agencies where appropriate, is eligible to receive a grant under this part to carry out the purpose of this part if such agency or consortium—

(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, that requires the desegregation of minority-group-segregated children or faculty in the elementary schools and secondary schools of such agency; or

(2) without having been required to do so, has adopted and is implementing, or will, if a grant is awarded to such local educational agency, or consortium of such agencies, under this part, adopt and implement a plan that has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.] for the desegregation of minority-group-segregated children or faculty in such schools.

(Pub. L. 89–10, title V, § 5304, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1807.)

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in par. (2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Act is classified generally to subchapter V (§ 2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

§ 7231d. Applications and requirements

(a) Applications

An eligible local educational agency, or consortium of such agencies, desiring to receive a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

(b) Information and assurances

Each application submitted under subsection (a) of this section shall include—

(1) a description of—

(A) how a grant awarded under this part will be used to promote desegregation, including how the proposed magnet school programs will increase interaction among students of different social, economic, ethnic, and racial backgrounds;

(B) the manner and extent to which the magnet school program will increase student academic achievement in the instructional area or areas offered by the school;

(C) how the applicant will continue the magnet school program after assistance under this part is no longer available, and, if applicable, an explanation of why magnet schools established or supported by the applicant with grant funds under this part cannot be continued without the use of grant funds under this part;

(D) how grant funds under this part will be used—

(i) to improve student academic achievement for all students attending the magnet school programs; and

(ii) to implement services and activities that are consistent with other programs under this chapter, and other Acts, as appropriate; and

(E) the criteria to be used in selecting students to attend the proposed magnet school program; and

(2) assurances that the applicant will—

(A) use grant funds under this part for the purposes specified in section 7231(b) of this title;

(B) employ highly qualified teachers in the courses of instruction assisted under this part;

(C) not engage in discrimination based on race, religion, color, national origin, sex, or disability in—

(i) the hiring, promotion, or assignment of employees of the applicant or other personnel for whom the applicant has any administrative responsibility;

(ii) the assignment of students to schools, or to courses of instruction within the schools, of such applicant, except to carry out the approved plan; and

(iii) designing or operating extracurricular activities for students;

(D) carry out a high-quality education program that will encourage greater parental decisionmaking and involvement; and

(E) give students residing in the local attendance area of the proposed magnet school program equitable consideration for placement in the program, consistent with desegregation guidelines and the capacity of the applicant to accommodate the students.

(c) Special rule

No grant shall be awarded under this part unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in subsection (b)(2)(C) of this section will be met.

(Pub. L. 89–10, title V, § 5305, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1808.)

PRIOR PROVISIONS

A prior section 5305 of Pub. L. 89–10 was classified to section 7265 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231e. Priority

In awarding grants under this part, the Secretary shall give priority to applicants that—

(1) demonstrate the greatest need for assistance, based on the expense or difficulty of effectively carrying out approved desegregation plans and the magnet school program for which the grant is sought;

(2) propose to carry out new magnet school programs, or significantly revise existing magnet school programs; and

(3) propose to select students to attend magnet school programs by methods such as lottery, rather than through academic examination.

(Pub. L. 89–10, title V, § 5306, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1809.)

PRIOR PROVISIONS

A prior section 5306 of Pub. L. 89–10 was classified to section 7266 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231f. Use of funds

(a) In general

Grant funds made available under this part may be used by an eligible local educational agency, or consortium of such agencies—

(1) for planning and promotional activities directly related to the development, expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

(2) for the acquisition of books, materials, and equipment, including computers and the maintenance and operation of materials, equipment, and computers, necessary to conduct programs in magnet schools;

(3) for the compensation, or subsidization of the compensation, of elementary school and secondary school teachers who are highly qualified, and instructional staff where applicable, who are necessary to conduct programs in magnet schools;

(4) with respect to a magnet school program offered to less than the entire student population of a school, for instructional activities that—

(A) are designed to make available the special curriculum that is offered by the magnet school program to students who are enrolled in the school but who are not enrolled in the magnet school program; and

(B) further the purpose of this part;

(5) for activities, which may include professional development, that will build the recipient's capacity to operate magnet school programs once the grant period has ended;

(6) to enable the local educational agency, or consortium of such agencies, to have more flexibility in the administration of a magnet school program in order to serve students attending a school who are not enrolled in a magnet school program; and

(7) to enable the local educational agency, or consortium of such agencies, to have flexibility in designing magnet schools for students in all grades.

(b) Special rule

Grant funds under this part may be used for activities described in paragraphs (2) and (3) of subsection (a) of this section only if the activities are directly related to improving student academic achievement based on the State's challenging academic content standards and student academic achievement standards or directly related to improving student reading skills or knowledge of mathematics, science, history, geography, English, foreign languages, art, or music, or to improving vocational, technological, and professional skills.

(Pub. L. 89–10, title V, § 5307, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1809.)

PRIOR PROVISIONS

A prior section 5307 of Pub. L. 89–10 was classified to section 7267 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231g. Prohibition

Grants under this part may not be used for transportation or any activity that does not augment academic improvement.

(Pub. L. 89–10, title V, § 5308, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1810.)

PRIOR PROVISIONS

A prior section 5308 of Pub. L. 89–10 was classified to section 7268 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7231h. Limitations

(a) Duration of awards

A grant under this part shall be awarded for a period that shall not exceed 3 fiscal years.

(b) Limitation on planning funds

A local educational agency, or consortium of such agencies, may expend for planning (professional development shall not be considered to be planning for purposes of this subsection) not more than 50 percent of the grant funds received under this part for the first year of the program and not more than 15 percent of such funds for each of the second and third such years.

(c) Amount

No local educational agency, or consortium of such agencies, awarded a grant under this part shall receive more than $4,000,000 under this part for any 1 fiscal year.

(d) Timing

To the extent practicable, the Secretary shall award grants for any fiscal year under this part not later than July 1 of the applicable fiscal year.

(Pub. L. 89–10, title V, § 5309, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1810.)

§ 7231i. Evaluations

(a) Reservation

The Secretary may reserve not more than 2 percent of the funds appropriated under section 7231j(a) of this title for any fiscal year to carry out evaluations, provide technical assistance, and carry out dissemination projects with respect to magnet school programs assisted under this part.

(b) Contents

Each evaluation described in subsection (a) of this section, at a minimum, shall address—

(1) how and the extent to which magnet school programs lead to educational quality and improvement;

(2) the extent to which magnet school programs enhance student access to a high quality education;

(3) the extent to which magnet school programs lead to the elimination, reduction, or

prevention of minority group isolation in elementary schools and secondary schools with substantial proportions of minority students; and

(4) the extent to which magnet school programs differ from other school programs in terms of the organizational characteristics and resource allocations of such magnet school programs.

(c) Dissemination

The Secretary shall collect and disseminate to the general public information on successful magnet school programs.

(Pub. L. 89–10, title V, § 5310, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1810.)

§ 7231j. Authorization of appropriations; reservation

(a) Authorization

For the purpose of carrying out this part, there are authorized to be appropriated $125,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) Availability of funds for grants to agencies not previously assisted

In any fiscal year for which the amount appropriated pursuant to subsection (a) of this section exceeds $75,000,000, the Secretary shall give priority in using such amounts in excess of $75,000,000 to awarding grants to local educational agencies or consortia of such agencies that did not receive a grant under this part in the preceding fiscal year.

(Pub. L. 89–10, title V, § 5311, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1810.)

PRIOR PROVISIONS

Prior sections 7232 to 7238 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7232, Pub. L. 89–10, title V, § 5202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3696, set forth purposes of former part B of this subchapter relating to gender equity. See section 7283a of this title.

Section 7233, Pub. L. 89–10, title V, § 5203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3696; amended Pub. L. 104–193, title I, § 110(j)(3), Aug. 22, 1996, 110 Stat. 2172, authorized gender equity programs. See section 7283b of this title.

Section 7234, Pub. L. 89–10, title V, § 5204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3699, related to applications. See section 7283c of this title.

Section 7235, Pub. L. 89–10, title V, § 5205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3699, set forth criteria and priorities for awards. See section 7283d of this title.

Section 7236, Pub. L. 89–10, title V, § 5206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3700, related to submission of report. See section 7283e of this title.

Section 7237, Pub. L. 89–10, title V, § 5207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3700, related to administration. See section 7283f of this title.

Section 7238, Pub. L. 89–10, title V, § 5208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701, authorized appropriations. See section 7283g of this title.

PART D—FUND FOR THE IMPROVEMENT OF EDUCATION

§ 7241. Authorization of appropriations

There are authorized to be appropriated to carry out this part the following amounts:

(1) $550,000,000 for fiscal year 2002.
(2) $575,000,000 for fiscal year 2003.
(3) $600,000,000 for fiscal year 2004.
(4) $625,000,000 for fiscal year 2005.
(5) $650,000,000 for fiscal year 2006.
(6) $675,000,000 for fiscal year 2007.

(Pub. L. 89–10, title V, § 5401, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1811.)

SUBPART 1—FUND FOR THE IMPROVEMENT OF EDUCATION

§ 7243. Programs authorized

(a) Authorization

The Secretary is authorized to support nationally significant programs to improve the quality of elementary and secondary education at the State and local levels and help all children meet challenging State academic content and student academic achievement standards. The Secretary may carry out such programs directly, or through grants to, or contracts with—

(1) States or local educational agencies;
(2) institutions of higher education; and
(3) other public and private agencies, organizations, and institutions.

(b) Uses of funds

Funds made available under section 7241 of this title to carry out this subpart may be used for any of the following programs:

(1) Activities to promote systemic education reform at the State and local levels, including scientifically based research, development, and evaluation designed to improve—

(A) student academic achievement at the State and local level; and

(B) strategies for effective parent and community involvement.

(2) Programs at the State and local levels that are designed to yield significant results, including programs to explore approaches to public school choice and school-based decisionmaking.

(3) Recognition programs, which may include financial awards to States, local educational agencies, and schools that have made the greatest progress, based on the Secretary's determination or on a nomination by the State in which the school is located (or in the case of a Bureau funded school, by the Secretary of the Interior) in—

(A) improving the academic achievement of economically disadvantaged students and students from major racial and ethnic minority groups; and

(B) closing the academic achievement gap for those groups of students farthest away from the proficient level on the academic assessments administered by the State under section 6311 of this title.

(4) Scientifically based studies and evaluations of education reform strategies and inno-

vations, and the dissemination of information on the effectiveness of such strategies and innovations.

(5) Identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools, including programs to evaluate the effectiveness of using the best practices of exemplary or Blue Ribbon Schools to improve academic achievement.

(6) Activities to support Scholar-Athlete Games programs, including the World Scholar-Athlete Games and the U.S. Scholar-Athlete Games.

(7) Programs to promote voter participation in American elections through programs, such as the National Student/Parent Mock Election and Kids Voting USA.

(8) Demonstrations relating to the planning and evaluation of the effectiveness of programs under which local educational agencies or schools contract with private management organizations to reform a school or schools.

(9) Other programs that meet the purposes of this chapter.

(c) Basis of awards

The Secretary is authorized to—

(1) make awards under this subpart on the basis of competitions announced by the Secretary; and

(2) support meritorious unsolicited proposals for awards under this subpart.

(d) Effectiveness of programs

The Secretary shall ensure that programs supported under this subpart are designed so that their effectiveness is readily ascertainable, and shall ensure that such effectiveness is assessed using rigorous, scientifically based research and evaluations.

(Pub. L. 89–10, title V, § 5411, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1811.)

§ 7243a. Applications

(a) Submission

To be eligible for an award under this subpart, an entity shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

(b) Contents

Each application submitted under subsection (a) of this section shall—

(1) establish clear objectives, which are based on scientifically based research, for the proposed program; and

(2) describe the activities the applicant will carry out in order to meet the objectives described in paragraph (1).

(c) Peer review

The Secretary shall use a peer review process in reviewing applications for awards under this subpart and in recognizing States, local educational agencies, and schools under section 7243(b)(3) of this title, only if funds are used for such recognition programs. The Secretary may use funds appropriated under this subpart for the cost of such peer review.

(Pub. L. 89–10, title V, § 5412, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1812.)

§ 7243b. Program requirements

(a) Evaluations

A recipient of an award under this subpart shall—

(1) evaluate the effectiveness of the program funded under the award in achieving the objectives stated in applications submitted under section 7243a of this title; and

(2) report to the Secretary such information as may be required to determine the effectiveness of such program, including evidence of progress toward meeting such objectives.

(b) Dissemination of evaluation results

The Secretary shall provide for the dissemination of the evaluations of programs funded under this subpart by making the evaluations publicly available upon request, and shall provide public notice that the evaluations are so available.

(c) Matching funds

The Secretary may require recipients of awards under this subpart to provide matching funds from non-Federal sources, and shall permit the recipients to match funds in whole or in part with in-kind contributions.

(d) Special rule for recognition programs

The application requirements of section 7243a(b) of this title, and the evaluation requirements of subsections (a) and (b) of this section, do not apply to recognition programs under section 7243(b)(3) of this title.

(Pub. L. 89–10, title V, § 5413, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1812.)

§ 7243c. Studies of national significance

(a) Studies

The Secretary shall conduct the following studies of national significance:

(1) Unhealthy public school buildings

A study regarding the health and learning impacts of environmentally unhealthy public school buildings on students and teachers. The study shall include the following information:

(A) The characteristics of those public elementary school and secondary school buildings that contribute to unhealthy school environments.

(B) The health and learning impacts of environmental[1] unhealthy public school buildings on students that are attending or that have attended such schools.

(C) Recommendations to Congress on how to assist schools that are out of compliance with Federal or State health and safety codes, and a cost estimate of bringing up environmentally unhealthy public school buildings to minimum Federal health and safety building standards.

(2) Exposure to violent entertainment

A study regarding how exposure to violent entertainment (such as in movies, music, television, Internet content, video games, and arcade games) affects children's cognitive development and educational achievement.

[1] So in original. Probably should be ''environmentally''.

(3) Sexual abuse in schools

A study regarding the prevalence of sexual abuse in schools, including recommendations and legislative remedies for addressing the problem of sexual abuse in schools.

(b) Completion date

The studies under subsection (a) of this section shall be completed not later than 18 months after January 8, 2002.

(c) Public dissemination

The Secretary shall make the study conducted under subsection (a)(1) of this section available to the public through the Educational Resources Information Center National Clearinghouse for Educational Facilities of the Department.

(Pub. L. 89–10, title V, § 5414, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1813.)

SUBPART 2—ELEMENTARY AND SECONDARY SCHOOL COUNSELING PROGRAMS

§ 7245. Elementary and secondary school counseling programs

(a) Grants authorized

(1) In general

The Secretary is authorized to award grants to local educational agencies to enable such agencies to establish or expand elementary school and secondary school counseling programs that comply with the requirements of subsection (c)(2) of this section.

(2) Special consideration

In awarding grants under this section, the Secretary shall give special consideration to applications describing programs that—

(A) demonstrate the greatest need for new or additional counseling services among children in the schools served by the local educational agency, in part by providing information on current ratios of students to school counselors, students to school social workers, and students to school psychologists;

(B) propose the most promising and innovative approaches for initiating or expanding school counseling; and

(C) show the greatest potential for replication and dissemination.

(3) Equitable distribution

In awarding grants under this section, the Secretary shall ensure an equitable geographic distribution among the regions of the United States and among local educational agencies located in urban, rural, and suburban areas.

(4) Duration

A grant under this section shall be awarded for a period not to exceed 3 years.

(5) Maximum grant

A grant awarded under this section shall not exceed $400,000 for any fiscal year.

(6) Supplement, not supplant

Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, or local funds used for providing school-based counseling and mental health services to students.

(b) Applications

(1) In general

Each local educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) Contents

Each application for a grant under this section shall—

(A) describe the school population to be targeted by the program, the particular counseling needs of such population, and the current school counseling resources available for meeting such needs;

(B) describe the activities, services, and training to be provided by the program and the specific approaches to be used to meet the needs described in subparagraph (A);

(C) describe the methods to be used to evaluate the outcomes and effectiveness of the program;

(D) describe how the local educational agency will involve community groups, social service agencies, and other public and private entities in collaborative efforts to enhance the program and promote school-linked services integration;

(E) document that the local educational agency has the personnel qualified to develop, implement, and administer the program;

(F) describe how diverse cultural populations, if applicable, will be served through the program;

(G) assure that the funds made available under this subpart for any fiscal year will be used to supplement, and not supplant, any other Federal, State, or local funds used for providing school-based counseling and mental health services to students; and

(H) assure that the applicant will appoint an advisory board composed of interested parties, including parents, teachers, school administrators, counseling services providers described in subsection (c)(2)(D) of this section, and community leaders, to advise the local educational agency on the design and implementation of the program.

(c) Use of funds

(1) In general

The Secretary is authorized to award grants to local educational agencies to enable the local educational agencies to initiate or expand elementary school or secondary school counseling programs that comply with the requirements of paragraph (2).

(2) Requirements

Each program funded under this section shall—

(A) be comprehensive in addressing the counseling and educational needs of all students;

(B) use a developmental, preventive approach to counseling;

(C) increase the range, availability, quantity, and quality of counseling services in the elementary schools and secondary schools of the local educational agency;

(D) expand counseling services through qualified school counselors, school social workers, school psychologists, other qualified psychologists, or child and adolescent psychiatrists;

(E) use innovative approaches to increase children's understanding of peer and family relationships, work and self, decision-making, or academic and career planning, or to improve peer interaction;

(F) provide counseling services in settings that meet the range of student needs;

(G) include in-service training appropriate to the activities funded under this chapter for teachers, instructional staff, and appropriate school personnel, including in-service training in appropriate identification and early intervention techniques by school counselors, school social workers, school psychologists, other qualified psychologists, and child and adolescent psychiatrists;

(H) involve parents of participating students in the design, implementation, and evaluation of the counseling program;

(I) involve community groups, social service agencies, or other public or private entities in collaborative efforts to enhance the program and promote school-linked integration of services;

(J) evaluate annually the effectiveness and outcomes of the counseling services and activities assisted under this section;

(K) ensure a team approach to school counseling in the schools served by the local educational agency by working toward ratios recommended by the American School Health Association of one school counselor to 250 students, one school social worker to 800 students, and one school psychologist to 1,000 students; and

(L) ensure that school counselors, school psychologists, other qualified psychologists, school social workers, or child and adolescent psychiatrists paid from funds made available under this section spend a majority of their time counseling students or in other activities directly related to the counseling process.

(d) Limitation on administrative costs

Not more than 4 percent of the amounts made available under this section for any fiscal year may be used for administrative costs to carry out this section.

(e) Definitions

For the purpose of this section—

(1) the term ''child and adolescent psychiatrist'' means an individual who—

(A) possesses State medical licensure; and

(B) has completed residency training programs in both general psychiatry and child and adolescent psychiatry;

(2) the term ''other qualified psychologist'' means an individual who has demonstrated competence in counseling children in a school setting and who—

(A) is licensed in psychology by the State in which the individual works; and

(B) practices in the scope of the individual's education, training, and experience with children in school settings;

(3) the term ''school counselor'' means an individual who has documented competence in counseling children and adolescents in a school setting and who—

(A) is licensed by the State or certified by an independent professional regulatory authority;

(B) in the absence of such State licensure or certification, possesses national certification in school counseling or a specialty of counseling granted by an independent professional organization; or

(C) holds a minimum of a master's degree in school counseling from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs or the equivalent;

(4) the term ''school psychologist'' means an individual who—

(A) has completed a minimum of 60 graduate semester hours in school psychology from an institution of higher education and has completed 1,200 clock hours in a supervised school psychology internship, of which 600 hours are in the school setting;

(B) is licensed or certified in school psychology by the State in which the individual works; or

(C) in the absence of such State licensure or certification, possesses national certification by the National School Psychology Certification Board; and

(5) the term ''school social worker'' means an individual who—

(A) holds a master's degree in social work from a program accredited by the Council on Social Work Education; and

(B)(i) is licensed or certified by the State in which services are provided; or

(ii) in the absence of such State licensure or certification, possesses a national credential or certification as a school social work specialist granted by an independent professional organization.

(f) Report

Not later than 2 years after assistance is made available to local educational agencies under subsection (c) of this section, the Secretary shall make publicly available a report—

(1) evaluating the programs assisted pursuant to each grant under this subpart; and

(2) outlining the information from local educational agencies regarding the ratios of students to—

(A) school counselors;

(B) school social workers; and

(C) school psychologists.

(g) Special rule

(1) Amount equals or exceeds $40,000,000

If the amount of funds made available by the Secretary for this subpart equals or exceeds $40,000,000, the Secretary shall award not less than $40,000,000 in grants to local educational agencies to enable the agencies to establish or expand counseling programs in elementary schools.

(2) Amount less than $40,000,000

If the amount of funds made available by the Secretary for this subpart is less than

$40,000,000, the Secretary shall award grants to local educational agencies only to establish or expand counseling programs in elementary schools.

(Pub. L. 89–10, title V, § 5421, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1814.)

SUBPART 3—PARTNERSHIPS IN CHARACTER EDUCATION

§ 7247. Partnerships in character education program

(a) Program authorized

(1) In general

The Secretary is authorized to award grants to eligible entities for the design and implementation of character education programs that—

(A) are able to be integrated into classroom instruction and to be consistent with State academic content standards; and

(B) are able to be carried out in conjunction with other educational reform efforts.

(2) Eligible entity

In this section, the term ''eligible entity'' means—

(A) a State educational agency in partnership with—

(i) one or more local educational agencies; or

(ii) one or more—

(I) local educational agencies; and

(II) nonprofit organizations or entities, including an institution of higher education;

(B) a local educational agency or consortium of local educational agencies; or

(C) a local educational agency in partnership with one or more nonprofit organizations or entities, including an institution of higher education.

(3) Duration

Each grant under this section shall be awarded for a period not to exceed 5 years, of which the eligible entity may not use more than 1 year for planning and program design.

(4) Amount of grants for State educational agencies

Subject to the availability of appropriations, the amount of a grant made by the Secretary to a State educational agency under this section shall not be less than $500,000 if the State educational agency—

(A) is in a partnership described in paragraph (2)(A); and

(B) meets such requirements as the Secretary may establish under this section.

(b) Contracts under program

(1) Evaluation

Each eligible entity awarded a grant under this section may contract with outside sources, including institutions of higher education and private and nonprofit organizations, for the purposes of—

(A) evaluating the program for which the assistance is made available;

(B) measuring the integration of such program into the curriculum and teaching methods of schools where the program is carried out; and

(C) measuring the success of such program in fostering the elements of character selected by the recipient under subsection (c) of this section.

(2) Materials and program development

Each eligible entity awarded a grant under this section may contract with outside sources, including institutions of higher education and private and nonprofit organizations, for assistance in—

(A) developing secular curricula, materials, teacher training, and other activities related to character education; and

(B) integrating secular character education into the curricula and teaching methods of schools where the program is carried out.

(c) Elements of character

(1) Selection

(A) In general

Each eligible entity awarded a grant under this section may select the elements of character that will be taught under the program for which the grant was awarded.

(B) Consideration of views

In selecting elements of character under subparagraph (A), the eligible entity shall consider the views of the parents of the students to be taught under the program and the views of the students.

(2) Example elements

Elements of character selected under this subsection may include any of the following:

(A) Caring.

(B) Civic virtue and citizenship.

(C) Justice and fairness.

(D) Respect.

(E) Responsibility.

(F) Trustworthiness.

(G) Giving.

(H) Any other elements deemed appropriate by the eligible entity.

(d) Use of funds by State educational agency recipients

Of the total funds received in any fiscal year under this section by an eligible entity that is a State educational agency—

(1) not more than 3 percent of such funds may be used for administrative purposes; and

(2) the remainder of such funds may be used for—

(A) collaborative initiatives with and between local educational agencies and schools;

(B) the preparation or purchase of materials, and teacher training;

(C) providing assistance to local educational agencies, schools, or institutions of higher education; and

(D) technical assistance and evaluation.

(e) Application

(1) In general

Each eligible entity desiring a grant under this section shall submit an application to the

Secretary at such time and in such manner as the Secretary may require.

(2) Required information

Each application for a grant under this section shall include (together with any other information that the Secretary may require) information that—

(A) demonstrates that the program for which the grant is sought has clear objectives that are based on scientifically based research;

(B) describes any partnerships or collaborative efforts among the organizations and entities of the eligible entity;

(C) describes the activities that will be carried out with the grant funds and how such activities will meet the objectives described in subparagraph (A), including—

(i) how parents, students, students with disabilities (including those with mental or physical disabilities), and other members of the community, including members of private and nonprofit organizations, will be involved in the design and implementation of the program and how the eligible entity will work with the larger community to increase the reach and promise of the program;

(ii) curriculum and instructional practices that will be used or developed; and

(iii) methods of teacher training and parent education that will be used or developed;

(D) describes how the program for which the grant is sought will be linked to other efforts to improve academic achievement, including—

(i) broader educational reforms that are being instituted by the eligible entity or its partners; and

(ii) State academic content standards;

(E) in the case of an eligible entity that is a State educational agency, describes how the State educational agency—

(i) will provide technical and professional assistance to its local educational agency partners in the development and implementation of character education programs; and

(ii) will assist other interested local educational agencies that are not members of the original partnership in designing and establishing character education programs;

(F) describes how the eligible entity will evaluate the success of its program—

(i) based on the objectives described in subparagraph (A); and

(ii) in cooperation with any national evaluation conducted pursuant to subsection (h)(2)(B)(iii) of this section; and

(G) assures that the eligible entity annually will provide to the Secretary such information as may be required to determine the effectiveness of the program.

(f) Selection of recipients

(1) Peer review

(A) In general

In selecting eligible entities to receive grants under this section from among the applicants for such grants, the Secretary shall use a peer review process that includes the participation of experts in the field of character education and development.

(B) Use of funds

The Secretary may use funds appropriated under this section for the cost of carrying out peer reviews under this paragraph.

(2) Selection criteria

Each selection under paragraph (1) shall be made on the basis of the quality of the application submitted, taking into consideration such factors as—

(A) the extent to which the program fosters character in students and the potential for improved student academic achievement;

(B) the extent and ongoing nature of parental, student, and community involvement;

(C) the quality of the plan for measuring and assessing success; and

(D) the likelihood that the objectives of the program will be achieved.

(3) Equitable distribution

In making selections under this subsection, the Secretary shall ensure, to the extent practicable under paragraph (2), that the programs assisted under this section are equitably distributed among the geographic regions of the United States, and among urban, suburban, and rural areas.

(g) Participation by private school children and teachers

Each eligible entity that receives a grant under this section shall provide, to the extent feasible and appropriate, for the participation in programs and activities under this section of students and teachers in private elementary schools and secondary schools.

(h) Evaluation and program development

(1) State and local reporting and evaluation

Each eligible entity receiving a grant under this section shall submit to the Secretary a comprehensive evaluation of the program assisted under this section, including its impact on students, students with disabilities (including those with mental or physical disabilities), teachers, administrators, parents, and others—

(A) by the end of the second year of the program; and

(B) not later than 1 year after completion of the grant period.

(2) National research, dissemination, and evaluation

(A) In general

(i) Authorization

The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, State educational agencies or local educational agencies, institutions of higher education, tribal organizations, or other public or private agencies or organizations to carry out research, development, dissemination, technical assistance, and evaluation ac-

tivities that support or inform State and local character education programs.

(ii) Reservation of funds

The Secretary shall reserve not more than 5 percent of the funds made available under this section to carry out this paragraph.

(B) Uses

Funds made available under subparagraph (A) may be used for the following:

(i) Conducting research and development activities that focus on matters such as—

(I) the extent to which schools are undertaking character education initiatives;

(II) the effectiveness of instructional models for all students, including students with disabilities (including those with mental or physical disabilities);

(III) materials and curricula for use by programs in character education;

(IV) models of professional development in character education;

(V) the development of measures of effectiveness for character education programs (which may include the factors described in paragraph (3)); and

(VI) the effectiveness of State and local programs receiving funds under this section.

(ii) Providing technical assistance to State and local programs, particularly on matters of program evaluation.

(iii) Conducting evaluations of State and local programs receiving funding under this section, that may be conducted through a national clearinghouse under clause (iv).

(iv) Compiling and disseminating, through a national clearinghouse or other means—

(I) information on model character education programs;

(II) information about high quality character education materials and curricula;

(III) research findings in the area of character education and character development; and

(IV) any other information that will be useful to character education program participants nationwide, including educators, parents, and administrators.

(C) Partnerships

In carrying out national activities under this paragraph, the Secretary may enter into partnerships with national nonprofit character education organizations and institutions of higher education with expertise and successful experience in implementing—

(i) character education programs that had an effective impact on schools, students, students with disabilities (including those with mental or physical disabilities), and teachers; or

(ii) character education program evaluation and research.

(D) Partnership for activities under subparagraph (B)(iv)

In carrying out national activities under subparagraph (B)(iv), the Secretary may enter into a partnership with a national nonprofit character education organization that will disseminate information to educators, parents, administrators, and others nationwide, including information about the range of model character education programs, materials, and curricula.

(E) Report

Each entity awarded a grant or entering into a contract or cooperative agreement under this paragraph shall submit an annual report to the Secretary that—

(i) describes the entity's progress in carrying out research, development, dissemination, evaluation, and technical assistance under this paragraph;

(ii) identifies unmet and future information needs in the field of character education; and

(iii) if applicable, describes the progress of the entity in carrying out the requirements of subparagraph (B)(iv), including a listing of—

(I) the number of requests for information received by the entity in the course of carrying out such requirements;

(II) the types of organizations making such requests; and

(III) the types of information requested.

(3) Factors

Factors that may be considered in evaluating the success of programs funded under this section include the following:

(A) Discipline issues.

(B) Student academic achievement.

(C) Participation in extracurricular activities.

(D) Parental and community involvement.

(E) Faculty and administration involvement.

(F) Student and staff morale.

(G) Overall improvements in school climate for all students, including students with disabilities (including those with mental or physical disabilities).

(i) Permissive match

(1) In general

The Secretary may require eligible entities to match funds awarded under this section with non-Federal funds, except that the amount of the match may not exceed the amount of the grant award.

(2) Sliding scale

The amount of a match under paragraph (1) shall be established based on a sliding scale that takes into account—

(A) the poverty of the population to be targeted by the eligible entity; and

(B) the ability of the eligible entity to obtain funding for the match.

(3) In-kind contributions

The Secretary shall permit eligible entities to match funds in whole or in part with in-kind contributions.

(4) Consideration

Notwithstanding this subsection, the Secretary in making awards under this section shall not consider the ability of an eligible entity to match funds.

(Pub. L. 89–10, title V, § 5431, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1817.)

SUBPART 4—SMALLER LEARNING COMMUNITIES

§ 7249. Smaller learning communities

(a) Grant authority

The Secretary is authorized to award grants to local educational agencies to enable the agencies to create a smaller learning community or communities.

(b) Application

Each local educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. The application shall include descriptions of the following:

(1) Strategies and methods the local educational agency will use to create the smaller learning community or communities.

(2) Curriculum and instructional practices, including any particular themes or emphases, to be used in the smaller learning environment.

(3) The extent of involvement of teachers and other school personnel in investigating, designing, implementing, and sustaining the smaller learning community or communities.

(4) The process to be used for involving students, parents, and other stakeholders in the development and implementation of the smaller learning community or communities.

(5) Any cooperation or collaboration among community agencies, organizations, businesses, and others to develop or implement a plan to create the smaller learning community or communities.

(6) The training and professional development activities that will be offered to teachers and others involved in the activities assisted under this subpart.

(7) The objectives of the activities assisted under this subpart, including a description of how such activities will better enable all students to reach challenging State academic content standards and State student academic achievement standards.

(8) The methods by which the local educational agency will assess progress in meeting the objectives described in paragraph (7).

(9) If the smaller learning community or communities exist as a school-within-a-school, the relationship, including governance and administration, of the smaller learning community to the remainder of the school.

(10) The administrative and managerial relationship between the local educational agency and the smaller learning community or communities, including how such agency will demonstrate a commitment to the continuity of the smaller learning community or communities (including the continuity of student and teacher assignment to a particular learning community).

(11) How the local educational agency will coordinate or use funds provided under this subpart with other funds provided under this chapter or other Federal laws.

(12) The grade levels or ages of students who will participate in the smaller learning community or communities.

(13) The method of placing students in the smaller learning community or communities, such that students are not placed according to ability or any other measure, but are placed at random or by their own choice, and not pursuant to testing or other judgments.

(c) Authorized activities

Funds under this section may be used for one or more of the following:

(1) To study—

(A) the feasibility of creating the smaller learning community or communities; and

(B) effective and innovative organizational and instructional strategies that will be used in the smaller learning community or communities.

(2) To research, develop, and implement—

(A) strategies for creating the smaller learning community or communities; and

(B) strategies for effective and innovative changes in curriculum and instruction, geared to challenging State academic content standards and State student academic achievement standards.

(3) To provide professional development for school staff in innovative teaching methods that—

(A) challenge and engage students; and

(B) will be used in the smaller learning community or communities.

(4) To develop and implement strategies to include parents, business representatives, local institutions of higher education, community-based organizations, and other community members in the smaller learning communities as facilitators of activities that enable teachers to participate in professional development activities and provide links between students and their community.

(Pub. L. 89–10, title V, § 5441, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1823.)

SUBPART 5—READING IS FUNDAMENTAL—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

§ 7251. Inexpensive book distribution program for reading motivation

(a) Purpose

The purpose of this subpart is to establish and implement a model partnership between a governmental entity and a private entity, to help prepare young children for reading and to motivate older children to read, through the distribution of inexpensive books. Local reading motivation programs assisted under this section shall use such assistance to provide books, training for volunteers, motivational activities, and other essential literacy resources and shall assign the highest priority to serving the youngest and neediest children in the United States.

(b) Authorization

The Secretary is authorized to enter into a contract with Reading Is Fundamental (RIF)

(hereafter in this section referred to as the ''contractor'') to support and promote programs, which include the distribution of inexpensive books to young and school-age children, that motivate children to read.

(c) Requirements of contract

Any contract entered into under subsection (b) of this section shall contain each of the following:

(1) A provision that the contractor will enter into subcontracts with local private nonprofit groups or organizations, or with public agencies, under which each subcontractor will agree to establish, operate, and provide the non-Federal share of the cost of reading motivation programs that include the distribution of books, by gift (to the extent feasible) or by loan, to children from birth through secondary school age, including children in family literacy programs.

(2) A provision that funds made available to subcontractors will be used only to pay the Federal share of the cost of such programs.

(3) A provision that, in selecting subcontractors for initial funding, the contractor will give priority to programs that will serve a substantial number or percentage of children with special needs, such as the following:

(A) Low-income children, particularly in high-poverty areas.

(B) Children at risk of school failure.

(C) Children with disabilities.

(D) Foster children.

(E) Homeless children.

(F) Migrant children.

ildren[1] without access to libraries.

(H) Institutionalized or incarcerated children.

(I) Children whose parents are institutionalized or incarcerated.

(4) A provision that the contractor will provide such training and technical assistance to subcontractors as may be necessary to carry out the purpose of this subpart.

(5) A provision that the contractor will annually report to the Secretary the number, and a description, of programs funded under paragraph (3).

(6) Such other terms and conditions as the Secretary determines to be appropriate to ensure the effectiveness of such programs.

(d) Restriction on payments

The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books under any contract under this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

(e) Special rules for certain subcontractors

(1) Funds from other Federal sources

Subcontractors operating programs under this section in low-income communities with a substantial number or percentage of children with special needs, as described in subsection (c)(3) of this section, may use funds from other Federal sources to pay the non-Federal share of the cost of the program, if those funds do not comprise more than 50 percent of the non-Federal share of the funds used for the cost of acquiring and distributing books.

(2) Waiver authority

Notwithstanding subsection (c) of this section, the contractor may waive, in whole or in part, the requirement in subsection (c)(1) of this section for a subcontractor, if the subcontractor demonstrates that it would otherwise not be able to participate in the program, and enters into an agreement with the contractor with respect to the amount of the non-Federal share to which the waiver will apply. In a case in which such a waiver is granted, the requirement in subsection (c)(2) of this section shall not apply.

(f) Multi-year contracts

The contractor may enter into a multi-year subcontract under this section, if—

(1) the contractor believes that such subcontract will provide the subcontractor with additional leverage in seeking local commitments; and

(2) the subcontract does not undermine the finances of the national program.

(g) Federal share defined

In this section, the term ''Federal share'' means, with respect to the cost to a subcontractor of purchasing books to be paid for under this section, 75 percent of such costs to the subcontractor, except that the Federal share for programs serving children of migrant or seasonal farmworkers shall be 100 percent of such costs to the subcontractor.

(Pub. L. 89–10, title V, § 5451, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1824.)

SUBPART 6—GIFTED AND TALENTED STUDENTS

§ 7253. Short title

This subpart may be cited as the ''Jacob K. Javits Gifted and Talented Students Education Act of 2001''.

(Pub. L. 89–10, title V, § 5461, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1826.)

§ 7253a. Purpose

The purpose of this subpart is to initiate a coordinated program of scientifically based research, demonstration projects, innovative strategies, and similar activities designed to build and enhance the ability of elementary schools and secondary schools nationwide to meet the special educational needs of gifted and talented students.

(Pub. L. 89–10, title V, § 5462, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1826.)

§ 7253b. Rule of construction

Nothing in this subpart shall be construed to prohibit a recipient of funds under this subpart from serving gifted and talented students simul-

[1] So in original. Probably should be ''(G) Children''.

taneously with students with similar educational needs, in the same educational settings, where appropriate.

(Pub. L. 89–10, title V, § 5463, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1826.)

§ 7253c. Authorized programs

(a) Establishment of program

(1) In general

The Secretary (after consultation with experts in the field of the education of gifted and talented students) is authorized to make grants to, or enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, other public agencies, and other private agencies and organizations (including Indian tribes and Indian organizations (as such terms are defined in section 450b of title 25) and Native Hawaiian organizations) to assist such agencies, institutions, and organizations in carrying out programs or projects authorized by this subpart that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students and in the use, where appropriate, of gifted and talented services, materials, and methods for all students.

(2) Application

Each entity seeking assistance under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall describe how—

(A) the proposed gifted and talented services, materials, and methods can be adapted, if appropriate, for use by all students; and

(B) the proposed programs can be evaluated.

(b) Use of funds

Programs and projects assisted under this section may include each of the following:

(1) Conducting—

(A) scientifically based research on methods and techniques for identifying and teaching gifted and talented students and for using gifted and talented programs and methods to serve all students; and

(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purpose of this subpart.

(2) Carrying out professional development (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students.

(3) Establishing and operating model projects and exemplary programs for serving gifted and talented students, including innovative methods for identifying and educating students who may not be served by traditional gifted and talented programs (such as summer programs, mentoring programs, service learning programs, and cooperative programs involving business, industry, and education).

(4) Implementing innovative strategies, such as cooperative learning, peer tutoring, and service learning.

(5) Carrying out programs of technical assistance and information dissemination, including assistance and information with respect to how gifted and talented programs and methods, where appropriate, may be adapted for use by all students.

(6) Making materials and services available through State regional educational service centers, institutions of higher education, or other entities.

(7) Providing funds for challenging, high-level course work, disseminated through technologies (including distance learning), for individual students or groups of students in schools and local educational agencies that would not otherwise have the resources to provide such course work.

(c) Special rule

To the extent that funds appropriated to carry out this subpart for a fiscal year beginning with fiscal year 2002 exceed such funds appropriated for fiscal year 2001, the Secretary shall use such excess funds to award grants, on a competitive basis, to State educational agencies, local educational agencies, or both, to implement activities described in subsection (b) of this section.

(d) Center for research and development

(1) In general

The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Research Center for the Education of Gifted and Talented Children and Youth through grants to, or contracts with, one or more institutions of higher education or State educational agencies, or a combination or consortium of such institutions and agencies and other public or private agencies and organizations, for the purpose of carrying out activities described in subsection (b) of this section.

(2) Director

The National Center shall be headed by a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with institutions of higher education, State educational agencies, local educational agencies, or other public or private agencies and organizations.

(3) Funding

The Secretary may use not more than 30 percent of the funds made available under this subpart for fiscal year 2001 to carry out this subsection.

(e) Coordination

Scientifically based research activities supported under this subpart—

(1) shall be carried out in consultation with the Institute of Education Sciences to ensure that such activities are coordinated with and enhance the research and development activities supported by such Institute; and

(2) may include collaborative scientifically based research activities which are jointly funded and carried out with such Institute.

(Pub. L. 89–10, title V, § 5464, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1826;

amended Pub. L. 107–279, title IV, § 404(d)(5)(C), (6), Nov. 5, 2002, 116 Stat. 1986.)

AMENDMENTS

2002—Subsec. (e)(1). Pub. L. 107–279 substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement'' and ''such Institute'' for ''such Office''.

Subsec. (e)(2). Pub. L. 107–279, § 404(d)(6), substituted ''such Institute'' for ''such Office''.

§ 7253d. Program priorities

(a) General priority

In carrying out this subpart, the Secretary shall give highest priority to programs and projects designed to develop new information that—

(1) improves the capability of schools to plan, conduct, and improve programs to identify and serve gifted and talented students; and

(2) assists schools in the identification of, and provision of services to, gifted and talented students (including economically disadvantaged individuals, individuals with limited English proficiency, and individuals with disabilities) who may not be identified and served through traditional assessment methods.

(b) Service priority

The Secretary shall ensure that not less than 50 percent of the applications approved under section 7253c(a)(2) of this title in a fiscal year address the priority described in subsection (a)(2) of this section.

(Pub. L. 89–10, title V, § 5465, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1828.)

§ 7253e. General provisions

(a) Participation of private school children and teachers

In making grants and entering into contracts under this subpart, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary schools and secondary schools, including the participation of teachers and other personnel in professional development programs serving such students.

(b) Review, dissemination, and evaluation

The Secretary shall—

(1) use a peer review process in reviewing applications under this subpart;

(2) ensure that information on the activities and results of programs and projects funded under this subpart is disseminated to appropriate State educational agencies, local educational agencies, and other appropriate organizations, including nonprofit private organizations; and

(3) evaluate the effectiveness of programs under this subpart in accordance with section 7941 of this title, in terms of the impact on students traditionally served in separate gifted and talented programs and on other students, and submit the results of such evaluation to Congress not later than 2 years after January 8, 2002.

(c) Program operations

The Secretary shall ensure that the programs under this subpart are administered within the Department by a person who has recognized professional qualifications and experience in the field of the education of gifted and talented students and who shall—

(1) administer and coordinate the programs authorized under this subpart;

(2) serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet such needs;

(3) assist the Assistant Secretary for Educational Research and Improvement in identifying research priorities that reflect the needs of gifted and talented students; and

(4) shall[1] disseminate, and consult on, the information developed under this subpart with other offices within the Department.

(Pub. L. 89–10, title V, § 5466, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1828.)

SUBPART 7—STAR SCHOOLS PROGRAM

§ 7255. Short title

This subpart may be cited as the ''Star Schools Act''.

(Pub. L. 89–10, title V, § 5471, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1829.)

PRIOR PROVISIONS

Provisions naming former part B (§ 6891 et seq.) of this subchapter as the ''Star Schools Act'' were contained in section 6891 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7255a. Purposes

The purposes of this subpart are the following:

(1) To encourage improved instruction in mathematics, science, and foreign languages as well as other subjects (such as literacy skills and vocational education).

(2) To serve underserved populations, including disadvantaged, illiterate, limited English proficient populations, and individuals with disabilities through a Star Schools program under which grants are made to eligible telecommunication partnerships to enable such partnerships—

(A) to develop, construct, acquire, maintain, and operate telecommunications audio and visual facilities and equipment;

(B) to develop and acquire educational and instructional programming; and

(C) to obtain technical assistance for the use of such facilities and instructional programming.

(Pub. L. 89–10, title V, § 5472, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1829.)

§ 7255b. Grant program authorized

(a) Authorization

The Secretary, in conjunction with the Office of Educational Technology, is authorized to make grants, in accordance with the provisions

[1] So in original. The word ''shall'' probably should not appear.

of this subpart, to eligible entities to pay the Federal share of the cost of the following:

(1) Development, construction, acquisition, maintenance, and operation of telecommunications facilities and equipment.

(2) Development and acquisition of live, interactive instructional programming.

(3) Development and acquisition of preservice and inservice teacher training programs based on established research regarding teacher-to-teacher mentoring, and ongoing, in-class instruction.

(4) Establishment of teleconferencing facilities and resources for making interactive training available to teachers.

(5) Obtaining technical assistance.

(6) Coordination of the design and connectivity of telecommunications networks to reach the greatest number of schools.

(b) Duration and amount

(1) [1] In general

A grant under this section may not exceed—

(A) 5 years in duration (subject to subsection (c) of this section); and

(B) $10,000,000 in any single fiscal year.

(c) Renewal

(1) In general

Grants awarded under subsection (a) of this section may be renewed for a single additional period of 3 years.

(2) Continuing eligibility

In order to be eligible to receive a grant renewal under this subsection, a grant recipient shall demonstrate, to the satisfaction of the Secretary, in an addendum to its application submitted under section 7255c of this title, that the grant recipient will—

(A) continue to provide services in the subject areas and geographic areas assisted with funds received under this subpart for the previous grant period; and

(B) use all grant funds received under this subpart for the 3 year renewal period to provide expanded services by—

(i) increasing the number of students, schools, or school districts served by the courses of instruction assisted under this part in the previous fiscal year;

(ii) providing new courses of instruction; and

(iii) serving new populations of underserved individuals, such as children or adults who are disadvantaged, have limited English proficiency, are individuals with disabilities, are illiterate, or lack secondary school diplomas or their recognized equivalent.

(3) Supplement, not supplant

Grant funds received under this subsection shall be used to supplement, and not supplant, services provided by the grant recipient under this subpart in the previous fiscal year.

(d) Reservations

(1) Instructional programming

At least 25 percent of the funds made available to the Secretary for any fiscal year under this subpart shall be used for the cost of instructional programming.

(2) Local educational agency assistance

At least 50 percent of the funds available in any fiscal year under this subpart shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies that are eligible to receive assistance under part A of subchapter I of this chapter.

(e) Federal share

(1) Amount

The Federal share of the cost of projects funded under this section shall not exceed the following amounts:

(A) 75 percent for the first and second years for which an eligible telecommunications partnership receives a grant under this subpart.

(B) 60 percent for the third and fourth such years.

(C) 50 percent for the fifth such year.

(2) Reduction or waiver

The Secretary may reduce or waive the corresponding non-Federal share under paragraph (1) upon a showing of financial hardship.

(f) Required local educational agency participation

The Secretary is authorized to make a grant under this section to any eligible entity, if at least one local educational agency is participating in the proposed program.

(g) Assistance obtaining satellite time

The Secretary may assist recipients of grants made under this section in acquiring satellite time, where appropriate, as economically as possible.

(Pub. L. 89–10, title V, § 5473, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1830.)

§ 7255c. Applications

(a) Submission

Each eligible entity that desires to receive a grant under section 7255b of this title shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Contents

An application submitted under subsection (a) of this section shall include each of the following:

(1) A description of how the proposed program will assist all students to have an opportunity to meet challenging State academic achievement standards, how such program will assist State and local educational reform efforts, and how such program will contribute to creating a high-quality system of educational development.

(2) A description of the telecommunications facilities and equipment and technical assistance for which assistance is sought, which may include—

(A) the design, development, construction, acquisition, maintenance, and operation of

[1] So in original. No par. (2) has been enacted.

State or multistate educational telecommunications networks and technology resource centers;

(B) microwave, fiber optics, cable, and satellite transmission equipment or any combination thereof;

(C) reception facilities;

(D) satellite time;

(E) production facilities;

(F) other telecommunications equipment capable of serving a wide geographic area;

(G) the provision of training services to instructors who will be using the facilities and equipment for which assistance is sought, including training in using such facilities and equipment and training in integrating programs into the classroom curriculum; and

(H) the development of educational and related programming for use on a telecommunications network.

(3) In the case of an application for assistance for instructional programming, a description of the types of programming that will be developed to enhance instruction and training and provide an assurance that such programming will be designed in consultation with professionals (including classroom teachers) who are experts in the applicable subject matter and grade level.

(4) A description of how the eligible entity has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the eligible entity will increase the availability of courses of instruction in English, mathematics, science, foreign languages, arts, history, geography, or other disciplines.

(5) A description of the professional development policies for teachers and other school personnel to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought.

(6) A description of the manner in which historically underserved students (such as students from low-income families, limited English proficient students, students with disabilities, or students who have low literacy skills) and their families, will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this subpart.

(7) A description of how existing telecommunications equipment, facilities, and services, where available, will be used.

(8) An assurance that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment.

(9) An assurance that a significant portion of any facilities and equipment, technical assistance, and programming for which assistance is sought for elementary schools and secondary schools will be made available to schools or local educational agencies that have a high number or percentage of children eligible to be counted under part A of subchapter I of this chapter.

(10) An assurance that the applicant will use the funds provided under this subpart to supplement, and not supplant, funds available for the purposes of this subpart.

(11) A description of how funds received under this subpart will be coordinated with funds received for educational technology in the classroom.

(12) A description of the activities or services for which assistance is sought, such as—

(A) providing facilities, equipment, training services, and technical assistance;

(B) making programs accessible to students with disabilities through mechanisms such as closed captioning and descriptive video services;

(C) linking networks around issues of national importance (such as elections) or to provide information about employment opportunities, job training, or student and other social service programs;

(D) sharing curriculum resources between networks and development of program guides which demonstrate cooperative, cross-network listing of programs for specific curriculum areas;

(E) providing teacher and student support services, including classroom and training support materials which permit student and teacher involvement in the live interactive distance learning telecasts;

(F) incorporating community resources, such as libraries and museums, into instructional programs;

(G) providing professional development for teachers, including, as appropriate, training to early childhood development and Head Start teachers and staff and vocational education teachers and staff, and adult and family educators;

(H) providing programs for adults to maximize the use of telecommunications facilities and equipment;

(I) providing teacher training on proposed or established models of exemplary academic content standards in mathematics and science and other disciplines as such standards are developed; and

(J) providing parent education programs during and after the regular school day which reinforce a student's course of study and actively involve parents in the learning process.

(13) A description of how the proposed program as a whole will be financed and how arrangements for future financing will be developed before the program expires.

(14) An assurance that a significant portion of any facilities, equipment, technical assistance, and programming for which assistance is sought for elementary schools and secondary schools will be made available to schools in local educational agencies that have a high percentage of children counted for the purpose of part A of subchapter I of this chapter.

(15) An assurance that the applicant will provide such information and cooperate in any evaluation that the Secretary may conduct under this subpart.

(16) Such additional assurances as the Secretary may reasonably require.

(c) Approval

In approving applications submitted under subsection (a) of this section for grants under section 7255b of this title, the Secretary shall—

(1) to the extent feasible, ensure an equitable geographic distribution of services provided under this subpart.

(2) give priority to applications describing programs that—

(A) propose high-quality plans, will provide instruction consistent with State academic content standards, or will otherwise provide significant and specific assistance to States and local educational agencies undertaking systemic education reform;

(B) will provide services to programs serving adults, especially parents, with low levels of literacy;

(C) will serve schools with significant numbers of children counted for the purposes of part A of subchapter I of this chapter;

(D) ensure that the eligible entity will—

(i) serve the broadest range of institutions, programs providing instruction outside of the school setting, programs serving adults, especially parents, with low levels of literacy, institutions of higher education, teacher training centers, research institutes, and private industry;

(ii) have substantial academic and teaching capabilities, including the capability of training, retraining, and inservice upgrading of teaching skills and the capability to provide professional development;

(iii) provide a comprehensive range of courses for educators to teach instructional strategies for students with different skill levels;

(iv) provide training to participating educators in ways to integrate telecommunications courses into existing school curriculum;

(v) provide instruction for students, teachers, and parents;

(vi) serve a multistate area; and

(vii) give priority to the provision of equipment and linkages to isolated areas; and

(E) involve a telecommunications entity (such as a satellite, cable, telephone, computer, or public or private television stations) participating in the eligible entity and donating equipment or in-kind services for telecommunications linkages.

(Pub. L. 89–10, title V, § 5474, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1831.)

§ 7255d. Other grant assistance

(a) Special statewide network

(1) In general

The Secretary, in conjunction with the Office of Educational Technology, may provide assistance to a statewide telecommunications network if such network—

(A) provides 2-way full-motion interactive video and audio communications;

(B) links together public colleges and universities and secondary schools throughout the State; and

(C) meets any other requirements determined appropriate by the Secretary.

(2) Matching contribution

A statewide telecommunications network assisted under paragraph (1) shall contribute, either directly or through private contributions, non-Federal funds equal to not less than 50 percent of the cost of such network.

(b) Special local network

(1) In general

The Secretary is authorized to provide assistance, on a competitive basis, to a local educational agency, or a consortium of such agencies, to enable such agency or consortium to establish a high-technology demonstration program.

(2) Program requirements

A high-technology demonstration program assisted under paragraph (1) shall—

(A) include 2-way full-motion interactive video, audio, and text communications;

(B) link together elementary schools and secondary schools, colleges, and universities;

(C) provide parent participation and family programs;

(D) include a staff development program; and

(E) have a significant contribution and participation from business and industry.

(3) Matching requirement

A local educational agency or consortium receiving a grant under paragraph (1) shall provide, either directly or through private contributions, non-Federal matching funds equal to not less than 50 percent of the amount of the grant.

(c) Telecommunications programs for continuing education

(1) Authority

The Secretary is authorized to award grants, on a competitive basis, to eligible entities to develop and operate one or more programs that provide online access to educational resources in support of continuing education and curriculum requirements relevant to achieving a secondary school diploma or its recognized equivalent. The program authorized by this subsection shall be designed to advance adult literacy, secondary school completion, and the acquisition of specified competency by the end of the 12th grade.

(2) Applications

Each eligible entity desiring a grant under this subsection shall submit an application to the Secretary. The application shall include each of the following:

(A) A demonstration that the applicant will use publicly funded or free public telecommunications infrastructure to deliver video, voice, and data in an integrated service to support and assist in the acquisition of a secondary school diploma or its recognized equivalent.

(B) An assurance that the content of the materials to be delivered is consistent with the accreditation requirements of the State for which such materials are used.

(C) To the extent feasible, materials developed in the Federal departments and agencies and under appropriate federally funded programs.

(D) An assurance that the applicant has the technological and substantive experience to carry out the program.

(E) Such additional assurances as the Secretary may reasonably require.

(Pub. L. 89–10, title V, § 5475, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1834.)

§ 7255e. Administrative provisions

(a) Leadership, evaluation, and peer review

(1) Reservation of funds

The Secretary may reserve not more than 5 percent of the amount made available to carry out this subpart for a fiscal year for national leadership, evaluation, and peer review activities, which the Secretary may carry out directly or through grants, contracts, and cooperative agreements.

(2) Leadership

Funds reserved for leadership activities under paragraph (1) may be used for—

(A) disseminating information, including lists and descriptions of services available from grant recipients under this subpart; and

(B) other activities designed to enhance the quality of distance learning activities nationwide.

(3) Evaluation

Funds reserved for evaluation activities under paragraph (1) may be used to conduct independent evaluations of the activities assisted under this subpart and of distance learning in general, including—

(A) analyses of distance learning efforts (including such efforts that are, or are not, assisted under this subpart); and

(B) comparisons of the effects (including student outcomes) of different technologies in distance learning efforts.

(4) Peer review

Funds reserved for peer review activities under paragraph (1) may be used for peer review of—

(A) applications for grants under this subpart; and

(B) activities assisted under this subpart.

(b) Coordination

The Department, the National Science Foundation, the Department of Agriculture, the Department of Commerce, and any other Federal department or agency operating a telecommunications network for educational purposes, shall coordinate the activities assisted under this subpart with the activities of such department or agency relating to a telecommunications network for educational purposes.

(c) Funds from other agencies

The Secretary may accept funds from other Federal departments or agencies to carry out the purposes of this subpart, including funds for the purchase of equipment.

(d) Availability of funds

Funds made available to carry out this subpart shall remain available until expended.

(e) Closed captioning and descriptive video

The Secretary shall encourage each entity receiving funds under this subpart to provide—

(1) closed captioning of the verbal content of the entity's programming, as appropriate; and

(2) descriptive video of the visual content of the entity's programming, as appropriate.

(Pub. L. 89–10, title V, § 5476, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1835.)

§ 7255f. Definitions

In this subpart:

(1) Educational institution

The term ''educational institution'' means an institution of higher education, a local educational agency, or a State educational agency.

(2) Eligible entity

The term ''eligible entity'' includes any of the following that is organized on a Statewide or multistate basis:

(A) A public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary schools and secondary schools that are eligible to participate in the program under part A of subchapter I of this chapter.

(B) A partnership that will provide telecommunications services and that includes three or more of the following entities, at least one of which shall be an agency described in clause (i) or (ii):

(i) A local educational agency that serves a significant number of elementary schools and secondary schools that are eligible for assistance under part A of subchapter I of this chapter, or elementary schools and secondary schools operated or funded for Indian children by the Department of the Interior eligible under section 6331(d)(1)(A) of this title.

(ii) A State educational agency.

(iii) An adult and family education program.

(iv) An institution of higher education or a State higher education agency (as that term is defined in section 1003 of this title).

(v) A teacher training center or academy that—

(I) provides teacher preservice and inservice training; and

(II) receives Federal financial assistance or has been approved by a State agency;

(vi)(I) A public or private entity with experience and expertise in the planning and operation of a telecommunications network, including entities involved in tele-

communications through satellite, cable, telephone, or computer; or

(II) a public broadcasting entity with such experience.

(vii) A public or private elementary school or secondary school.

(3) Instructional programming

The term ''instructional programming'' means courses of instruction and training courses for elementary and secondary students, teachers, and others, and materials for use in such instruction and training that have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices.

(4) Public broadcasting entity

The term ''public broadcasting entity'' has the same meaning given such term in section 397 of title 47.

(Pub. L. 89–10, title V, § 5477, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1836.)

SUBPART 8—READY TO TEACH

§ 7257. Grants

(a) In general

The Secretary is authorized to award grants to a nonprofit telecommunications entity, or partnership of such entities, for the purpose of carrying out a national telecommunications-based program to improve teaching in core curriculum areas. The program shall be designed to assist elementary school and secondary school teachers in preparing all students to achieve challenging State academic content and student academic achievement standards in core curriculum areas.

(b) Digital educational programming

The Secretary is authorized to award grants, as provided for in section 7257c of this title, to eligible entities described in subsection (b) of such section, to enable such entities to develop, produce, and distribute innovative educational and instructional video programming that is designed for use by elementary schools and secondary schools and based on challenging State academic content and student academic achievement standards. In awarding such grants, the Secretary shall ensure that eligible entities enter into multiyear content development collaborative arrangements with State educational agencies, local educational agencies, institutions of higher education, businesses, or other agencies or organizations.

(Pub. L. 89–10, title V, § 5481, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1837.)

§ 7257a. Application required

(a) General application

(1) In general

To be eligible to receive a grant under section 7257(a) of this title, a nonprofit telecommunications entity, or partnership of such entities shall submit an application to the Secretary. Each such application shall—

(A) demonstrate that the applicant will use the public broadcasting infrastructure, the Internet, and school digital networks, where available, to deliver video and data in an integrated service to train teachers in the use of materials and learning technologies for achieving challenging State academic content and student academic achievement standards;

(B) ensure that the project for which assistance is sought will be conducted in cooperation with appropriate State educational agencies, local educational agencies, and State or local nonprofit public telecommunications entities;

(C) ensure that a significant portion of the benefits available for elementary schools and secondary schools from the project for which assistance is sought will be available to schools of local educational agencies that have a high percentage of children counted for the purpose of part A of subchapter I of this chapter; and

(D) contain such additional assurances as the Secretary may reasonably require.

(2) Sites

In approving applications under paragraph (1), the Secretary shall ensure that the program authorized by section 7257(a) of this title is conducted at elementary school and secondary school sites throughout the United States.

(b) Programming application

To be eligible to receive a grant under section 7257(b) of this title, an entity shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(Pub. L. 89–10, title V, § 5482, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1838.)

§ 7257b. Reports and evaluation

An entity receiving a grant under section 7257(a) of this title shall prepare and submit to the Secretary an annual report that contains such information as the Secretary may require. At a minimum, such report shall describe the program activities undertaken with funds received under the grant, including—

(1) the core curriculum areas for which program activities have been undertaken and the number of teachers using the program in each core curriculum area; and

(2) the States in which teachers using the program are located.

(Pub. L. 89–10, title V, § 5483, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1838.)

§ 7257c. Digital educational programming grants

(a) Grants

The Secretary is authorized to award grants under section 7257(b) of this title to eligible entities to facilitate the development of educational programming that shall—

(1) include student assessment tools to provide feedback on student academic achievement;

(2) include built-in teacher utilization and support components to ensure that teachers understand and can easily use the content of

the programming with group instruction or for individual student use;

(3) be created for, or adaptable to, challenging State academic content standards and student academic achievement standards; and

(4) be capable of distribution through digital broadcasting and school digital networks.

(b) Eligible entities

To be eligible to receive a grant under section 7257(b) of this title, an entity shall be a local public telecommunications entity, as defined in section 397(12) of title 47, that is able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality.

(c) Competitive basis

Grants under section 7257(b) of this title shall be awarded on a competitive basis as determined by the Secretary.

(d) Matching requirement

To be eligible to receive a grant under section 7257(b) of this title, an entity shall contribute to the activities assisted under such grant non-Federal matching funds in an amount equal to not less than 100 percent of the amount of the grant. Such matching funds may include funds provided for the transition to digital broadcasting, as well as in-kind contributions.

(e) Duration

A grant under section 7257(b) of this title shall be awarded for a period of 3 years in order to provide a sufficient period of time for the creation of a substantial body of significant content.

(Pub. L. 89–10, title V, § 5484, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1838.)

§ 7257d. Administrative costs

An entity that receives a grant under this subpart may not use more than 5 percent of the amount received under the grant for administrative costs.

(Pub. L. 89–10, title V, § 5485, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1839.)

SUBPART 9—FOREIGN LANGUAGE ASSISTANCE PROGRAM

§ 7259. Short title

This subpart may be cited as the ''Foreign Language Assistance Act of 2001''.

(Pub. L. 89–10, title V, § 5491, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1839.)

§ 7259a. Program authorized

(a) Program authority

(1) In general

The Secretary is authorized to make grants, on a competitive basis, to State educational agencies or local educational agencies to pay the Federal share of the cost of innovative model programs providing for the establishment, improvement, or expansion of foreign language study for elementary school and secondary school students.

(2) Duration

Each grant under paragraph (1) shall be awarded for a period of 3 years.

(b) Requirements

(1) Grants to State educational agencies

In awarding a grant under subsection (a) of this section to a State educational agency, the Secretary shall support programs that promote systemic approaches to improving foreign language learning in the State.

(2) Grants to local educational agencies

In awarding a grant under subsection (a) of this section to a local educational agency, the Secretary shall support programs that—

(A) show the promise of being continued beyond the grant period;

(B) demonstrate approaches that can be disseminated and duplicated in other local educational agencies; and

(C) may include a professional development component.

(c) Federal share

(1) In general

The Federal share for each fiscal year shall be 50 percent.

(2) Waiver

Notwithstanding paragraph (1), the Secretary may determine the Federal share for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this subpart.

(d) Special rule

Not less than ¾ of the funds made available under section 7241 of this title to carry out this subpart shall be used for the expansion of foreign language learning in the elementary grades.

(e) Reservation

The Secretary may reserve not more than 5 percent of funds made available under section 7241 of this title to carry out this subpart for a fiscal year to evaluate the efficacy of programs assisted under this subpart.

(Pub. L. 89–10, title V, § 5492, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1839.)

§ 7259b. Applications

(a) In general

Any State educational agency or local educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

(b) Special consideration

The Secretary shall give special consideration to applications describing programs that—

(1) include intensive summer foreign language programs for professional development;

(2) link nonnative English speakers in the community with the schools in order to promote two-way language learning;

(3) promote the sequential study of a foreign language for students, beginning in elementary schools;

(4) make effective use of technology, such as computer-assisted instruction, language lab-

oratories, or distance learning, to promote foreign language study;

(5) promote innovative activities, such as foreign language immersion, partial foreign language immersion, or content-based instruction; and

(6) are carried out through a consortium comprised of the agency receiving the grant and an elementary school or secondary school.

(Pub. L. 89–10, title V, § 5493, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1840.)

§ 7259c. Elementary school foreign language incentive program

(a) Incentive payments

From amounts made available under section 7241 of this title to carry out this subpart, the Secretary shall make an incentive payment for each fiscal year to each public elementary school that provides to students attending such school a program designed to lead to communicative competency in a foreign language.

(b) Amount

The Secretary shall determine the amount of the incentive payment under subsection (a) of this section for each public elementary school for each fiscal year on the basis of the number of students participating in a program described in such subsection at such school for such year compared to the total number of such students at all such schools in the United States for such year.

(c) Requirement

The Secretary shall consider a program to be designed to lead to communicative competency in a foreign language if such program is comparable to a program that provides not less than 45 minutes of instruction in a foreign language for not fewer than 4 days per week throughout an academic year.

(Pub. L. 89–10, title V, § 5494, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1840.)

SUBPART 10—PHYSICAL EDUCATION

§ 7261. Short title

This subpart may be cited as the ''Carol M. White Physical Education Program''.

(Pub. L. 89–10, title V, § 5501, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1841.)

PRIOR PROVISIONS

A prior section 7261, Pub. L. 89–10, title V, § 5301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701, set forth short title of the School Dropout Assistance Act, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7261a. Purpose

The purpose of this subpart is to award grants and contracts to initiate, expand, and improve physical education programs for all kindergarten through 12th-grade students.

(Pub. L. 89–10, title V, § 5502, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1841.)

§ 7261b. Program authorized

(a) Authorization

The Secretary is authorized to award grants to local educational agencies and community-based organizations (such as Boys and Girls Clubs, Boy Scouts and Girl Scouts, and the Young Men's Christian Organization (YMCA) and Young Women's Christian Organization (YWCA)) to pay the Federal share of the costs of initiating, expanding, and improving physical education programs (including after-school programs) for kindergarten through 12th-grade students by—

(1) providing equipment and support to enable students to participate actively in physical education activities; and

(2) providing funds for staff and teacher training and education.

(b) Program elements

A physical education program funded under this subpart may provide for one or more of the following:

(1) Fitness education and assessment to help students understand, improve, or maintain their physical well-being.

(2) Instruction in a variety of motor skills and physical activities designed to enhance the physical, mental, and social or emotional development of every student.

(3) Development of, and instruction in, cognitive concepts about motor skill and physical fitness that support a lifelong healthy lifestyle.

(4) Opportunities to develop positive social and cooperative skills through physical activity participation.

(5) Instruction in healthy eating habits and good nutrition.

(6) Opportunities for professional development for teachers of physical education to stay abreast of the latest research, issues, and trends in the field of physical education.

(c) Special rule

For the purpose of this subpart, extracurricular activities, such as team sports and Reserve Officers' Training Corps (ROTC) program activities, shall not be considered as part of the curriculum of a physical education program assisted under this subpart.

(Pub. L. 89–10, title V, § 5503, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1841.)

§ 7261c. Applications

(a) Submission

Each local educational agency or community-based organization desiring a grant or contract under this subpart shall submit to the Secretary an application that contains a plan to initiate, expand, or improve physical education programs in order to make progress toward meeting State standards for physical education.

(b) Private school and home-schooled students

An application for funds under this subpart may provide for the participation, in the activities funded under this subpart, of—

(1) students enrolled in private nonprofit elementary schools or secondary schools, and their parents and teachers; or

(2) home-schooled students, and their parents and teachers.

(Pub. L. 89–10, title V, § 5504, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1841.)

§ 7261d. Requirements

(a) Annual report to the Secretary

In order to continue receiving funding after the first year of a multiyear grant or contract under this subpart, the administrator of the grant or contract for the local educational agency or community-based organization shall submit to the Secretary an annual report that—

(1) describes the activities conducted during the preceding year; and

(2) demonstrates that progress has been made toward meeting State standards for physical education.

(b) Administrative expenses

Not more than 5 percent of the grant funds made available to a local educational agency or community-based organization under this subpart for any fiscal year may be used for administrative expenses.

(Pub. L. 89–10, title V, § 5505, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1842.)

§ 7261e. Administrative provisions

(a) Federal share

The Federal share under this subpart may not exceed—

(1) 90 percent of the total cost of a program for the first year for which the program receives assistance under this subpart; and

(2) 75 percent of such cost for the second and each subsequent such year.

(b) Proportionality

To the extent practicable, the Secretary shall ensure that grants awarded under this subpart shall be equitably distributed among local educational agencies and community-based organizations serving urban and rural areas.

(c) Report to Congress

Not later than June 1, 2003, the Secretary shall submit a report to Congress that—

(1) describes the programs assisted under this subpart;

(2) documents the success of such programs in improving physical fitness; and

(3) makes such recommendations as the Secretary determines appropriate for the continuation and improvement of the programs assisted under this subpart.

(d) Availability of funds

Amounts made available to the Secretary to carry out this subpart shall remain available until expended.

(Pub. L. 89–10, title V, § 5506, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1842.)

§ 7261f. Supplement, not supplant

Funds made available under this subpart shall be used to supplement, and not supplant, any other Federal, State, or local funds available for physical education activities.

(Pub. L. 89–10, title V, § 5507, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1842.)

PRIOR PROVISIONS

Prior section 7262, Pub. L. 89–10, title V, § 5302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701, which set forth purpose of the School Dropout Assistance Act, was omitted in the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 11—COMMUNITY TECHNOLOGY CENTERS

§ 7263. Purpose and program authorization

(a) Purpose

It is the purpose of this subpart to assist eligible applicants—

(1) to create or expand community technology centers that will provide disadvantaged residents of economically distressed urban and rural communities with access to information technology and related training; and

(2) to provide technical assistance and support to community technology centers.

(b) Program authorization

The Secretary is authorized, in conjunction with the Office of Educational Technology, to award grants, contracts, or cooperative agreements, on a competitive basis, for a period of not more than 3 years, to eligible applicants in order to assist such applicants in—

(1) creating or expanding community technology centers; or

(2) providing technical assistance and support to community technology centers.

(3) SERVICE OF AMERICORPS PARTICIPANTS.—The Secretary may collaborate with the Chief Executive Officer of the Corporation for National and Community Service on the use in community technology centers of participants in National Service programs carried out under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

(Pub. L. 89–10, title V, § 5511, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1843.)

REFERENCES IN TEXT

The National and Community Service Act of 1990, referred to in subsec. (b)(3), is Pub. L. 101–610, Nov. 16, 1990, 104 Stat. 3127, as amended. Subtitle C of title I of the Act is classified generally to division C (§ 12571 et seq.) of subchapter I of chapter 129 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12501 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 7263, Pub. L. 89–10, title V, § 5303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3701, related to grants to local educational agencies, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6561a of this title.

§ 7263a. Eligibility and application requirements

(a) Eligible applicants

In order to be eligible to receive an award under this subpart, an applicant shall—

(1) be an entity (such as a foundation, museum, library, for-profit business, public or private nonprofit organization, or community-based organization), an institution of higher education, a State educational agency, a local education agency, or a consortium of such entities, institutions, or agencies; and

(2) have the capacity to significantly expand access to computers and related services for disadvantaged residents of economically dis-

tressed urban and rural communities (who would otherwise be denied such access).

(b) Application requirements

In order to receive an award under this subpart, an eligible applicant shall submit an application to the Secretary at such time, and containing such information, as the Secretary may require. The application shall include each of the following:

(1) A description of the proposed project, including a description of the magnitude of the need for the services and how the project would expand access to information technology and related services to disadvantaged residents of an economically distressed urban or rural community.

(2) A demonstration of—

(A) the commitment, including the financial commitment, of entities (such as institutions, organizations, business and other groups in the community) that will provide support for the creation, expansion, and continuation of the proposed project; and

(B) the extent to which the proposed project coordinates with other appropriate agencies, efforts, and organizations providing services to disadvantaged residents of an economically distressed urban or rural community.

(3) A description of how the proposed project would be sustained once the Federal funds awarded under this subpart end.

(4) A plan for the evaluation of the program, which shall include benchmarks to monitor progress toward specific project objectives.

(c) Matching requirements

The Federal share of the cost of any project funded under this subpart shall not exceed 50 percent. The non-Federal share of such project may be in cash or in kind, fairly evaluated, including services.

(Pub. L. 89–10, title V, § 5512, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1843.)

§ 7263b. Uses of funds

(a) Required uses

A recipient shall use funds under this subpart for—

(1) creating or expanding community technology centers that expand access to information technology and related training for disadvantaged residents of distressed urban or rural communities; and

(2) evaluating the effectiveness of the project.

(b) Permissible uses

A recipient may use funds under this subpart for activities, described in its application, that carry out the purposes of this subpart, such as—

(1) supporting a center coordinator, and staff, to supervise instruction and build community partnerships;

(2) acquiring equipment, networking capabilities, and infrastructure to carry out the project; and

(3) developing and providing services and activities for community residents that provide access to computers, information technology, and the use of such technology in support of preschool preparation, academic achievement, educational development, and workforce development, such as the following:

(A) After-school activities in which children and youths use software that provides academic enrichment and assistance with homework, develop their technical skills, explore the Internet, and participate in multimedia activities, including web page design and creation.

(B) Adult education and family literacy activities through technology and the Internet, including—

(i) General Education Development, Language Instruction Educational Programs, and adult basic education classes or programs;

(ii) introduction to computers;

(iii) intergenerational activities; and

(iv) educational development opportunities.

(C) Career development and job preparation activities, such as—

(i) training in basic and advanced computer skills;

(ii) resume writing workshops; and

(iii) access to databases of employment opportunities, career information, and other online materials.

(D) Small business activities, such as—

(i) computer-based training for basic entrepreneurial skills and electronic commerce; and

(ii) access to information on business start-up programs that is available online, or from other sources.

(E) Activities that provide home access to computers and technology, such as assistance and services to promote the acquisition, installation, and use of information technology in the home through low-cost solutions such as networked computers, web-based television devices, and other technology.

(Pub. L. 89–10, title V, § 5513, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1844.)

PRIOR PROVISIONS

A prior section 7264, Pub. L. 89–10, title V, § 5404 [5304], as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3703, which related to application for school dropout assistance, was omitted in the general amendment of this subchapter by Pub. L. 107–110. See section 6561b of this title.

SUBPART 12—EDUCATIONAL, CULTURAL, APPRENTICESHIP, AND EXCHANGE PROGRAMS FOR ALASKA NATIVES, NATIVE HAWAIIANS, AND THEIR HISTORICAL WHALING AND TRADING PARTNERS IN MASSACHUSETTS

§ 7265. Short title

This subpart may be cited as the ''Alaska Native and Native Hawaiian Education Through Cultural and Historical Organizations Act''.

(Pub. L. 89–10, title V, § 5521, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1845.)

PRIOR PROVISIONS

A prior section 7265, Pub. L. 89–10, title V, § 5305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3704, related to use of grants for dropout prevention activities, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6555 of this title.

§ 7265a. Findings and purposes

(a) Findings

Congress finds the following:

(1) Alaska Natives and Native Hawaiians have been linked for over 200 years to the coastal towns of Salem, Massachusetts, and New Bedford, Massachusetts, through the China trade from Salem and whaling voyages from New Bedford.

(2) Nineteenth-century trading ships sailed from Salem, Massachusetts, around Cape Horn of South America, and up the Northwest coast of the United States to Alaska, where their crews traded with Alaska Native people for furs, and then went on to Hawaii to trade for sandalwood with Native Hawaiians before going on to China.

(3) During the 19th century, over 2,000 whaling voyages sailed out of New Bedford, Massachusetts to the Arctic region of Alaska, and joined Alaska Natives from Barrow, Alaska and other areas in the Arctic region in subsistence whaling activities.

(4) Many New Bedford whaling voyages continued on to Hawaii, where they joined Native Hawaiians from the neighboring islands.

(5) From those commercial and whaling voyages, a rich cultural exchange and strong trading relationships developed among the three peoples involved.

(6) In the past decades, awareness of the historical trading, cultural, and whaling links has faded among Alaska Natives, Native Hawaiians, and the people of the continental United States.

(7) In 2000, the Alaska Native Heritage Center in Alaska, the Bishop Museum in Hawaii, and the Peabody-Essex Museum in Massachusetts initiated the New Trade Winds project to use 21st-century technology, including the Internet, to educate students and their parents about historic and contemporary cultural and trading ties that continue to link the diverse cultures of the peoples involved.

(8) The New Bedford Whaling Museum, in partnership with the New Bedford Whaling National Historical Park, has developed a cultural exchange and educational program with the Inupiat Heritage Center in Barrow, Alaska to bring together the children, parents, and elders from the Arctic region of Alaska with children and families of Massachusetts to learn about their historical ties and about each other's contemporary cultures.

(9) Within the fast-growing cultural sector, meaningful educational and career opportunities based on traditional relationships exist for Alaska Natives, Native Hawaiians, and low-income youth in Massachusetts.

(10) Cultural institutions can provide practical, culturally relevant, education-related internship and apprentice programs, such as the Museum Action Corps at the Peabody-Essex Museum and similar programs at the New Bedford Oceanarium and other institutions, to prepare youths and their families for careers in the cultural sector.

(11) The resources of the institutions described in paragraphs (7) and (8) provide unique opportunities for illustrating and interpreting the contributions of Alaska Natives, Native Hawaiians, the whaling industry, and the China trade to the economic, social, and environmental history of the United States, for educating students and their parents, and for providing opportunities for internships and apprenticeships leading to careers with cultural institutions.

(b) Purposes

The purposes of this subpart are the following:

(1) To authorize and develop innovative culturally-based educational programs and cultural exchanges to assist Alaska Natives, Native Hawaiians, and children and families of Massachusetts linked by history and tradition to Alaska and Hawaii to learn about shared culture and traditions.

(2) To authorize and develop internship and apprentice programs to assist Alaska Natives, Native Hawaiians, and children and families of Massachusetts linked by history and tradition with Alaska and Hawaii to prepare for careers with cultural institutions.

(3) To supplement programs and authorities in the area of education to further the objectives of this subpart.

(4) To authorize and develop cultural and educational programs relating to any Federally recognized Indian tribe in Mississippi.

(Pub. L. 89–10, title V, § 5522, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1845; amended Pub. L. 109–149, title III, § 306(1), Dec. 30, 2005, 119 Stat. 2870.)

AMENDMENTS

2005—Subsec. (b)(4). Pub. L. 109–149 added par. (4).

§ 7265b. Program authorization

(a) Grants and contracts

In order to carry out programs that fulfill the purposes of this subpart, the Secretary is authorized to make grants to, or enter into contracts with, the following:

(1) The Alaska Native Heritage Center in Anchorage, Alaska.

(2) The Inupiat Heritage Center in Barrow, Alaska.

(3) The Bishop Museum in Hawaii.

(4) The Peabody-Essex Museum in Salem, Massachusetts.

(5) The New Bedford Whaling Museum and the New Bedford Oceanarium in New Bedford, Massachusetts.

(6) The Mississippi Band of Choctaw Indians in Choctaw, Mississippi.

(7) Other Alaska Native and Native Hawaiian cultural and educational organizations.

(8) Cultural and educational organizations with experience in developing or operating programs that illustrate and interpret the contributions of Alaska Natives, Native Hawaiians, the whaling industry, and the China trade to the economic, social, and environmental history of the United States.

(9) Consortia of the organizations and entities described in this subsection.

(b) Uses of funds

Activities provided through programs carried out under this subpart may include one or more of the following:

(1) Development and implementation of educational programs to increase understanding of cultural diversity and multicultural communication among Alaska Natives, Native Hawaiians, and the people of the continental United States, based on historic patterns of trading and commerce.

(2) Development and implementation of programs using modern technology, including the Internet, to educate students, their parents, and teachers about historic and contemporary cultural and trading ties that continue to link the diverse cultures of Alaska Natives, Native Hawaiians, and the people of Massachusetts.

(3) Cultural exchanges of elders, students, parents, and teachers among Alaska Natives, Native Hawaiians, and the people of Massachusetts to increase awareness of diverse cultures among each group.

(4) Sharing of collections among cultural institutions designed to increase awareness of diverse cultures and links among them.

(5) Development and implementation of internship and apprentice programs in cultural institutions to train Alaska Natives, Native Hawaiians, and low-income students in Massachusetts for careers with cultural institutions.

(6) Other activities, consistent with the purposes of this subpart, to meet the educational needs of Alaska Natives, Native Hawaiians, and students and their parents in Massachusetts.

(7) Cultural and educational programs relating to any Federally recognized Indian tribe in Mississippi.

(Pub. L. 89–10, title V, § 5523, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1846; amended Pub. L. 109–149, title III, § 306(2), Dec. 30, 2005, 119 Stat. 2870.)

AMENDMENTS

2005—Subsec. (a)(6) to (9). Pub. L. 109–149, § 306(2)(A), added par. (6) and redesignated former pars. (6) to (8) as (7) to (9), respectively.

Subsec. (b)(7). Pub. L. 109–149, § 306(2)(B), added par. (7).

§ 7265c. Administrative provisions

(a) Application required

No grant may be made under this subpart, and no contract may be entered into under this subpart, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this subpart.

(b) Local educational agency coordination

Each applicant for a grant or contract under this subpart shall inform each local educational agency serving students who will participate in the program to be carried out under the grant or contract about the application.

(Pub. L. 89–10, title V, § 5524, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1847.)

§ 7265d. Availability of funds

If sufficient funds are made available under section 7241 of this title to carry out this subpart for a fiscal year, the Secretary shall make available, to support activities described in section 7265b(b) of this title, the following amounts:

(1) Not less than $2,000,000 each to—

(A) the New Bedford Whaling Museum, in partnership with the New Bedford Oceanarium, in Massachusetts;

(B) the Inupiat Heritage Center in Alaska; and

(C) the Mississippi Band of Choctaw Indians in Choctaw, Mississippi.

(2) For the New Trade Winds project, not less than $1,000,000 each to—

(A) the Alaska Native Heritage Center in Alaska;

(B) the Bishop Museum in Hawaii; and

(C) the Peabody-Essex Museum in Massachusetts.

(3) For internship and apprenticeship programs (including the Museum Action Corps of the Peabody-Essex Museum), not less than $1,000,000 each to—

(A) the Alaska Native Heritage Center in Alaska;

(B) the Bishop Museum in Hawaii; and

(C) the Peabody-Essex Museum in Massachusetts.

(Pub. L. 89–10, title V, § 5525, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1847; amended Pub. L. 109–149, title III, § 306(3), Dec. 30, 2005, 119 Stat. 2870.)

AMENDMENTS

2005—Par. (1)(A). Pub. L. 109–149, § 306(3)(A), which directed striking out ''and'' after semicolon in subpar. (a), was executed by striking out ''and'' in subpar. (A) to reflect the probable intent of Congress.

Par. (1)(B), (C). Pub. L. 109–149, § 306(3)(B), (C), substituted ''; and'' for period in subpar. (B), and added subpar. (C).

§ 7265e. Definitions

In this subpart:

(1) Alaska Native

The term ''Alaska Native'' has the meaning given that term in section 7546 of this title.

(2) Native Hawaiian

The term ''Native Hawaiian'' has the meaning given that term in section 7517 of this title.

(Pub. L. 89–10, title V, § 5526, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1848.)

PRIOR PROVISIONS

A prior section 7266, Pub. L. 89–10, title V, § 5306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3706, which related to distribution of assistance and limitation on costs, was omitted in the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 13—EXCELLENCE IN ECONOMIC EDUCATION

§ 7267. Short title

This subpart may be cited as the ''Excellence in Economic Education Act of 2001''.

(Pub. L. 89–10, title V, § 5531, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1848.)

PRIOR PROVISIONS

A prior section 7267, Pub. L. 89–10, title V, § 5307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3706, related to reports, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7267a. Purpose and goals

(a) Purpose

The purpose of this subpart is to promote economic and financial literacy among all students in kindergarten through grade 12 by awarding a competitive grant to a national nonprofit educational organization that has as its primary purpose the improvement of the quality of student understanding of personal finance and economics.

(b) Objectives

The objectives of this subpart are the following:

(1) To increase students' knowledge of, and achievement in, economics to enable the students to become more productive and informed citizens.

(2) To strengthen teachers' understanding of, and competency in, economics to enable the teachers to increase student mastery of economic principles and the practical application of those principles.

(3) To encourage economic education research and development, to disseminate effective instructional materials, and to promote replication of best practices and exemplary programs that foster economic literacy.

(4) To assist States in measuring the impact of education in economics.

(5) To leverage and expand private and public support for economic education partnerships at national, State, and local levels.

(Pub. L. 89–10, title V, § 5532, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1848.)

§ 7267b. Grant program authorized

(a) Authorization

The Secretary is authorized to award a competitive grant to a national nonprofit educational organization that has as its primary purpose the improvement of the quality of student understanding of personal finance and economics through effective teaching of economics in the Nation's classrooms (referred to in this subpart as the ''grantee'').

(b) Uses of funds

(1) Direct activities

The grantee shall use 25 percent of the funds made available through the grant for a fiscal year—

(A) to strengthen and expand the grantee's relationships with State and local personal finance, entrepreneurial, and economic education organizations;

(B) to support and promote training of teachers who teach a grade from kindergarten through grade 12 regarding economics, including the dissemination of information on effective practices and research findings regarding the teaching of economics;

(C) to support research on effective teaching practices and the development of assessment instruments to document student understanding of personal finance and economics; and

(D) to develop and disseminate appropriate materials to foster economic literacy.

(2) Subgrants

The grantee shall use 75 percent of the funds made available through the grant for a fiscal year to award subgrants to State educational agencies or local educational agencies, and State or local economic, personal finance, or entrepreneurial education organizations (referred to in this section as the ''recipient''). The grantee shall award such a subgrant to pay for the Federal share of the cost of enabling the recipient to work in partnership with one or more of the entities described in paragraph (3) for one or more of the following purposes:

(A) Collaboratively establishing and conducting teacher training programs that use effective and innovative approaches to the teaching of economics, personal finance, and entrepreneurship.

(B) Providing resources to school districts that desire to incorporate economics and personal finance into the curricula of the schools in the districts.

(C) Conducting evaluations of the impact of economic and financial literacy education on students.

(D) Conducting economic and financial literacy education research.

(E) Creating and conducting school-based student activities to promote consumer, economic, and personal finance education (such as saving, investing, and entrepreneurial education) and to encourage awareness and student academic achievement in economics.

(F) Encouraging replication of best practices to promote economic and financial literacy.

(3) Partnership entities

The entities described in this paragraph are the following:

(A) A private sector entity.

(B) A State educational agency.

(C) A local educational agency.

(D) An institution of higher education.

(E) An organization promoting economic development.

(F) An organization promoting educational excellence.

(G) An organization promoting personal finance or entrepreneurial education.

(Pub. L. 89–10, title V, § 5533, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1848.)

§ 7267c. Applications

(a) Grantee applications

To be eligible to receive a grant under this subpart, the grantee shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) Recipient applications

(1) Submission

To be eligible to receive a subgrant under this section, a recipient shall submit an application to the grantee at such time, in such manner, and accompanied by such information as the grantee may require.

(2) Review

The grantee shall invite the individuals described in paragraph (3) to review all applications from recipients for a subgrant under this section and to make recommendations to the grantee regarding the approval of the applications.

(3) Reviewers

The individuals described in this paragraph are the following:

(i) Leaders in the fields of economics and education.

(ii) Such other individuals as the grantee determines to be necessary, especially members of the State and local business, banking, and finance communities.

(Pub. L. 89–10, title V, § 5534, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1849.)

§ 7267d. Requirements

(a) Administrative costs

The grantee and each recipient receiving a subgrant under this subpart for a fiscal year may use not more than 5 percent of the funds made available through the grant or subgrant for administrative costs.

(b) Teacher training programs

In carrying out the teacher training programs described in section 7267b(b)(2)(A) of this title, a recipient shall—

(1) train teachers who teach a grade from kindergarten through grade 12; and

(2) encourage teachers from disciplines other than economics and financial literacy to participate in such teacher training programs, if the training will promote the economic and financial literacy of those teachers' students.

(c) Involvement of business community

In carrying out the activities assisted under this subpart, the grantee and recipients are strongly encouraged to—

(1) include interactions with the local business community to the fullest extent possible to reinforce the connection between economic and financial literacy and economic development; and

(2) work with private businesses to obtain matching contributions for Federal funds and assist recipients in working toward self-sufficiency.

(d) Additional requirements and technical assistance

The grantee shall—

(1) meet such other requirements as the Secretary determines to be necessary to assure compliance with this section; and

(2) receive from the Secretary such technical assistance as may be necessary to carry out this section.

(Pub. L. 89–10, title V, § 5535, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1850.)

§ 7267e. Administrative provisions

(a) Federal share

The Federal share of the cost described in section 7267b(b)(2) of this title shall be 50 percent.

(b) Payment of non-Federal share

The non-Federal share may be paid in cash or in kind (fairly evaluated, including plant, equipment, or services).

(c) Reports to Congress

Not later than 2 years after the date funds are first made available to carry out this subpart, and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report regarding activities assisted under this subpart.

(Pub. L. 89–10, title V, § 5536, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1850.)

§ 7267f. Supplement, not supplant

Funds made available to carry out this subpart shall be used to supplement, and not supplant, other Federal, State, and local funds expended for the purpose described in section 7267a(a) of this title.

(Pub. L. 89–10, title V, § 5537, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1851.)

PRIOR PROVISIONS

A prior section 7268, Pub. L. 89–10, title V, § 5308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3706, which authorized appropriations for school dropout assistance, was omitted in the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 14—GRANTS TO IMPROVE THE MENTAL HEALTH OF CHILDREN

§ 7269. Grants for the integration of schools and mental health systems

(a) Authorization

The Secretary is authorized to award grants to, or enter into contracts or cooperative agreements with, State educational agencies, local educational agencies, or Indian tribes, for the purpose of increasing student access to quality mental health care by developing innovative programs to link local school systems with the local mental health system.

(b) Duration

With respect to a grant, contract, or cooperative agreement awarded or entered into under this section, the period during which payments under such grant, contract or agreement are made to the recipient may not exceed 5 years.

(c) Use of funds

A State educational agency, local educational agency, or Indian tribe that receives a grant, contract, or cooperative agreement under this section shall use amounts made available through such grant, contract, or cooperative agreement for the following:

(1) To enhance, improve, or develop collaborative efforts between school-based service systems and mental health service systems to

provide, enhance, or improve prevention, diagnosis, and treatment services to students.

(2) To enhance the availability of crisis intervention services, appropriate referrals for students potentially in need of mental health services, and ongoing mental health services.

(3) To provide training for the school personnel and mental health professionals who will participate in the program carried out under this section.

(4) To provide technical assistance and consultation to school systems and mental health agencies and families participating in the program carried out under this section.

(5) To provide linguistically appropriate and culturally competent services.

(6) To evaluate the effectiveness of the program carried out under this section in increasing student access to quality mental health services, and make recommendations to the Secretary about sustainability of the program.

(d) Applications

To be eligible to receive a grant, contract, or cooperative agreement under this section, a State educational agency, local educational agency, or Indian tribe shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. The application shall include each of the following:

(1) A description of the program to be funded under the grant, contract, or cooperative agreement.

(2) A description of how such program will increase access to quality mental health services for students.

(3) A description of how the applicant will establish a crisis intervention program to provide immediate mental health services to the school community when necessary.

(4) An assurance that—

(A) persons providing services under the grant, contract, or cooperative agreement are adequately trained to provide such services;

(B) the services will be provided in accordance with subsection (c) of this section;

(C) teachers, principal administrators, and other school personnel are aware of the program; and

(D) parents of students participating in services under this section will be involved in the design and implementation of the services.

(5) An explanation of how the applicant will support and integrate existing school-based services with the program to provide appropriate mental health services for students.

(6) An explanation of how the applicant will establish a program that will support students and the school in maintaining an environment conducive to learning.

(e) Interagency agreements

(1) Designation of lead agency

The recipient of each grant, contract, or cooperative agreement shall designate a lead agency to direct the establishment of an interagency agreement among local educational agencies, juvenile justice authorities, mental health agencies, and other relevant entities in the State, in collaboration with local entities and parents and guardians of students.

(2) Contents

The interagency agreement shall ensure the provision of the services described in subsection (c) of this section, specifying with respect to each agency, authority, or entity—

(A) the financial responsibility for the services;

(B) the conditions and terms of responsibility for the services, including quality, accountability, and coordination of the services; and

(C) the conditions and terms of reimbursement among the agencies, authorities, or entities that are parties to the interagency agreement, including procedures for dispute resolution.

(f) Evaluation

The Secretary shall evaluate each program carried out by a State educational agency, local educational agency, or Indian tribe under this section and shall disseminate the findings with respect to each such evaluation to appropriate public and private entities.

(g) Distribution of awards

The Secretary shall ensure that grants, contracts, and cooperative agreements awarded or entered into under this section are equitably distributed among the geographical regions of the United States and among urban, suburban, and rural populations.

(h) Rule of construction

Nothing in Federal law shall be construed—

(1) to prohibit an entity involved with a program carried out under this section from reporting a crime that is committed by a student to appropriate authorities; or

(2) to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a student.

(i) Supplement, not supplant

Any services provided through programs carried out under this section must supplement, and not supplant, existing mental health services, including any services required to be provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(Pub. L. 89–10, title V, § 5541, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1851.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (i), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

§ 7269a. Promotion of school readiness through early childhood emotional and social development

(a) Authorization

The Secretary, in consultation with the Secretary of Health and Human Services, may

award grants (to be known as ''Foundations for Learning Grants'') to local educational agencies, local councils, community-based organizations, and other public or nonprofit private entities to assist eligible children to become ready for school.

(b) Applications

To be eligible to receive a grant under this section, a local educational agency, local council, community-based organization, or other public or nonprofit private entity, or a combination of such entities, shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. The application shall include each of the following:

(1) A description of the population that the applicant intends to serve and the types of services to be provided under the grant.

(2) A description of the manner in which services under the grant will be coordinated with existing similar services provided by public and nonprofit private entities within the State.

(3) An assurance that—

(A) services under the grant shall be provided by or under the supervision of qualified professionals with expertise in early childhood development;

(B) such services shall be culturally competent;

(C) such services shall be provided in accordance with subsection (c) of this section;

(D) funds received under this section shall be used to supplement, and not supplant, non-Federal funds; and

(E) parents of students participating in services under this section will be involved in the design and implementation of the services.

(c) Uses of funds

A local educational agency, local council, community-based organization, or other public or nonprofit private entity that receives funds under this section may use such funds to benefit eligible children, for one or more of the following:

(1) To deliver services to eligible children and their families that foster eligible children's emotional, behavioral, and social development and take into consideration the characteristics described in subsection (f)(1) of this section.

(2) To coordinate and facilitate access by eligible children and their families to the services available through community resources, including mental health, physical health, substance abuse, educational, domestic violence prevention, child welfare, and social services.

(3) To provide ancillary services such as transportation or child care in order to facilitate the delivery of any other services or activities authorized by this section.

(4) To develop or enhance early childhood community partnerships and build toward a community system of care that brings together child-serving agencies or organizations to provide individualized supports for eligible children and their families.

(5) To evaluate the success of strategies and services provided pursuant to this section in promoting young children's successful entry to school and to maintain data systems required for effective evaluations.

(6) To pay for the expenses of administering the activities authorized under this section, including assessment of children's eligibility for services.

(d) Limitations

(1) Services not otherwise funded

A local educational agency, local council, community-based organization, or other public or nonprofit private entity may use funds under this section only to pay for services that cannot be paid for using other Federal, State, or local public resources or through private insurance.

(2) Administrative expenses

A grantee may not use more than 3 percent of the amount of the grant to pay the administrative expenses described in subsection (c)(6) of this section.

(e) Evaluations

The Secretary shall directly evaluate, or enter into a contract for an outside evaluation of, each program carried out under this section and shall disseminate the findings with respect to such evaluation to appropriate public and private entities.

(f) Definitions

In this section:

(1) Eligible child

The term ''eligible child'' means a child who has not attained the age of 7 years, and to whom two or more of the following characteristics apply:

(A) The child has been abused, maltreated, or neglected.

(B) The child has been exposed to violence.

(C) The child has been homeless.

(D) The child has been removed from child care, Head Start, or preschool for behavioral reasons or is at risk of being so removed.

(E) The child has been exposed to parental depression or other mental illness.

(F) The family income with respect to the child is below 200 percent of the poverty line.

(G) The child has been exposed to parental substance abuse.

(H) The child has had early behavioral and peer relationship problems.

(I) The child had a low birth weight.

(J) The child has a cognitive deficit or developmental disability.

(2) Local council

The term ''local council'' means a council that is established or designated by a local government entity, Indian tribe, regional corporation, or native Hawaiian entity, as appropriate, which is composed of representatives of local agencies directly affected by early learning programs, parents, key community leaders, and other individuals concerned with early learning issues in the locality, such as elementary education, child care resource and referral services, early learning opportunities, child care, and health services.

(3) Provider of early childhood services

The term ''provider of early childhood services'' means a public or private entity that has

regular contact with young children, including child welfare agencies, child care providers, Head Start and Early Head Start providers, preschools, kindergartens, libraries, mental health professionals, family courts, homeless shelters, and primary care providers.

(Pub. L. 89–10, title V, § 5542, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1853.)

SUBPART 15—ARTS IN EDUCATION

§ 7271. Assistance for arts education

(a) Purposes

The purposes of this subpart are the following:

(1) To support systemic education reform by strengthening arts education as an integral part of the elementary school and secondary school curriculum.

(2) To help ensure that all students meet challenging State academic content standards and challenging State student academic achievement standards in the arts.

(3) To support the national effort to enable all students to demonstrate competence in the arts.

(b) Authority

The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, eligible entities described in subsection (c) of this section.

(c) Eligible entities

The Secretary may make assistance available under subsection (b) of this section to each of the following eligible entities:

(1) State educational agencies.

(2) Local educational agencies.

(3) Institutions of higher education.

(4) Museums or other cultural institutions.

(5) Any other public or private agencies, institutions, or organizations.

(d) Use of funds

Assistance made available under this subpart may be used for any of the following:

(1) Research on arts education.

(2) Planning, developing, acquiring, expanding, improving, or disseminating information about model school-based arts education programs.

(3) The development of model State arts education assessments based on State academic achievement standards.

(4) The development and implementation of curriculum frameworks for arts education.

(5) The development of model inservice professional development programs for arts educators and other instructional staff.

(6) Supporting collaborative activities with Federal agencies or institutions involved in arts education, arts educators, and organizations representing the arts, including State and local arts agencies involved in arts education.

(7) Supporting model projects and programs in the performing arts for children and youth through arrangements made with the John F. Kennedy Center for the Performing Arts.

(8) Supporting model projects and programs by Very Special Arts which assure the participation in mainstream settings in arts and education programs of individuals with disabilities.

(9) Supporting model projects and programs to integrate arts education into the regular elementary school and secondary school curriculum.

(10) Other activities that further the purposes of this subpart.

(e) Special rule

If the amount made available to the Secretary to carry out this subpart for any fiscal year is $15,000,000 or less, then such amount shall only be available to carry out the activities described in paragraphs (7) and (8) of subsection (d) of this section.

(f) Conditions

As conditions of receiving assistance made available under this subpart, the Secretary shall require each entity receiving such assistance—

(1) to coordinate, to the extent practicable, each project or program carried out with such assistance with appropriate activities of public or private cultural agencies, institutions, and organizations, including museums, arts education associations, libraries, and theaters; and

(2) to use such assistance only to supplement, and not to supplant, any other assistance or funds made available from non-Federal sources for the activities assisted under this subpart.

(g) Consultation

In carrying out this subpart, the Secretary shall consult with Federal agencies or institutions, arts educators (including professional arts education associations), and organizations representing the arts (including State and local arts agencies involved in arts education).

(Pub. L. 89–10, title V, § 5551, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1855.)

SUBPART 16—PARENTAL ASSISTANCE AND LOCAL FAMILY INFORMATION CENTERS

§ 7273. Purposes

The purposes of this subpart are the following:

(1) To provide leadership, technical assistance, and financial support to nonprofit organizations (including statewide nonprofit organizations) and local educational agencies to help the organizations and agencies implement successful and effective parental involvement policies, programs, and activities that lead to improvements in student academic achievement.

(2) To strengthen partnerships among parents (including parents of children from birth through age 5), teachers, principals, administrators, and other school personnel in meeting the educational needs of children.

(3) To develop and strengthen the relationship between parents and their children's school.

(4) To further the developmental progress of children assisted under this subpart.

(5) To coordinate activities funded under this subpart with parental involvement initia-

tives funded under section 6318 of this title and other provisions of this chapter.

(6) To provide a comprehensive approach to improving student learning, through coordination and integration of Federal, State, and local services and programs.

(Pub. L. 89–10, title V, § 5561, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1856.)

§ 7273a. Grants authorized

(a) Parental information and resource centers

The Secretary is authorized to award grants in each fiscal year to nonprofit organizations (including statewide nonprofit organizations), and consortia of such organizations and local educational agencies, to establish school-linked or school-based parental information and resource centers that provide comprehensive training, information, and support to—

(1) parents of children enrolled in elementary schools and secondary schools;

(2) individuals who work with the parents of children enrolled in elementary schools and secondary schools;

(3) State educational agencies, local educational agencies, schools, organizations that support family-school partnerships (such as parent-teacher associations and Parents as Teachers organizations), and other organizations that carry out parent education and family involvement programs; and

(4) parents of children from birth through age 5.

(b) Geographic distribution

In awarding grants under this subpart, the Secretary shall, to the extent practicable, ensure that such grants are distributed in all geographic regions of the United States.

(Pub. L. 89–10, title V, § 5562, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1857.)

§ 7273b. Applications

(a) Submission

Each nonprofit organization (including a statewide nonprofit organization), or a consortia of such an organization and a local educational agency, that desires a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) Contents

Each application submitted under subsection (a) of this section, at a minimum, shall include assurances that the organization or consortium will—

(1)(A) be governed by a board of directors the membership of which includes parents; or

(B) be an organization or consortium that represents the interests of parents;

(2) establish a special advisory committee the membership of which includes—

(A) parents of children enrolled in elementary schools and secondary schools, who shall constitute a majority of the members of the special advisory committee;

(B) representatives of education professionals with expertise in improving services for disadvantaged children; and

(C) representatives of local elementary schools and secondary schools, including students and representatives from local youth organizations;

(3) use at least 50 percent of the funds received under this subpart in each fiscal year to serve areas with high concentrations of low-income families, in order to serve parents who are severely educationally or economically disadvantaged;

(4) operate a center of sufficient size, scope, and quality to ensure that the center is adequate to serve the parents in the area;

(5) serve both urban and rural areas;

(6) design a center that meets the unique training, information, and support needs of parents of children enrolled in elementary schools and secondary schools, particularly such parents who are educationally or economically disadvantaged;

(7) demonstrate the capacity and expertise to conduct the effective training, information, and support activities for which assistance is sought;

(8) network with—

(A) local educational agencies and schools;

(B) parents of children enrolled in elementary schools and secondary schools;

(C) parent training and information centers assisted under section 1471 of this title;

(D) clearinghouses; and

(E) other organizations and agencies;

(9) focus on serving parents of children enrolled in elementary schools and secondary schools who are parents of low-income, minority, and limited English proficient children;

(10) use at least 30 percent of the funds received under this subpart in each fiscal year to establish, expand, or operate Parents as Teachers programs, Home Instruction for Preschool Youngsters programs, or other early childhood parent education programs;

(11) provide assistance to parents in areas such as understanding State and local standards and measures of student and school academic achievement;

(12) work with State educational agencies and local educational agencies to determine parental needs and the best means for delivery of services;

(13) identify and coordinate Federal, State, and local services and programs that support improved student learning, including programs supported under this chapter, violence prevention programs, nutrition programs, housing programs, Head Start programs, adult education, and job training; and

(14) work with and foster partnerships with other agencies that provide programs and deliver services described in paragraph (13) to make such programs and services more accessible to children and families.

(Pub. L. 89–10, title V, § 5563, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1857; amended Pub. L. 108–446, title III, § 305(g)(3), Dec. 3, 2004, 118 Stat. 2805.)

AMENDMENTS

2004—Subsec. (b)(8)(C). Pub. L. 108–446 substituted ''section 1471'' for ''section 1482''.

§ 7273c. Uses of funds

(a) In general

Grant funds received under this subpart shall be used for one or more of the following:

(1) To assist parents in participating effectively in their children's education and to help their children meet State and local standards, such as assisting parents—

(A) to engage in activities that will improve student academic achievement, including understanding the accountability systems in place within their State educational agency and local educational agency and understanding their children's educational academic achievement in comparison to State and local standards;

(B) to provide follow-up support for their children's educational achievement;

(C) to communicate effectively with teachers, principals, counselors, administrators, and other school personnel;

(D) to become active participants in the development, implementation, and review of school-parent compacts, parent involvement policies, and school planning and improvement;

(E) to participate in the design and provision of assistance to students who are not making adequate academic progress;

(F) to participate in State and local decisionmaking; and

(G) to train other parents (such as training related to Parents as Teachers activities).

(2) To obtain information about the range of options, programs, services, and resources available at the national, State, and local levels to assist parents and school personnel who work with parents.

(3) To help the parents learn and use the technology applied in their children's education.

(4) To plan, implement, and fund activities for parents that coordinate the education of their children with other Federal, State, and local services and programs that serve their children or their families.

(5) To provide support for State or local educational personnel, if the participation of such personnel will further the activities assisted under the grant.

(6) To coordinate and integrate early childhood programs with school-age programs.

(b) Permissive activities

Grant funds received under this subpart may be used to assist schools with activities including one or more of the following:

(1) Developing and implementing the schools' plans or activities under sections 6318 and 6319 of this title.

(2) Developing and implementing school improvement plans, including addressing problems that develop in the implementation of the schools' plans or activities under sections 6318 and 6319 of this title.

(3) Providing information about assessment and individual results to parents in a manner and a language the family can understand.

(4) Coordinating the efforts of Federal, State, and local parent education and family involvement initiatives.

(5) Providing training, information, and support to—

(A) State educational agencies;

(B) local educational agencies and schools, especially low-performing local educational agencies and schools; and

(C) organizations that support family-school partnerships.

(Pub. L. 89–10, title V, § 5564, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1858.)

§ 7273d. Administrative provisions

(a) Matching funds for grant renewal

For each fiscal year after the first fiscal year in which an organization or consortium receives assistance under this subpart, the organization or consortium shall demonstrate in the application submitted for such fiscal year, that a portion of the services provided by the organization or consortium is supported through non-Federal contributions, which contributions may be in cash or in kind.

(b) Submission of information

(1) In general

Each organization or consortium receiving assistance under this subpart shall submit to the Secretary, on an annual basis, information concerning the parental information and resource centers assisted under this subpart, including the following information:

(A) The number of parents (including the number of minority and limited English proficient parents) who receive information and training.

(B) The types and modes of training, information, and support provided under this subpart.

(C) The strategies used to reach and serve parents of minority and limited English proficient children, parents with limited literacy skills, and other parents in need of the services provided under this subpart.

(D) The parental involvement policies and practices used by the center and an evaluation of whether such policies and practices are effective in improving home-school communication, student academic achievement, student and school academic achievement, and parental involvement in school planning, review, and improvement.

(E) The effectiveness of the activities that local educational agencies and schools are carrying out, with regard to parental involvement and other activities assisted under this chapter, that lead to improved student academic achievement and improved student and school academic achievement.

(2) Dissemination

The Secretary shall disseminate annually to Congress and the public the information that each organization or consortium submits under paragraph (1).

(c) Technical assistance

The Secretary shall provide technical assistance, by grant or contract, for the establishment, development, and coordination of parent training, information, and support programs and parental information and resource centers.

(d) Rule of construction

Nothing in this subpart shall be construed to prohibit a parental information and resource center from—

(1) having its employees or agents meet with a parent at a site that is not on school grounds; or

(2) working with another agency that serves children.

(e) Parental rights

Notwithstanding any other provision of this subpart—

(1) no person (including a parent who educates a child at home, a public school parent, or a private school parent) shall be required to participate in any program of parent education or developmental screening under this subpart; and

(2) no program or center assisted under this subpart shall take any action that infringes in any manner on the right of a parent to direct the education of their children.

(f) Continuation of awards

The Secretary shall use funds made available under this subpart to continue to make grant or contract payments to each entity that was awarded a multiyear grant or contract under title IV of the Goals 2000: Educate America Act (as such title was in effect on the day before January 8, 2002) for the duration of the grant or contract award.

(Pub. L. 89–10, title V, § 5565, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1859.)

REFERENCES IN TEXT

Title IV of the Goals 2000: Educate America Act (as such title was in effect on the day before January 8, 2002), referred to in subsec. (f), is title IV of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 187, which was classified to subchapter IV (§ 5911 et seq.) of chapter 68 of this title prior to repeal by Pub. L. 106–113, div. B, § 1000(a)(4) [title III, § 310(i)], Nov. 29, 1999, 113 Stat. 1535, 1501A–265, effective Sept. 30, 2000.

§ 7273e. Local family information centers

(a) In general

If the amount made available to carry out this subpart for a fiscal year is more than $50,000,000, the Secretary is authorized to award 50 percent of the amount that exceeds $50,000,000 as grants to, and enter into contracts and cooperative agreements with, local nonprofit parent organizations to enable the organizations to support local family information centers that help ensure that parents of students in elementary schools and secondary schools assisted under this subpart have the training, information, and support the parents need to enable the parents to participate effectively in their children's early childhood education, in their children's elementary and secondary education, and in helping their children to meet challenging State academic content and student academic achievement standards.

(b) Local nonprofit parent organization defined

In this section, the term ''local nonprofit parent organization'' means a private nonprofit organization (other than an institution of higher education) that—

(1) has a demonstrated record of working with low-income individuals and parents;

(2)(A) has a board of directors, the majority of whom are parents of students in elementary schools and secondary schools assisted under part A of subchapter I of this chapter and located in the geographic area to be served by a local family information center; or

(B) has a special governing committee to direct and implement a local family information center, a majority of the members of whom are parents of students in schools assisted under part A of subchapter I of this chapter; and

(3) is located in a community with elementary schools and secondary schools that receive funds under part A of subchapter I of this chapter, and is accessible to the families of students in those schools.

(Pub. L. 89–10, title V, § 5566, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1861.)

SUBPART 17—COMBATTING DOMESTIC VIOLENCE

§ 7275. Grants to combat the impact of experiencing or witnessing domestic violence on elementary and secondary school children

(a) Definitions

In this section:

(1) Domestic violence

The term ''domestic violence'' has the meaning given that term in section 3796gg–2 of title 42.

(2) Expert

The term ''expert'' means—

(A) an expert on domestic violence, sexual assault, and child abuse from the educational, legal, youth, mental health, substance abuse, or victim advocacy field; and

(B) a State or local domestic violence coalition or community-based youth organization.

(3) Witness domestic violence

(A) In general

The term ''witness domestic violence'' means to witness—

(i) an act of domestic violence that constitutes actual or attempted physical assault; or

(ii) a threat or other action that places the victim in fear of domestic violence.

(B) Witness

In subparagraph (A), the term ''witness'' means—

(i) to directly observe an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action; or

(ii) to be within earshot of an act, threat, or action described in subparagraph (A), or the aftermath of that act, threat, or action.

(b) Grants authorized

(1) Authority

The Secretary is authorized to award grants to local educational agencies that work with

experts to enable the elementary schools and secondary schools served by the local educational agency—

(A) to provide training to school administrators, faculty, and staff, with respect to issues concerning children who experience domestic violence in dating relationships or who witness domestic violence, and the impact of the violence on the children;

(B) to provide educational programming for students regarding domestic violence and the impact of experiencing or witnessing domestic violence on children;

(C) to provide support services for students and school personnel to develop and strengthen effective prevention and intervention strategies with respect to issues concerning children who experience domestic violence in dating relationships or who witness domestic violence, and the impact of the violence on the children; and

(D) to develop and implement school system policies regarding appropriate and safe responses to, identification of, and referral procedures for, students who are experiencing or witnessing domestic violence.

(2) Award basis

The Secretary is authorized to award grants under this section—

(A) on a competitive basis; and

(B) in a manner that ensures that such grants are equitably distributed among local educational agencies located in rural, urban, and suburban areas.

(3) Policy dissemination

The Secretary shall disseminate to local educational agencies any Department policy guidance regarding the prevention of domestic violence and the impact on children of experiencing or witnessing domestic violence.

(c) Uses of funds

Funds made available to carry out this subpart may be used for one or more of the following purposes:

(1) To provide training for elementary school and secondary school administrators, faculty, and staff that addresses issues concerning elementary school and secondary school students who experience domestic violence in dating relationships or who witness domestic violence, and the impact of such violence on those students.

(2) To provide education programs for elementary school and secondary school students that are developmentally appropriate for the students' grade levels and are designed to meet any unique cultural and language needs of the particular student populations.

(3) To develop and implement elementary school and secondary school system policies regarding—

(A) appropriate and safe responses to, identification of, and referral procedures for, students who are experiencing or witnessing domestic violence; and

(B) to develop and implement policies on reporting and referral procedures for those students.

(4) To provide the necessary human resources to respond to the needs of elementary school and secondary school students and personnel who are faced with the issue of domestic violence, such as a resource person who is either on-site or on-call and who is an expert.

(5) To provide media center materials and educational materials to elementary schools and secondary schools that address issues concerning children who experience domestic violence in dating relationships or who witness domestic violence, and the impact of the violence on those children.

(6) To conduct evaluations to assess the impact of programs and policies assisted under this subpart in order to enhance the development of the programs.

(d) Confidentiality

Policies, programs, training materials, and evaluations developed and implemented under subsection (c) of this section shall address issues of safety and confidentiality for the victim and the victim's family in a manner consistent with applicable Federal and State laws.

(e) Application

To be eligible for a grant under this section for a fiscal year, a local educational agency, in consultation with an expert, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall include each of the following:

(1) A description of the need for funds provided under the grant and the plan for implementation of any of the activities described in subsection (c) of this section.

(2) A description of how the experts will work in consultation and collaboration with the local educational agency.

(3) Measurable objectives for, and expected results from, the use of the funds provided under the grant.

(4) Provisions for appropriate remuneration for collaborating partners.

(Pub. L. 89–10, title V, § 5571, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1861.)

SUBPART 18—HEALTHY, HIGH-PERFORMANCE SCHOOLS

§ 7277. Grant program authorized

The Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, is authorized to award grants to State educational agencies to permit such State educational agencies to carry out section 7277a of this title.

(Pub. L. 89–10, title V, § 5581, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1863.)

§ 7277a. State uses of funds

(a) Subgrants

(1) In general

A State educational agency receiving a grant under this subpart shall use funds made available under the grant to award subgrants to local educational agencies to permit such local educational agencies to carry out the activities described in section 7277b of this title.

(2) Limitation

A State educational agency shall award subgrants under this subsection to local edu-

cational agencies that are the neediest, as determined by the State, and that have made a commitment to develop healthy, high-performance school buildings in accordance with the plan developed and approved under paragraph (3)(A).

(3) Implementation

(A) Plans

A State educational agency shall award subgrants under this subsection only to local educational agencies that, in consultation with the State educational agency and State agencies with responsibilities relating to energy and health, have developed plans that the State educational agency determines to be feasible and appropriate in order to achieve the purposes for which the subgrants are made.

(B) Supplementing grant funds

The State educational agency shall encourage local educational agencies that receive subgrants under this subsection to supplement their subgrant funds with funds from other sources in order to implement their plans.

(b) Administration

A State educational agency receiving a grant under this subpart shall use the grant funds made available under this subpart for one or more of the following:

(1) To evaluate compliance by local educational agencies with the requirements of this subpart.

(2) To distribute information and materials on healthy, high-performance school buildings for both new and existing facilities.

(3) To organize and conduct programs for school board members, school district personnel, and others to disseminate information on healthy, high-performance school buildings.

(4) To provide technical services and assistance in planning and designing healthy, high-performance school buildings.

(5) To collect and monitor information pertaining to healthy, high-performance school building projects.

(Pub. L. 89–10, title V, § 5582, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1863.)

§ 7277b. Local uses of funds

(a) In general

A local educational agency that receives a subgrant under section 7277a(a) of this title shall use the subgrant funds to plan and prepare for healthy, high-performance school building projects that—

(1) reduce energy use to at least 30 percent below that of a school constructed in compliance with standards prescribed in chapter 8 of the 2000 International Energy Conservation Code, or a similar State code intended to achieve substantially equivalent results;

(2) meet Federal and State health and safety codes; and

(3) support healthful, energy efficient, and environmentally sound practices.

(b) Use of funds

A local educational agency that receives a subgrant under section 7277a(a) of this title shall use funds for one or more of the following:

(1) To develop a comprehensive energy audit of the energy consumption characteristics of a building and the need for additional energy conservation measures necessary to allow schools to meet the guidelines set out in subsection (a) of this section.

(2) To produce a comprehensive analysis of building strategies, designs, materials, and equipment that—

(A) are cost effective, produce greater energy efficiency, and enhance indoor air quality; and

(B) can be used when conducting school construction and renovation or purchasing materials and equipment.

(3) To obtain research and provide technical services and assistance in planning and designing healthy, high-performance school buildings, including developing a timeline for implementation of such plans.

(Pub. L. 89–10, title V, § 5583, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1864.)

§ 7277c. Report to Congress

The Secretary shall conduct a biennial review of State actions implementing this subpart and carrying out the plans developed under this subpart through State and local funding, and shall submit a report to Congress on the results of such reviews.

(Pub. L. 89–10, title V, § 5584, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1865.)

§ 7277d. Limitations

No funds received under this subpart may be used for any of the following:

(1) Payment of maintenance of costs in connection with any projects constructed in whole or in part with Federal funds provided under this subpart.

(2) Construction, renovation, or repair of school facilities.

(3) Construction, renovation, repair, or acquisition of a stadium or other facility primarily used for athletic contests or exhibitions, or other events for which admission is charged to the general public.

(Pub. L. 89–10, title V, § 5585, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1865.)

§ 7277e. Healthy, high-performance school building defined

In this subpart, the term ''healthy, high-performance school building'' means a school building in which the design, construction, operation, and maintenance—

(1) use energy-efficient and affordable practices and materials;

(2) are cost-effective;

(3) enhance indoor air quality; and

(4) protect and conserve water.

(Pub. L. 89–10, title V, § 5586, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1865.)

SUBPART 19—GRANTS FOR CAPITAL EXPENSES OF PROVIDING EQUITABLE SERVICES FOR PRIVATE SCHOOL STUDENTS

§ 7279. Grant program authorized

The Secretary is authorized to award grants to State educational agencies, from allotments made under section 7279b of this title, to enable the State educational agencies to award subgrants to local educational agencies to pay for capital expenses in accordance with this subpart.

(Pub. L. 89–10, title V, § 5591, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1865.)

§ 7279a. Uses of funds

A local educational agency that receives a subgrant under this subpart shall use the subgrant funds only to pay for capital expenses incurred in providing equitable services for private school students under section 6320 of this title.

(Pub. L. 89–10, title V, § 5592, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1865.)

§ 7279b. Allotments to States

From the funds made available to carry out this subpart for a fiscal year, the Secretary shall allot to each State an amount that bears the same ratio to the funds made available as the number of private school students who received services under part A of subchapter I of this chapter in the State in the most recent year for which data, satisfactory to the Secretary, are available bears to the number of such students in all States in such year.

(Pub. L. 89–10, title V, § 5593, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1866.)

§ 7279c. Subgrants to local educational agencies

(a) Applications

A local educational agency that desires to receive a subgrant under this subpart shall submit an application to the State educational agency involved at such time, in such manner, and containing such information as the State educational agency may require.

(b) Distribution

A State educational agency shall award subgrants to local educational agencies within the State based on the degree of need set forth in their respective applications submitted under subsection (a) of this section.

(Pub. L. 89–10, title V, § 5594, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1866.)

§ 7279d. Capital expenses defined

In this subpart, the term ''capital expenses'' means—

(1) expenditures for noninstructional goods and services, such as the purchase, lease, or renovation of real and personal property, including mobile educational units and leasing of neutral sites or spaces;

(2) insurance and maintenance costs;

(3) transportation; and

(4) other comparable goods and services.

(Pub. L. 89–10, title V, § 5595, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1866.)

§ 7279e. Termination

The authority provided by this subpart terminates effective October 1, 2003.

(Pub. L. 89–10, title V, § 5596, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1866.)

SUBPART 20—ADDITIONAL ASSISTANCE FOR CERTAIN LOCAL EDUCATIONAL AGENCIES IMPACTED BY FEDERAL PROPERTY ACQUISITION

§ 7281. Reservation

The Secretary is authorized to provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under section 7702 of this title.

(Pub. L. 89–10, title V, § 5601, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1866.)

§ 7281a. Eligibility

A local educational agency is eligible to receive additional assistance under this subpart only if such agency—

(1) received a payment under both section 7702 of this title and section 7703(b) of this title for fiscal year 1996 and is eligible to receive payments under those sections for the year of application;

(2) provided a free public education to children described under subparagraph (A), (B), or (D) of section 7703(a)(1) of this title;

(3) had a military installation located within the geographic boundaries of the local educational agency that was closed as a result of base closure or realignment and, at the time at which the agency is applying for a payment under this subpart, the agency does not have a military installation located within its geographic boundaries;

(4) remains responsible for the free public education of children residing in housing located on Federal property within the boundaries of the closed military installation but whose parents are on active duty in the uniformed services and assigned to a military activity located within the boundaries of an adjoining local educational agency; and

(5) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.

(Pub. L. 89–10, title V, § 5602, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1866.)

§ 7281b. Maximum amount

(a) Maximum amount

The maximum amount that a local educational agency is eligible to receive under this subpart for any fiscal year, when combined with its payment under section 7702(b) of this title, shall not be more than 50 percent of the maximum amount determined under section 7702(b) of this title.

(b) Insufficient funds

If funds appropriated under section 7241 of this title are insufficient to pay the amount deter-

mined under subsection (a) of this section, the Secretary shall ratably reduce the payment to each local educational agency eligible under this subpart.

(c) Excess funds

If funds appropriated under section 7241 of this title are in excess of the amount determined under subsection (a) of this section, the Secretary shall ratably distribute any excess funds to all local educational agencies eligible for payment under section 7702(b) of this title.

(Pub. L. 89–10, title V, § 5603, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1867.)

SUBPART 21—WOMEN'S EDUCATIONAL EQUITY ACT

§ 7283. Short title and findings

(a) Short title

This subpart may be cited as the ''Women's Educational Equity Act of 2001''.

(b) Findings

Congress finds that—

(1) since the enactment of title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], women and girls have made strides in educational achievement and in their ability to avail themselves of educational opportunities;

(2) because of funding provided under the Women's Educational Equity Act of 2001 [20 U.S.C. 7283 et seq.], more curricula, training, and other educational materials concerning educational equity for women and girls are available for national dissemination;

(3) teaching and learning practices in the United States are frequently inequitable as such practices relate to women and girls, for example—

(A) sexual harassment, particularly that experienced by girls, undermines the ability of schools to provide a safe and equitable learning or workplace environment;

(B) classroom textbooks and other educational materials do not sufficiently reflect the experiences, achievements, or concerns of women and, in most cases, are not written by women or persons of color;

(C) girls do not take as many mathematics and science courses as boys, girls lose confidence in their mathematics and science ability as girls move through adolescence, and there are few women role models in the sciences; and

(D) pregnant and parenting teenagers are at high risk for dropping out of school and existing dropout prevention programs do not adequately address the needs of such teenagers;

(4) efforts to improve the quality of public education also must include efforts to ensure equal access to quality education programs for all women and girls;

(5) Federal support should address not only research and development of innovative model curricula and teaching and learning strategies to promote gender equity, but should also assist schools and local communities implement gender equitable practices;

(6) Federal assistance for gender equity must be tied to systemic reform, involve collaborative efforts to implement effective gender practices at the local level, and encourage parental participation; and

(7) excellence in education, high educational achievements and standards, and the full participation of women and girls in American society, cannot be achieved without educational equity for women and girls.

(Pub. L. 89–10, title V, § 5611, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1867.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (b)(1), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

The Women's Educational Equity Act of 2001, referred to in subsec. (b)(2), is subpart 21 of part D of title V of Pub. L. 89–10, as added by Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1867, which is classified generally to this subpart. For complete classification of this Act to the Code, see subsec. (a) of this section and Tables.

§ 7283a. Statement of purpose

It is the purpose of this subpart—

(1) to promote gender equity in education in the United States;

(2) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972 [20 U.S.C. 1681 et seq.]; and

(3) to promote equity in education for women and girls who suffer from multiple forms of discrimination based on sex, race, ethnic origin, limited English proficiency, disability, or age.

(Pub. L. 89–10, title V, § 5612, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1868.)

REFERENCES IN TEXT

The Educational Amendments of 1972, referred to in par. (2), probably means the Education Amendments of 1972 which is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

§ 7283b. Programs authorized

(a) In general

The Secretary is authorized—

(1) to promote, coordinate, and evaluate gender equity policies, programs, activities, and initiatives in all Federal education programs and offices;

(2) to develop, maintain, and disseminate materials, resources, analyses, and research relating to education equity for women and girls;

(3) to provide information and technical assistance to assure the effective implementation of gender equity programs;

(4) to coordinate gender equity programs and activities with other Federal agencies with ju-

risdiction over education and related programs;

(5) to assist the Director of the Institute of Education Sciences in identifying research priorities related to education equity for women and girls; and

(6) to perform any other activities consistent with achieving the purposes of this subpart.

(b) Grants authorized

(1) In general

The Secretary is authorized to award grants to, and enter into contracts and cooperative agreements with, public agencies, private nonprofit agencies, organizations, institutions, student groups, community groups, and individuals, for a period not to exceed 4 years, to—

(A) provide grants to develop model equity programs; and

(B) provide funds for the implementation of equity programs in schools throughout the Nation.

(2) Support and technical assistance

To achieve the purposes of this subpart, the Secretary is authorized to provide support and technical assistance—

(A) to implement effective gender-equity policies and programs at all educational levels, including—

(i) assisting educational agencies and institutions to implement policies and practices to comply with title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.];

(ii) training for teachers, counselors, administrators, and other school personnel, especially preschool and elementary school personnel, in gender equitable teaching and learning practices;

(iii) leadership training for women and girls to develop professional and marketable skills to compete in the global marketplace, improve self-esteem, and benefit from exposure to positive role models;

(iv) school-to-work transition programs, guidance and counseling activities, and other programs to increase opportunities for women and girls to enter a technologically demanding workplace and, in particular, to enter highly skilled, high paying careers in which women and girls have been underrepresented;

(v) enhancing educational and career opportunities for those women and girls who suffer multiple forms of discrimination, based on sex, and on race, ethnic origin, limited English proficiency, disability, socioeconomic status, or age;

(vi) assisting pregnant students and students rearing children to remain in or to return to secondary school, graduate, and prepare their preschool children to start school;

(vii) evaluating exemplary model programs to assess the ability of such programs to advance educational equity for women and girls;

(viii) introduction into the classroom of textbooks, curricula, and other materials designed to achieve equity for women and girls;

(ix) programs and policies to address sexual harassment and violence against women and girls and to ensure that educational institutions are free from threats to the safety of students and personnel;

(x) nondiscriminatory tests of aptitude and achievement and of alternative assessments that eliminate biased assessment instruments from use;

(xi) programs to increase educational opportunities, including higher education, vocational training, and other educational programs for low-income women, including underemployed and unemployed women, and women receiving assistance under a State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.];

(xii) programs to improve representation of women in educational administration at all levels; and

(xiii) planning, development, and initial implementation of—

(I) comprehensive institutionwide or districtwide evaluation to assess the presence or absence of gender equity in educational settings;

(II) comprehensive plans for implementation of equity programs in State educational agencies and local educational agencies and institutions of higher education, including community colleges; and

(III) innovative approaches to school-community partnerships for educational equity; and

(B) for research and development, which shall be coordinated with each of the National Education Centers of the Institute of Education Sciences to avoid duplication of research efforts, designed to advance gender equity nationwide and to help make policies and practices in educational agencies and institutions, and local communities, gender equitable, including—

(i) research and development of innovative strategies and model training programs for teachers and other education personnel;

(ii) the development of high-quality and challenging assessment instruments that are nondiscriminatory;

(iii) the development and evaluation of model curricula, textbooks, software, and other educational materials to ensure the absence of gender stereotyping and bias;

(iv) the development of instruments and procedures that employ new and innovative strategies to assess whether diverse educational settings are gender equitable;

(v) the development of instruments and strategies for evaluation, dissemination, and replication of promising or exemplary programs designed to assist local educational agencies in integrating gender equity in their educational policies and practices;

(vi) updating high-quality educational materials previously developed through awards made under this subpart;

(vii) the development of policies and programs to address and prevent sexual harassment and violence to ensure that educational institutions are free from threats to safety of students and personnel;

(viii) the development and improvement of programs and activities to increase opportunity for women, including continuing educational activities, vocational education, and programs for low-income women, including underemployed and unemployed women, and women receiving assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.]; and

(ix) the development of guidance and counseling activities, including career education programs, designed to ensure gender equity.

(Pub. L. 89–10, title V, § 5613, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1868; amended Pub. L. 107–279, title IV, § 404(d)(7), Nov. 5, 2002, 116 Stat. 1986.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (b)(2)(A)(i), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

The Social Security Act, referred to in subsec. (b)(2)(A)(xi), (B)(viii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2002—Subsec. (a)(5). Pub. L. 107–279, § 404(d)(7)(A), substituted ''Director of the Institute of Education Sciences'' for ''Assistant Secretary of the Office of Educational Research and Improvement''.

Subsec. (b)(2)(B). Pub. L. 107–279, § 404(d)(7)(B), substituted ''National Education Centers of the Institute of Education Sciences'' for ''research institutes of the Office of Educational Research and Improvement'' in introductory provisions.

§ 7283c. Applications

An application under this subpart shall—

(1) set forth policies and procedures that will ensure a comprehensive evaluation of the activities assisted under this subpart, including an evaluation of the practices, policies, and materials used by the applicant and an evaluation or estimate of the continued significance of the work of the project following completion of the award period;

(2) demonstrate how the applicant will address perceptions of gender roles based on cultural differences or stereotypes;

(3) for applications for assistance under section 7283b(b)(1) of this title, demonstrate how the applicant will foster partnerships and, where applicable, share resources with State educational agencies, local educational agencies, institutions of higher education, community-based organizations (including organizations serving women), parent, teacher, and student groups, businesses, or other recipients of Federal educational funding which may include State literacy resource centers;

(4) for applications for assistance under section 7283b(b)(1) of this title, demonstrate how parental involvement in the project will be encouraged; and

(5) for applications for assistance under section 7283b(b)(1) of this title, describe plans for continuation of the activities assisted under this subpart with local support following completion of the grant period and termination of Federal support under this subpart.

(Pub. L. 89–10, title V, § 5614, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1871.)

§ 7283d. Criteria and priorities

(a) Criteria and priorities

(1) In general

The Secretary shall establish separate criteria and priorities for awards under paragraphs (1) and (2) of section 7283b(b) of this title to ensure that funds under this subpart are used for programs that most effectively will achieve the purposes of this subpart.

(2) Criteria

The criteria described in paragraph (1) may include the extent to which the activities assisted under this subpart—

(A) address the needs of women and girls of color and women and girls with disabilities;

(B) meet locally defined and documented educational equity needs and priorities, including compliance with title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.];

(C) are a significant component of a comprehensive plan for educational equity and compliance with title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.] in the particular school district, institution of higher education, vocational-technical institution, or other educational agency or institution; and

(D) implement an institutional change strategy with long-term impact that will continue as a central activity of the applicant after the grant under this subpart has terminated.

(b) Priorities

In awarding grants under this subpart, the Secretary may give special consideration to applications—

(1) submitted by applicants that have not received assistance under this subpart or this subpart's predecessor authorities;

(2) for projects that will contribute significantly to directly improving teaching and learning practices in the local community; and

(3) for projects that will—

(A) provide for a comprehensive approach to enhancing gender equity in educational institutions and agencies;

(B) draw on a variety of resources, including the resources of local educational agencies, community-based organizations, institutions of higher education, and private organizations;

(C) implement a strategy with long-term impact that will continue as a central activity of the applicant after the grant under this subpart has terminated;

(D) address issues of national significance that can be duplicated; and

(E) address the educational needs of women and girls who suffer multiple or compound discrimination based on sex and on race, ethnic origin, disability, or age.

(c) Special rule

To the extent feasible, the Secretary shall ensure that grants awarded under this subpart for each fiscal year address—

(1) all levels of education, including preschool, elementary and secondary education, higher education, vocational education, and adult education;

(2) all regions of the United States; and

(3) urban, rural, and suburban educational institutions.

(d) Coordination

Research activities supported under this subpart—

(1) shall be carried out in consultation with the Institute of Education Sciences to ensure that such activities are coordinated with and enhance the research and development activities supported by the Institute; and

(2) may include collaborative research activities which are jointly funded and carried out with the Institute of Education Sciences.

(e) Limitation

Nothing in this subpart shall be construed as prohibiting men and boys from participating in any programs or activities assisted with funds under this subpart.

(Pub. L. 89–10, title V, § 5615, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1871; amended Pub. L. 107–279, title IV, § 404(d)(5)(D), (8), Nov. 5, 2002, 116 Stat. 1986.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (a)(2)(B), (C), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

AMENDMENTS

2002—Subsec. (d)(1). Pub. L. 107–279 substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement'' and ''by the Institute'' for ''by the Office''.

Subsec. (d)(2). Pub. L. 107–279, § 404(d)(5)(D), substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement''.

§ 7283e. Report

Not later than January 1, 2006, the Secretary shall submit to the President and Congress a report on the status of educational equity for girls and women in the Nation.

(Pub. L. 89–10, title V, § 5616, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1872.)

§ 7283f. Administration

(a) Evaluation and dissemination

Not later than January 1, 2005, the Secretary shall evaluate and disseminate materials and programs developed under this subpart and shall report to Congress regarding such evaluation materials and programs.

(b) Program operations

The Secretary shall ensure that the activities assisted under this subpart are administered within the Department by a person who has recognized professional qualifications and experience in the field of gender equity education.

(Pub. L. 89–10, title V, § 5617, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1872.)

§ 7283g. Amount

From amounts made available to carry out this subpart for a fiscal year, not less than two-thirds of such amount shall be used to carry out the activities described in section 7283b(b)(1) of this title.

(Pub. L. 89–10, title V, § 5618, as added Pub. L. 107–110, title V, § 501, Jan. 8, 2002, 115 Stat. 1873.)

SUBCHAPTER VI—FLEXIBILITY AND ACCOUNTABILITY

CODIFICATION

Title VI of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title VI is shown, herein, as having been added by Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1873, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

PART A—IMPROVING ACADEMIC ACHIEVEMENT

SUBPART 1—ACCOUNTABILITY

§ 7301. Grants for State assessments and related activities

The Secretary shall make grants to States to enable the States—

(1) to pay the costs of the development of the additional State assessments and standards required by section 6311(b) of this title, which may include the costs of working in voluntary partnerships with other States, at the sole discretion of each such State; and

(2) if a State has developed the assessments and standards required by section 6311(b) of this title, to administer those assessments or to carry out other activities described in this subpart and other activities related to ensuring that the State's schools and local educational agencies are held accountable for results, such as the following:

(A) Developing challenging State academic content and student academic achievement standards and aligned assessments in academic subjects for which standards and assessments are not required by section 6311(b) of this title.

(B) Developing or improving assessments of English language proficiency necessary to comply with section 6311(b)(7) of this title.

(C) Ensuring the continued validity and reliability of State assessments.

(D) Refining State assessments to ensure their continued alignment with the State's academic content standards and to improve the alignment of curricula and instructional materials.

(E) Developing multiple measures to increase the reliability and validity of State assessment systems.

(F) Strengthening the capacity of local educational agencies and schools to provide all students the opportunity to increase educational achievement, including carrying out professional development activities aligned with State student academic achievement standards and assessments.

(G) Expanding the range of accommodations available to students with limited English proficiency and students with disabilities to improve the rates of inclusion of such students, including professional development activities aligned with State academic achievement standards and assessments.

(H) Improving the dissemination of information on student achievement and school performance to parents and the community, including the development of information and reporting systems designed to identify best educational practices based on scientifically based research or to assist in linking records of student achievement, length of enrollment, and graduation over time.

(Pub. L. 89–10, title VI, § 6111, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1873.)

PRIOR PROVISIONS

A prior section 7301, Pub. L. 89–10, title VI, § 6001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707, set forth findings and purpose, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7301a. Grants for enhanced assessment instruments

(a) Grant program authorized

From funds made available to carry out this subpart, the Secretary shall award, on a competitive basis, grants to State educational agencies that have submitted an application at such time, in such manner, and containing such information as the Secretary may require, which demonstrate to the satisfaction of the Secretary, that the requirements of this section will be met, for the following:

(1) To enable States (or consortia of States) to collaborate with institutions of higher education, other research institutions, or other organizations to improve the quality, validity, and reliability of State academic assessments beyond the requirements for such assessments described in section 6311(b)(3) of this title.

(2) To measure student academic achievement using multiple measures of student academic achievement from multiple sources.

(3) To chart student progress over time.

(4) To evaluate student academic achievement through the development of comprehensive academic assessment instruments, such as performance and technology-based academic assessments.

(b) Application

Each State wishing to apply for funds under this section shall include in its State plan under part A of subchapter I of this chapter such information as the Secretary may require.

(c) Annual report

Each State educational agency receiving a grant under this section shall submit an annual report to the Secretary describing its activities, and the result of those activities, under the grant.

(Pub. L. 89–10, title VI, § 6112, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1874.)

§ 7301b. Funding

(a) Authorization of appropriations

(1) National assessment of educational progress

For the purpose of administering the State assessments under the National Assessment of Educational Progress, there are authorized to be appropriated $72,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years.

(2) State assessments and related activities

For the purpose of carrying out this subpart, there are authorized to be appropriated $490,000,000 for fiscal year 2002, and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) Allotment of appropriated funds

(1) In general

From amounts made available for each fiscal year under subsection (a)(2) of this section that are equal to or less than the amount described in section 6311(b)(3)(D) of this title (hereinafter in this subsection referred to as the ''trigger amount''), the Secretary shall—

(A) reserve one-half of 1 percent for the Bureau of Indian Affairs;

(B) reserve one-half of 1 percent for the outlying areas; and

(C) from the remainder, allocate to each State an amount equal to—

(i) $3,000,000; and

(ii) with respect to any amounts remaining after the allocation is made under clause (i), an amount that bears the same relationship to such total remaining amounts as the number of students ages 5 through 17 in the State (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

(2) Remainder

Any amounts remaining for a fiscal year after the Secretary carries out paragraph (1) shall be made available as follows:

(A)(i) To award funds under section 7301a of this title to States according to the quality, needs, and scope of the State application under that section.

(ii) In determining the grant amount under clause (i), the Secretary shall ensure that a State's grant shall include an amount that bears the same relationship to the total

funds available under this paragraph for the fiscal year as the number of students ages 5 through 17 in the State (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

(B) Any amounts remaining after the Secretary awards funds under subparagraph (A) shall be allocated to each State that did not receive a grant under such subparagraph, in an amount that bears the same relationship to the total funds available under this subparagraph as the number of students ages 5 through 17 in the State (as determined by the Secretary on the basis of the most recent satisfactory data) bears to the total number of such students in all States.

(c) State defined

In this section, the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 89–10, title VI, § 6113, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1875.)

PRIOR PROVISIONS

Prior sections 7302 and 7303 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7302, Pub. L. 89–10, title VI, § 6002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707, related to authorization of appropriations and duration of assistance. See section 7217e of this title.

Section 7303, Pub. L. 89–10, title VI, § 6003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3707, defined ''effective schools programs''.

SUBPART 2—FUNDING TRANSFERABILITY FOR STATE AND LOCAL EDUCATIONAL AGENCIES

§ 7305. Short title

This subpart may be cited as the ''State and Local Transferability Act''.

(Pub. L. 89–10, title VI, § 6121, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1876.)

§ 7305a. Purpose

The purpose of this subpart is to allow States and local educational agencies the flexibility—

(1) to target Federal funds to Federal programs that most effectively address the unique needs of States and localities; and

(2) to transfer Federal funds allocated to other activities to allocations for certain activities authorized under subchapter I of this chapter.

(Pub. L. 89–10, title VI, § 6122, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1876.)

§ 7305b. Transferability of funds

(a) Transfers by States

(1) In general

In accordance with this subpart, a State may transfer not more than 50 percent of the nonadministrative State funds (including funds transferred under paragraph (2)) allotted to the State for use for State-level activities under the following provisions for a fiscal year to one or more of the State's allotments for such fiscal year under any other of such provisions:

(A) Section 6613(a)(3) of this title.

(B) Section 6762(a)(1) of this title.

(C) Subsections (a)(1) (with the agreement of the Governor) and (c)(1) of section 7112 of this title and section 7172(c)(3) of this title.

(D) Section 7211a(b) of this title.

(2) Additional funds for subchapter I

In accordance with this subpart and subject to the 50 percent limitation described in paragraph (1), a State may transfer any funds allotted to the State under a provision listed in paragraph (1) to its allotment under subchapter I of this chapter.

(b) Transfers by local educational agencies

(1) Authority to transfer funds

(A) In general

In accordance with this subpart, a local educational agency (except a local educational agency identified for improvement under section 6316(c) of this title or subject to corrective action under section 6316(c)(9)[1] of this title) may transfer not more than 50 percent of the funds allocated to it (including funds transferred under subparagraph (C)) under each of the provisions listed in paragraph (2) for a fiscal year to one or more of its allocations for such fiscal year under any other provision listed in paragraph (2).

(B) Agencies identified for improvement

In accordance with this subpart, a local educational agency identified for improvement under section 6316(c) of this title may transfer not more than 30 percent of the funds allocated to it (including funds transferred under subparagraph (C)) under each of the provisions listed in paragraph (2) for a fiscal year—

(i) to its allocation for school improvement for such fiscal year under section 6303 of this title; or

(ii) to any other allocation for such fiscal year if such transferred funds are used only for local educational agency improvement activities consistent with section 6316(c) of this title.

(C) Additional funds for subchapter I

In accordance with this subpart and subject to the percentage limitation described in subparagraph (A) or (B), as applicable, a local educational agency may transfer funds allocated to such agency under any of the provisions listed in paragraph (2) for a fiscal year to its allocation for part A of subchapter I of this chapter for that fiscal year.

(2) Applicable provisions

A local educational agency may transfer funds under subparagraph (A), (B), or (C) of paragraph (1) from allocations made under each of the following provisions:

(A) Section 6621 of this title.

(B) Section 6762(a)(2)(A) of this title.

(C) Section 7112(b)(1) of this title.

(D) Section 7211a(a) of this title.

(c) No transfer of subchapter I funds

A State or a local educational agency may not transfer under this subpart to any other pro-

[1] So in original. Probably should be section ''6316(c)(10)''.

gram any funds allotted or allocated to it for part A of subchapter I of this chapter.

(d) Modification of plans and applications; notification

(1) State transfers

Each State that makes a transfer of funds under this section shall—

(A) modify, to account for such transfer, each State plan, or application submitted by the State, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the Secretary; and

(C) not later than 30 days before the effective date of such transfer, notify the Secretary of such transfer.

(2) Local transfers

Each local educational agency that makes a transfer of funds under this section shall—

(A) modify, to account for such transfer, each local plan, or application submitted by the agency, to which such funds relate;

(B) not later than 30 days after the date of such transfer, submit a copy of such modified plan or application to the State; and

(C) not later than 30 days before the effective date of such transfer, notify the State of such transfer.

(e) Applicable rules

(1) In general

Except as otherwise provided in this subpart, funds transferred under this section are subject to each of the rules and requirements applicable to the funds under the provision to which the transferred funds are transferred.

(2) Consultation

Each State educational agency or local educational agency that transfers funds under this section shall conduct consultations in accordance with section 7881 of this title, if such transfer transfers funds from a program that provides for the participation of students, teachers, or other educational personnel, from private schools.

(Pub. L. 89–10, title VI, § 6123, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1876.)

SUBPART 3—STATE AND LOCAL FLEXIBILITY DEMONSTRATION

§ 7311. Short title

This subpart may be cited as the ''State and Local Flexibility Demonstration Act''.

(Pub. L. 89–10, title VI, § 6131, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1878.)

PRIOR PROVISIONS

A prior section 7311, Pub. L. 89–10, title VI, § 6101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3708, related to allotment to States, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7211 of this title.

§ 7311a. Purpose

The purpose of this subpart is to create options for selected State educational agencies and local educational agencies—

(1) to improve the academic achievement of all students, and to focus the resources of the Federal Government upon such achievement;

(2) to improve teacher quality and subject matter mastery, especially in mathematics, reading, and science;

(3) to better empower parents, educators, administrators, and schools to effectively address the needs of their children and students;

(4) to give participating State educational agencies and local educational agencies greater flexibility in determining how to increase their students' academic achievement and implement education reforms in their schools;

(5) to eliminate barriers to implementing effective State and local education reform, while preserving the goals of opportunity for all students and accountability for student progress;

(6) to hold participating State educational agencies and local educational agencies accountable for increasing the academic achievement of all students, especially disadvantaged students; and

(7) to narrow achievement gaps between the lowest and highest achieving groups of students so that no child is left behind.

(Pub. L. 89–10, title VI, § 6132, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1878.)

§ 7311b. General provision

For purposes of this subpart, any State that is one local educational agency shall be considered a State educational agency and not a local educational agency.

(Pub. L. 89–10, title VI, § 6133, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1878.)

PRIOR PROVISIONS

A prior section 7312, Pub. L. 89–10, title VI, § 6102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3708, which related to allocation to local educational agencies, was omitted in the general amendment of this subchapter by Pub. L. 107–110. See section 7211a of this title.

Division A—State Flexibility Authority

§ 7315. State flexibility

(a) Flexibility authority

Except as otherwise provided in this division, the Secretary shall, on a competitive basis, grant flexibility authority to not more than seven eligible State educational agencies, under which the agencies may consolidate and use funds in accordance with section 7315a of this title.

(b) Definitions

In this division:

(1) Eligible State educational agency

The term ''eligible State educational agency'' means a State educational agency that—

(A) submits an approvable application under subsection (c) of this section; and

(B) proposes performance agreements—

(i) that shall be entered into with not fewer than 4, and not more than 10, local educational agencies;

(ii) not fewer than half of which shall be entered into with high-poverty local educational agencies; and

(iii) that require the local educational agencies described in clause (i) to align their use of consolidated funds under section 7321a of this title with the State educational agency's use of consolidated funds under section 7315a of this title.

(2) High-poverty local educational agency

The term ''high-poverty local educational agency'' means a local educational agency for which 20 percent or more of the children who are age 5 through 17, and served by the local educational agency, are from families with incomes below the poverty line.

(c) State applications

(1) Applications

To be eligible to receive flexibility authority under this division, a State educational agency shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(A) information demonstrating, to the satisfaction of the Secretary, that the grant of authority offers substantial promise of—

(i) assisting the State educational agency in making adequate yearly progress, as defined under section 6311(b)(2) of this title; and

(ii) aligning State and local reforms and assisting the local educational agencies that enter into performance agreements with the State educational agency under paragraph (2) in making such adequate yearly progress;

(B) the performance agreements that the State educational agency proposes to enter into with eligible local educational agencies under paragraph (2);

(C) information demonstrating that the State educational agency has consulted with and involved parents, representatives of local educational agencies, and other educators in the development of the terms of the grant of authority;

(D) a provision specifying that the grant of flexibility authority shall be for a term of not more than 5 years;

(E) a list of the programs described in section 7315a(b) of this title that are included in the scope of the grant of authority;

(F) a provision specifying that no requirements of any program described in section 7315a(b) of this title and included by a State educational agency in the scope of the grant of authority shall apply to that agency, except as otherwise provided in this division;

(G) a 5-year plan describing how the State educational agency intends to consolidate and use the funds from programs included in the scope of the grant of authority, for any educational purpose authorized under this chapter, in order to make adequate yearly progress and advance the education priorities of the State and the local educational agencies with which the State educational agency enters into performance agreements;

(H) an assurance that the State educational agency will provide parents, teachers, and representatives of local educational agencies and schools with notice and an opportunity to comment on the proposed terms of the grant of authority;

(I) an assurance that the State educational agency, and the local educational agencies with which the State educational agency enters into performance agreements, will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds consolidated and used under the grant of authority;

(J) an assurance that the State educational agency, and the local educational agencies with which the State educational agency enters into performance agreements, will meet the requirements of all applicable Federal civil rights laws in carrying out the grant of authority, including consolidating and using funds under the grant of authority;

(K) an assurance that, in consolidating and using funds under the grant of authority—

(i) the State educational agency, and the local educational agencies with which the State educational agency enters into performance agreements, will provide for the equitable participation of students and professional staff in private schools consistent with section 7881 of this title; and

(ii) that sections 7882, 7883, and 7884 of this title shall apply to all services and assistance provided with such funds in the same manner as such sections apply to services and assistance provided in accordance with section 7881 of this title;

(L) an assurance that the State educational agency will, for the duration of the grant of authority, use funds consolidated under section 7315a of this title only to supplement the amount of funds that would, in the absence of those Federal funds, be made available from non-Federal sources for the education of students participating in programs assisted with the consolidated funds, and not to supplant those funds; and

(M) an assurance that the State educational agency shall, not later than 1 year after the date on which the Secretary makes the grant of authority, and annually thereafter during the term of the grant of authority, disseminate widely to parents and the general public, transmit to the Secretary, distribute to print and broadcast media, and post on the Internet, a report, which shall include a detailed description of how the State educational agency, and the local educational agencies with which the State educational agency enters into performance agreements, used the funds consolidated under the grant of authority to make adequate yearly progress and advance the education priorities of the State and local educational agencies in the State.

(2) Proposed performance agreements with local educational agencies

(A) In general

A State educational agency that wishes to receive flexibility authority under this subpart shall propose performance agreements

that meet the requirements of clauses (i) and (ii) of subsection (b)(1)(B) of this section (subject to approval of the application or amendment involved under subsection (d) or (e) of this section).

(B) Performance agreements

Each proposed performance agreement with a local educational agency shall—

(i) contain plans for the local educational agency to consolidate and use funds in accordance with section 7321a of this title, for activities that are aligned with the State educational agency's plan described in paragraph (1)(G);

(ii) be subject to the requirements of division B of this subpart relating to agreements between the Secretary and a local educational agency, except—

(I) that, as appropriate, references in that division to the Secretary shall be deemed to be references to the State educational agency; and

(II) as otherwise provided in this division; and

(iii) contain an assurance that the local educational agency will, for the duration of the grant of authority, use funds consolidated under section 7321a of this title only to supplement the amount of funds that would, in the absence of those Federal funds, be made available from non-Federal sources for the education of students participating in programs assisted with the consolidated funds, and not to supplant those funds.

(d) Approval and selection

The Secretary shall—

(1) establish a peer review process to assist in the review of proposed State applications under this section; and

(2) appoint individuals to participate in the peer review process who are—

(A) representative of parents, teachers, State educational agencies, and local educational agencies; and

(B) familiar with educational standards, assessments, accountability, curricula, instruction, and staff development, and other diverse educational needs of students.

(e) Amendment to grant of authority

(1) In general

Subject to paragraph (2), the Secretary shall amend the grant of flexibility authority made to a State educational agency under this division, in each of the following circumstances:

(A) Reduction in scope of the grant of authority

Not later than 1 year after receiving a grant of flexibility authority, the State educational agency seeks to amend the grant of authority to remove from the scope of the grant of authority any program described in section 7315a(b) of this title.

(B) Expansion of scope of the grant of authority

Not later than 1 year after receiving a grant of flexibility authority, the State educational agency seeks to amend the grant of authority to include in the scope of the grant of authority any additional program described in section 7315a(b) of this title or any additional achievement indicators for which the State will be held accountable.

(C) Changes with respect to number of performance agreements

The State educational agency seeks to amend the grant of authority to include or remove performance agreements that the State educational agency proposes to enter into with eligible local educational agencies, except that in no case may the State educational agency enter into performance agreements that do not meet the requirements of clauses (i) and (ii) of subsection (b)(1)(B) of this section.

(2) Approval and disapproval

(A) Deemed approval

A proposed amendment to a grant of flexibility authority submitted by a State educational agency pursuant to paragraph (1) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the proposed amendment, that the proposed amendment is not in compliance with this division.

(B) Disapproval

The Secretary shall not finally disapprove the proposed amendment, except after giving the State educational agency notice and an opportunity for a hearing.

(C) Notification

If the Secretary finds that the proposed amendment is not in compliance, in whole or in part, with this division, the Secretary shall—

(i) give the State educational agency notice and an opportunity for a hearing; and

(ii) notify the State educational agency of the finding of noncompliance and, in such notification, shall—

(I) cite the specific provisions in the proposed amendment that are not in compliance; and

(II) request additional information, only as to the noncompliant provisions, needed to make the proposed amendment compliant.

(D) Response

If the State educational agency responds to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the proposed amendment with the requested information described in subparagraph (C)(ii)(II), the Secretary shall approve or disapprove such proposed amendment prior to the later of—

(i) the expiration of the 45-day period beginning on the date on which the proposed amendment is resubmitted; or

(ii) the expiration of the 120-day period described in subparagraph (A).

(E) Failure to respond

If the State educational agency does not respond to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, such proposed amendment shall be deemed to be disapproved.

(3) Treatment of program funds withdrawn from grant of authority

Beginning on the effective date of an amendment executed under paragraph (1)(A), each program requirement of each program removed from the scope of a grant of authority shall apply to the use of funds made available under the program by the State educational agency and each local educational agency with which the State educational agency has a performance agreement.

(Pub. L. 89–10, title VI, § 6141, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1879.)

§ 7315a. Consolidation and use of funds

(a) In general

(1) Authority

Under a grant of flexibility authority made under this division, a State educational agency may consolidate Federal funds described in subsection (b) of this section and made available to the agency, and use such funds for any educational purpose authorized under this chapter.

(2) Program requirements

Except as otherwise provided in this division, a State educational agency may use funds under paragraph (1) notwithstanding the program requirements of the program under which the funds were made available to the State.

(b) Eligible funds and programs

(1) Funds

The funds described in this subsection are funds, for State-level activities and State administration, that are described in the following provisions:

(A) Section 6304 of this title.

(B) Paragraphs (4) and (5) of section 6362(d) of this title.

(C) Section 6613(a)(3) of this title.

(D) Section 6762(a)(1) of this title.

(E) Subsections (a) (with the agreement of the Governor), (b)(2), and (c)(1) of section 7112 of this title.

(F) Paragraphs (2) and (3) of section 7172(c) of this title.

(G) Section 7211a(b) of this title.

(2) Programs

The programs described in this subsection are the programs authorized to be carried out with funds described in paragraph (1).

(c) Special rule

A State educational agency that receives a grant of flexibility authority under this division—

(1) shall ensure that the funds described in section 7211a(a) of this title are allocated to local educational agencies in the State in accordance with section 7211a(a) of this title; but

(2) may specify how the local educational agencies shall use the allocated funds.

(Pub. L. 89–10, title VI, § 6142, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1883.)

§ 7315b. Performance review and penalties

(a) Midterm review

(1) Failure to make adequate yearly progress

If, during the term of a grant of flexibility authority under this division, a State educational agency fails to make adequate yearly progress for 2 consecutive years, the Secretary shall, after providing notice and an opportunity for a hearing, terminate the grant of authority promptly.

(2) Noncompliance

The Secretary may, after providing notice and an opportunity for a hearing (including the opportunity to provide evidence as described in paragraph (3)), terminate a grant of flexibility authority for a State if there is evidence that the State educational agency involved has failed to comply with the terms of the grant of authority.

(3) Evidence

If a State educational agency believes that a determination of the Secretary under this subsection is in error for statistical or other substantive reasons, the State educational agency may provide supporting evidence to the Secretary, and the Secretary shall consider that evidence before making a final termination determination under this subsection.

(b) Final review

(1) In general

If, at the end of the 5-year term of a grant of flexibility authority made under this division, the State educational agency has not met the requirements described in section 7315(c) of this title, the Secretary may not renew the grant of flexibility authority under section 7315c of this title.

(2) Compliance

Beginning on the date on which such term ends, the State educational agency, and the local educational agencies with which the State educational agency has entered into performance agreements, shall be required to comply with each of the program requirements in effect on such date for each program that was included in the grant of authority.

(Pub. L. 89–10, title VI, § 6143, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1883.)

§ 7315c. Renewal of grant of flexibility authority

(a) In general

Except as provided in section 7315b of this title and in accordance with this section, if a State educational agency has met, by the end of the original 5-year term of a grant of flexibility authority under this division, the requirements described in section 7315(c) of this title, the Secretary shall renew a grant of flexibility authority for one additional 5-year term.

(b) Renewal

The Secretary may not renew a grant of flexibility authority under this division unless, not later than 6 months before the end of the original term of the grant of authority, the State educational agency seeking the renewal notifies the Secretary, and the local educational agencies with which the State educational agency has entered into performance agreements, of the agency's intention to renew the grant of authority.

(c) Effective date

A renewal under this section shall be effective on the later of—

(1) the expiration of the original term of the grant of authority; or

(2) the date on which the State educational agency seeking the renewal provides to the Secretary all data required for the application described in section 7315(c) of this title.

(Pub. L. 89–10, title VI, § 6144, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1884.)

Division B—Local Flexibility Demonstration

§ 7321. Local flexibility demonstration agreements

(a) Authority

Except as otherwise provided in this division, the Secretary shall, on a competitive basis, enter into local flexibility demonstration agreements—

(1) with local educational agencies that submit approvable proposed agreements under subsection (c) of this section and that are selected under subsection (b) of this section; and

(2) under which those agencies may consolidate and use funds in accordance with section 7321a of this title.

(b) Selection of local educational agencies

(1) In general

Subject to paragraph (2), the Secretary shall enter into local flexibility demonstration agreements under this division with not more than 80 local educational agencies. Each local educational agency shall be selected on a competitive basis from among those local educational agencies that—

(A) submit a proposed local flexibility demonstration agreement under subsection (c) of this section to the Secretary and demonstrate, to the satisfaction of the Secretary, that the agreement—

(i) has a substantial promise of assisting the local educational agency in meeting the State's definition of adequate yearly progress, advancing the education priorities of the local educational agency, meeting the general purposes of the programs included under this division and the purposes of this part, improving student achievement, and narrowing achievement gaps in accordance with section 6311(b) of this title;

(ii) meets the requirements of this division; and

(iii) contains a plan to consolidate and use funds in accordance with section 7321a of this title in order to meet the State's definition of adequate yearly progress and the local educational agency's specific, measurable goals for improving student achievement and narrowing achievement gaps; and

(B) have consulted and involved parents and other educators in the development of the proposed local flexibility demonstration agreement.

(2) Geographic distribution

(A) Initial agreements

The Secretary may enter into not more than three local flexibility demonstration agreements under this division with local educational agencies in each State that does not have a grant of flexibility authority under division A of this subpart.

(B) Urban and rural areas

If more than three local educational agencies in a State submit approvable local flexibility demonstration agreements under this division, the Secretary shall select local educational agencies with which to enter into such agreements in a manner that ensures an equitable distribution among such agencies serving urban and rural areas.

(C) Priority of States to enter into State flexibility demonstration agreements

Notwithstanding any other provision of this part, a local educational agency may not seek to enter into a local flexibility demonstration agreement under this division if that agency is located in a State for which the State educational agency—

(i) has, not later than 4 months after January 8, 2002, notified the Secretary of its intent to apply for a grant of flexibility authority under division A of this subpart and, within such period of time as the Secretary may establish, is provided with such authority by the Secretary; or

(ii) has, at any time after such period, been granted flexibility authority under division A of this subpart.

(c) Required terms of local flexibility demonstration agreement

Each local flexibility demonstration agreement entered into with the Secretary under this division shall contain each of the following terms:

(1) Duration

The local flexibility demonstration agreement shall be for a term of 5 years.

(2) Application of program requirements

The local flexibility demonstration agreement shall provide that no requirements of any program described in section 7321a of this title and included by a local educational agency in the scope of its agreement shall apply to that agency, except as otherwise provided in this division.

(3) List of programs

The local flexibility demonstration agreement shall list which of the programs described in section 7321a of this title are included in the scope of the agreement.

(4) Use of funds to improve student achievement

The local flexibility demonstration agreement shall contain a 5-year plan describing how the local educational agency intends to consolidate and use the funds from programs included in the scope of the agreement for any educational purpose authorized under this chapter to advance the education priorities of the local educational agency, meet the general purposes of the included programs, improve student achievement, and narrow achievement gaps in accordance with section 6311(b) of this title.

(5) Local input

The local flexibility demonstration agreement shall contain an assurance that the local educational agency will provide parents, teachers, and representatives of schools with notice and an opportunity to comment on the proposed terms of the local flexibility demonstration agreement.

(6) Fiscal responsibilities

The local flexibility demonstration agreement shall contain an assurance that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds consolidated and used under the agreement.

(7) Civil rights

The local flexibility demonstration agreement shall contain an assurance that the local educational agency will meet the requirements of all applicable Federal civil rights laws in carrying out the agreement and in consolidating and using the funds under the agreement.

(8) Private school participation

The local flexibility demonstration agreement shall contain an assurance that the local educational agency agrees that in consolidating and using funds under the agreement—

(A) the local educational agency, will provide for the equitable participation of students and professional staff in private schools consistent with section 7881 of this title; and

(B) that sections 7882, 7883, and 7884 of this title shall apply to all services and assistance provided with such funds in the same manner as such sections apply to services and assistance provided in accordance with section 7881 of this title.

(9) Supplanting

The local flexibility demonstration agreement shall contain an assurance that the local educational agency will, for the duration of the grant of authority, use funds consolidated under section 7321a of this title only to supplement the amount of funds that would, in the absence of those Federal funds, be made available from non-Federal sources for the education of students participating in programs assisted with the consolidated funds, and not to supplant those funds.

(10) Annual reports

The local flexibility demonstration agreement shall contain an assurance that the local educational agency shall, not later than 1 year after the date on which the Secretary enters into the agreement, and annually thereafter during the term of the agreement, disseminate widely to parents and the general public, transmit to the Secretary, and the State educational agency for the State in which the local educational agency is located, distribute to print and broadcast media, and post on the Internet, a report that includes a detailed description of how the local educational agency used the funds consolidated under the agreement to improve student academic achievement and reduce achievement gaps.

(d) Peer review

The Secretary shall—

(1) establish a peer review process to assist in the review of proposed local flexibility demonstration agreements under this division; and

(2) appoint individuals to the peer review process who are representative of parents, teachers, State educational agencies, and local educational agencies, and who are familiar with educational standards, assessments, accountability, curriculum, instruction and staff development, and other diverse educational needs of students.

(e) Amendment to performance agreement

(1) In general

In each of the following circumstances, the Secretary shall amend a local flexibility demonstration agreement entered into with a local educational agency under this division:

(A) Reduction in scope of local flexibility demonstration agreement

Not later than 1 year after entering into a local flexibility demonstration agreement, the local educational agency seeks to amend the agreement to remove from the scope any program described in section 7321a of this title.

(B) Expansion of scope of local flexibility demonstration agreement

Not later than 1 year after entering into the local flexibility demonstration agreement, a local educational agency seeks to amend the agreement to include in its scope any additional program described in section 7321a of this title[1] or any additional achievement indicators for which the local educational agency will be held accountable.

(2) Approval and disapproval

(A) Deemed approval

A proposed amendment to a local flexibility demonstration agreement pursuant to paragraph (1) shall be deemed to be approved by the Secretary unless the Secretary makes a written determination, prior to the expiration of the 120-day period beginning on the date on which the Secretary received the proposed amendment, that the proposed amendment is not in compliance with this division.

(B) Disapproval

The Secretary shall not finally disapprove the proposed amendment, except after giving

[1] See References in Text note below.

the local educational agency notice and an opportunity for a hearing.

(C) Notification

If the Secretary finds that the proposed amendment is not in compliance, in whole or in part, with this division, the Secretary shall—

(i) give the local educational agency notice and an opportunity for a hearing; and

(ii) notify the local educational agency of the finding of noncompliance and, in such notification, shall—

(I) cite the specific provisions in the proposed amendment that are not in compliance; and

(II) request additional information, only as to the noncompliant provisions, needed to make the proposed amendment compliant.

(D) Response

If the local educational agency responds to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, and resubmits the proposed amendment with the requested information described in subparagraph (C)(ii)(II), the Secretary shall approve or disapprove such proposed amendment prior to the later of—

(i) the expiration of the 45-day period beginning on the date on which the proposed amendment is resubmitted; or

(ii) the expiration of the 120-day period described in subparagraph (A).

(E) Failure to respond

If the local educational agency does not respond to the Secretary's notification described in subparagraph (C)(ii) during the 45-day period beginning on the date on which the agency received the notification, such proposed amendment shall be deemed to be disapproved.

(3) Treatment of program funds withdrawn from agreement

Beginning on the effective date of an amendment executed under paragraph (1)(A), each program requirement of each program removed from the scope of a local flexibility demonstration agreement shall apply to the use of funds made available under the program by the local educational agency.

(Pub. L. 89–10, title VI, § 6151, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1884.)

REFERENCES IN TEXT

Section 7321a of this title, referred to in subsec. (e)(1)(B), was in the original ''section 6251'', meaning section 6251 of Pub. L. 89–10, which was translated as reading section 6152 of that Act to reflect the probable intent of Congress, because that Act does not contain a section 6251, and section 6152 of that Act describes programs.

§ 7321a. Consolidation and use of funds

(a) In general

(1) Authority

Under a local flexibility demonstration agreement entered into under this division, a local educational agency may consolidate Federal funds made available to the agency under the provisions listed in subsection (b) of this section and use such funds for any educational purpose permitted under this chapter.

(2) Program requirements

Except as otherwise provided in this division, a local educational agency may use funds under paragraph (1) notwithstanding the program requirements of the program under which the funds were made available to the agency.

(b) Eligible programs

Program funds made available to local educational agencies on the basis of a formula under the following provisions may be consolidated and used under subsection (a) of this section:

(1) Subpart 2 of part A of subchapter II of this chapter.

(2) Subpart 1 of part D of subchapter II of this chapter.

(3) Subpart 1 of part A of subchapter IV of this chapter.

(4) Subpart 1 of part A of subchapter V of this chapter.

(Pub. L. 89–10, title VI, § 6152, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1888.)

§ 7321b. Limitations on administrative expenditures

Each local educational agency that has entered into a local flexibility demonstration agreement with the Secretary under this division may use for administrative purposes not more than 4 percent of the total amount of funds allocated to the agency under the programs included in the scope of the agreement.

(Pub. L. 89–10, title VI, § 6153, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1889.)

§ 7321c. Performance review and penalties

(a) Midterm review

(1) Failure to make adequate yearly progress

If, during the term of a local flexibility demonstration agreement, a local educational agency fails to make adequate yearly progress for 2 consecutive years, the Secretary shall, after notice and opportunity for a hearing, promptly terminate the agreement.

(2) Noncompliance

The Secretary may, after providing notice and an opportunity for a hearing (including the opportunity to provide information as provided for in paragraph (3)), terminate a local flexibility demonstration agreement under this division if there is evidence that the local educational agency has failed to comply with the terms of the agreement.

(3) Evidence

If a local educational agency believes that the Secretary's determination under this subsection is in error for statistical or other substantive reasons, the local educational agency may provide supporting evidence to the Secretary, and the Secretary shall consider that

evidence before making a final early termination determination.

(b) Final review

If, at the end of the 5-year term of a local flexibility demonstration agreement entered into under this division, the local educational agency has not met the requirements described in section 7321(c) of this title, the Secretary may not renew the agreement under section 7321d of this title and, beginning on the date on which such term ends, the local educational agency shall be required to comply with each of the program requirements in effect on such date for each program included in the local flexibility demonstration agreement.

(Pub. L. 89–10, title VI, § 6154, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1889.)

§ 7321d. Renewal of local flexibility demonstration agreement

(a) In general

Except as provided in section 7321c of this title and in accordance with this section, the Secretary shall renew for one additional 5-year term a local flexibility demonstration agreement entered into under this division if the local educational agency has met, by the end of the original term of the agreement, the requirements described in section 7321(c) of this title.

(b) Notification

The Secretary may not renew a local flexibility demonstration agreement under this division unless, not less than 6 months before the end of the original term of the agreement, the local educational agency seeking the renewal notifies the Secretary of its intention to renew.

(c) Effective date

A renewal under this section shall be effective at the end of the original term of the agreement or on the date on which the local educational agency seeking renewal provides to the Secretary all data required under the agreement, whichever is later.

(Pub. L. 89–10, title VI, § 6155, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1889.)

§ 7321e. Reports

(a) Transmittal to Congress

Not later than 60 days after the Secretary receives a report described in section 7321(b)(10)[1] of this title, the Secretary shall make the report available to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

(b) Limitation

A State in which a local educational agency that has a local flexibility demonstration agreement is located may not require such local educational agency to provide any application information with respect to the programs included within the scope of that agreement other than that information that is required to be included in the report described in section 7321(b)(10)[1] of this title.

[1] So in original. Probably should be section ''7321(c)(10)''.

(Pub. L. 89–10, title VI, § 6156, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1890.)

SUBPART 4—STATE ACCOUNTABILITY FOR ADEQUATE YEARLY PROGRESS

§ 7325. Accountability for adequate yearly progress

In the case of a State educational agency that has a plan approved under subpart 1 of part A of subchapter I of this chapter after January 8, 2002, and has a plan approved under subpart 1 of part A of subchapter III of this chapter after January 8, 2002, the Secretary shall annually, starting with the beginning of the first school year following the first two school years for which such plans were implemented, review whether the State has—

(1) made adequate yearly progress, as defined in section 6311(b)(2)(B) of this title, for each of the groups of students described in section 6311(b)(2)(C)(v) of this title; and

(2) met its annual measurable achievement objectives under section 6842(a) of this title.

(Pub. L. 89–10, title VI, § 6161, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1890.)

§ 7325a. Peer review

The Secretary shall use a peer review process to review, based on data from the State assessments administered under section 6311(b)(3) of this title and on data from the evaluations conducted under section 6841 of this title, whether the State has failed to make adequate yearly progress for 2 consecutive years or whether the State has met its annual measurable achievement objectives.

(Pub. L. 89–10, title VI, § 6162, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1890.)

§ 7325b. Technical assistance

(a) Provision of assistance

(1) Adequate yearly progress

Based on the review described in section 7325(1) of this title, the Secretary shall provide technical assistance to a State that has failed to make adequate yearly progress, as defined in section 6311(b)(2) of this title, for 2 consecutive years. The Secretary shall provide such assistance not later than the beginning of the first school year that begins after such determination is made.

(2) Annual measurable achievement objectives

Based on the reviews described in section 7325(2) of this title, the Secretary may provide technical assistance to a State that has failed to meet its annual measurable achievement objectives under section 6842(a) of this title for 2 consecutive years. The Secretary shall provide such assistance not later than the beginning of the first school year that begins after such determination is made.

(b) Characteristics

The technical assistance described in subsection (a) of this section shall—

(1) be valid, reliable and rigorous; and

(2) provide constructive feedback to help the State make adequate yearly progress, as de-

fined in section 6311(b)(2) of this title, or meet the annual measurable achievement objectives under section 6842(a) of this title.

(Pub. L. 89–10, title VI, § 6163, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1890.)

§ 7325c. Report to Congress

Beginning with the school year that begins in 2005, the Secretary shall submit an annual report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate containing the following:

(1) A list of each State that has not made adequate yearly progress based on the review conducted under section 7325(1) of this title.

(2) A list of each State that has not met its annual measurable achievement objectives based on the review conducted under section 7325(2) of this title.

(3) The information reported by the State to the Secretary pursuant to section 6319(a) of this title.

(4) A description of any technical assistance provided pursuant to section 7325b of this title.

(Pub. L. 89–10, title VI, § 6164, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1891.)

PRIOR PROVISIONS

Prior sections 7331 and 7332 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7331, Pub. L. 89–10, title VI, § 6201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3709; amended Pub. L. 105–278, § 2(1), Oct. 22, 1998, 112 Stat. 2682, related to State uses of funds. See section 7213 of this title.

Section 7332, Pub. L. 89–10, title VI, § 6202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3710, related to State applications. See section 7213a of this title.

PART B—RURAL EDUCATION INITIATIVE

§ 7341. Short title

This part may be cited as the ''Rural Education Achievement Program''.

(Pub. L. 89–10, title VI, § 6201, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1891.)

PRIOR PROVISIONS

A prior section 6201 of Pub. L. 89–10 was classified to section 7331 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 6201 of Pub. L. 89–10 was classified to section 3271 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

§ 7341a. Purpose

It is the purpose of this part to address the unique needs of rural school districts that frequently—

(1) lack the personnel and resources needed to compete effectively for Federal competitive grants; and

(2) receive formula grant allocations in amounts too small to be effective in meeting their intended purposes.

(Pub. L. 89–10, title VI, § 6202, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1891.)

PRIOR PROVISIONS

A prior section 6202 of Pub. L. 89–10 was classified to section 7332 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Another prior section 6202 of Pub. L. 89–10 was classified to section 3272 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

SUBPART 1—SMALL, RURAL SCHOOL ACHIEVEMENT PROGRAM

§ 7345. Use of applicable funding

(a) Alternative uses

(1) In general

Notwithstanding any other provision of law, an eligible local educational agency may use the applicable funding that the agency is eligible to receive from the State educational agency for a fiscal year to carry out local activities authorized under any of the following provisions:

(A) Part A of subchapter I of this chapter.

(B) Part A or D of subchapter II of this chapter.

(C) Subchapter III of this chapter.

(D) Part A or B of subchapter IV of this chapter.

(E) Part A of subchapter V of this chapter.

(2) Notification

An eligible local educational agency shall notify the State educational agency of the local educational agency's intention to use the applicable funding in accordance with paragraph (1), by a date that is established by the State educational agency for the notification.

(b) Eligibility

(1) In general

A local educational agency shall be eligible to use the applicable funding in accordance with subsection (a) of this section if—

(A)(i)(I) the total number of students in average daily attendance at all of the schools served by the local educational agency is fewer than 600; or

(II) each county in which a school served by the local educational agency is located has a total population density of fewer than 10 persons per square mile; and

(ii) all of the schools served by the local educational agency are designated with a school locale code of 7 or 8, as determined by the Secretary; or

(B) the agency meets the criteria established in subparagraph (A)(i) and the Secretary, in accordance with paragraph (2), grants the local educational agency's request to waive the criteria described in subparagraph (A)(ii).

(2) Certification

The Secretary shall determine whether to waive the criteria described in paragraph (1)(A)(ii) based on a demonstration by the local educational agency, and concurrence by the State educational agency, that the local educational agency is located in an area defined as rural by a governmental agency of the State.

(c) Applicable funding defined

In this section, the term ''applicable funding'' means funds provided under any of the following provisions:

(1) Subpart 2 of this part and section 6762(a)(2)(A) of this title.

(2) Section 7114 of this title.

(3) Part A of subchapter V of this chapter.

(d) Disbursement

Each State educational agency that receives applicable funding for a fiscal year shall disburse the applicable funding to local educational agencies for alternative uses under this section for the fiscal year at the same time as the State educational agency disburses the applicable funding to local educational agencies that do not intend to use the applicable funding for such alternative uses for the fiscal year.

(e) Applicable rules

Applicable funding under this section shall be available to carry out local activities authorized under subsection (a) of this section.

(Pub. L. 89–10, title VI, § 6211, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1891.)

§ 7345a. Grant program authorized

(a) In general

The Secretary is authorized to award grants to eligible local educational agencies to enable the local educational agencies to carry out activities authorized under any of the following provisions:

(1) Part A of subchapter I of this chapter.

(2) Part A or D of subchapter II of this chapter.

(3) Subchapter III of this chapter.

(4) Part A or B of subchapter IV of this chapter.

(5) Part A of subchapter V of this chapter.

(b) Allocation

(1) In general

Except as provided in paragraph (3), the Secretary shall award a grant under subsection (a) of this section to a local educational agency eligible under section 7345(b) of this title for a fiscal year in an amount equal to the initial amount determined under paragraph (2) for the fiscal year minus the total amount received by the agency under the provisions of law described in section 7345(c) of this title for the preceding fiscal year.

(2) Determination of initial amount

The initial amount referred to in paragraph (1) is equal to $100 multiplied by the total number of students in excess of 50 students, in average daily attendance at the schools served by the local educational agency, plus $20,000, except that the initial amount may not exceed $60,000.

(3) Ratable adjustment

(A) In general

If the amount made available to carry out this section for any fiscal year is not sufficient to pay in full the amounts that local educational agencies are eligible to receive under paragraph (1) for such year, the Secretary shall ratably reduce such amounts for such year.

(B) Additional amounts

If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

(c) Disbursement

The Secretary shall disburse the funds awarded to a local educational agency under this section for a fiscal year not later than July 1 of that fiscal year.

(d) Special eligibility rule

A local educational agency that is eligible to receive a grant under this subpart for a fiscal year is not eligible to receive funds for such fiscal year under subpart 2 of this part.

(Pub. L. 89–10, title VI, § 6212, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1892.)

§ 7345b. Accountability

(a) Academic achievement assessment

Each local educational agency that uses or receives funds under this subpart for a fiscal year shall administer an assessment that is consistent with section 6311(b)(3) of this title.

(b) Determination regarding continuing participation

Each State educational agency that receives funding under the provisions of law described in section 7345(c) of this title shall—

(1) after the third year that a local educational agency in the State participates in a program under this subpart and on the basis of the results of the assessments described in subsection (a) of this section, determine whether the local educational agency participating in the program made adequate yearly progress, as described in section 6311(b)(2) of this title;

(2) permit only those local educational agencies that participated and made adequate yearly progress, as described in section 6311(b)(2) of this title, to continue to participate; and

(3) permit those local educational agencies that participated and failed to make adequate yearly progress, as described in section 6311(b)(2) of this title, to continue to participate only if such local educational agencies use applicable funding under this subpart to carry out the requirements of section 6316 of this title.

(Pub. L. 89–10, title VI, § 6213, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1893.)

SUBPART 2—RURAL AND LOW-INCOME SCHOOL PROGRAM

§ 7351. Program authorized

(a) Grants to States

(1) In general

From amounts appropriated under section 7355c of this title for this subpart for a fiscal year that are not reserved under subsection (c) of this section, the Secretary shall award grants (from allotments made under paragraph (2)) for the fiscal year to State educational agencies that have applications submitted under section 7351b of this title ap-

proved to enable the State educational agencies to award grants to eligible local educational agencies for local authorized activities described in section 7351a(a) of this title.

(2) Allotment

From amounts described in paragraph (1) for a fiscal year, the Secretary shall allot to each State educational agency for that fiscal year an amount that bears the same ratio to those amounts as the number of students in average daily attendance served by eligible local educational agencies in the State for that fiscal year bears to the number of all such students served by eligible local educational agencies in all States for that fiscal year.

(3) Specially qualified agencies

(A) Eligibility and application

If a State educational agency elects not to participate in the program under this subpart or does not have an application submitted under section 7351b of this title approved, a specially qualified agency in such State desiring a grant under this subpart may submit an application under such section directly to the Secretary to receive an award under this subpart.

(B) Direct awards

The Secretary may award, on a competitive basis or by formula, the amount the State educational agency is eligible to receive under paragraph (2) directly to a specially qualified agency in the State that has submitted an application in accordance with subparagraph (A) and obtained approval of the application.

(C) Specially qualified agency defined

In this subpart, the term ''specially qualified agency'' means an eligible local educational agency served by a State educational agency that does not participate in a program under this subpart in a fiscal year, that may apply directly to the Secretary for a grant in such year under this subsection.

(b) Local awards

(1) Eligibility

A local educational agency shall be eligible to receive a grant under this subpart if—

(A) 20 percent or more of the children ages 5 through 17 years served by the local educational agency are from families with incomes below the poverty line; and

(B) all of the schools served by the agency are designated with a school locale code of 6, 7, or 8, as determined by the Secretary.

(2) Award basis

A State educational agency shall award grants to eligible local educational agencies—

(A) on a competitive basis;

(B) according to a formula based on the number of students in average daily attendance served by the eligible local educational agencies or schools in the State; or

(C) according to an alternative formula, if, prior to awarding the grants, the State educational agency demonstrates, to the satisfaction of the Secretary, that the alternative formula enables the State educational agency to allot the grant funds in a manner that serves equal or greater concentrations of children from families with incomes below the poverty line, relative to the concentrations that would be served if the State educational agency used the formula described in subparagraph (B).

(c) Reservations

From amounts appropriated under section 7355c of this title for this subpart for a fiscal year, the Secretary shall reserve—

(1) one-half of 1 percent to make awards to elementary schools or secondary schools operated or supported by the Bureau of Indian Affairs, to carry out the activities authorized under this subpart; and

(2) one-half of 1 percent to make awards to the outlying areas in accordance with their respective needs, to carry out the activities authorized under this subpart.

(Pub. L. 89–10, title VI, § 6221, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1894.)

PRIOR PROVISIONS

A prior section 7351, Pub. L. 89–10, title VI, § 6301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3711; amended Pub. L. 105–278, § 2(2), Oct. 22, 1998, 112 Stat. 2682, related to targeted use of funds for local innovative education programs, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7215 of this title.

§ 7351a. Uses of funds

(a) Local awards

Grant funds awarded to local educational agencies under this subpart shall be used for any of the following:

(1) Teacher recruitment and retention, including the use of signing bonuses and other financial incentives.

(2) Teacher professional development, including programs that train teachers to utilize technology to improve teaching and to train special needs teachers.

(3) Educational technology, including software and hardware, as described in part D of subchapter II of this chapter.

(4) Parental involvement activities.

(5) Activities authorized under the Safe and Drug-Free Schools program under part A of subchapter IV of this chapter.

(6) Activities authorized under part A of subchapter I of this chapter.

(7) Activities authorized under subchapter III of this chapter.

(b) Administrative costs

A State educational agency receiving a grant under this subpart may not use more than 5 percent of the amount of the grant for State administrative costs and to provide technical assistance to eligible local educational agencies.

(Pub. L. 89–10, title VI, § 6222, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1895.)

§ 7351b. Applications

(a) In general

Each State educational agency or specially qualified agency desiring to receive a grant

under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

(b) Contents

At a minimum, each application submitted under subsection (a) of this section shall include information on specific measurable goals and objectives to be achieved through the activities carried out through the grant, which may include specific educational goals and objectives relating to—

(1) increased student academic achievement;

(2) decreased student dropout rates; or

(3) such other factors as the State educational agency or specially qualified agency may choose to measure.

(Pub. L. 89–10, title VI, § 6223, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1895.)

§ 7351c. Accountability

(a) State report

Each State educational agency that receives a grant under this subpart shall prepare and submit an annual report to the Secretary. The report shall describe—

(1) the method the State educational agency used to award grants to eligible local educational agencies, and to provide assistance to schools, under this subpart;

(2) how local educational agencies and schools used funds provided under this subpart; and

(3) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 7351b of this title.

(b) Specially qualified agency report

Each specially qualified agency that receives a grant under this subpart shall provide an annual report to the Secretary. Such report shall describe—

(1) how such agency uses funds provided under this subpart; and

(2) the degree to which progress has been made toward meeting the goals and objectives described in the application submitted under section 7351b of this title.

(c) Report to Congress

The Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a biennial report. The report shall describe—

(1) the methods the State educational agencies used to award grants to eligible local educational agencies, and to provide assistance to schools, under this subpart;

local[1] educational agencies and schools used funds provided under this subpart; and

(3) the degree to which progress has been made toward meeting the goals and objectives described in the applications submitted under section 7351b of this title.

(d) Academic achievement assessment

Each local educational agency or specially qualified agency that receives a grant under this subpart for a fiscal year shall administer an assessment that is consistent with section 6311(b)(3) of this title.

(e) Determination regarding continuing participation

Each State educational agency or specially qualified agency that receives a grant under this subpart shall—

(1) after the third year that a local educational agency or specially qualified agency in the State receives funds under this subpart, and on the basis of the results of the assessments described in subsection (d) of this section—

(A) in the case of a local educational agency, determine whether the local educational agency made adequate yearly progress, as described in section 6311(b)(2) of this title; and

(B) in the case of a specially qualified agency, submit to the Secretary information that would allow the Secretary to determine whether the specially qualified agency has made adequate yearly progress, as described in section 6311(b)(2) of this title;

(2) permit only those local educational agencies or specially qualified agencies that made adequate yearly progress, as described in section 6311(b)(2) of this title, to continue to receive grants under this subpart; and

(3) permit those local educational agencies or specially qualified agencies that failed to make adequate yearly progress, as described in section 6311(b)(2) of this title, to continue to receive such grants only if the State educational agency disbursed such grants to the local educational agencies or specially qualified agencies to carry out the requirements of section 6316 of this title.

(Pub. L. 89–10, title VI, § 6224, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1896.)

PRIOR PROVISIONS

Prior sections 7352 and 7353 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7352, Pub. L. 89–10, title VI, § 6302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3711, related to administrative authority. See section 7215a of this title.

Section 7353, Pub. L. 89–10, title VI, § 6303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3711, related to local applications for allocations of funds. See section 7215b of this title.

SUBPART 3—GENERAL PROVISIONS

§ 7355. Annual average daily attendance determination

(a) Census determination

Each local educational agency desiring a grant under section 7345a of this title and each local educational agency or specially qualified agency desiring a grant under subpart 2 of this part shall—

(1) not later than December 1 of each year, conduct a census to determine the number of students in average daily attendance in kindergarten through grade 12 at the schools served by the agency; and

(2) not later than March 1 of each year, submit the number described in paragraph (1) to

[1] So in original. Probably should be preceded by ''(2) how''.

the Secretary (and to the State educational agency, in the case of a local educational agency seeking a grant under subpart (2)).[1]

(b) Penalty

If the Secretary determines that a local educational agency or specially qualified agency has knowingly submitted false information under subsection (a) of this section for the purpose of gaining additional funds under section 7345a of this title or subpart 2 of this part, then the agency shall be fined an amount equal to twice the difference between the amount the agency received under this section and the correct amount the agency would have received under section 7345a of this title or subpart 2 of this part if the agency had submitted accurate information under subsection (a) of this section.

(Pub. L. 89–10, title VI, § 6231, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

§ 7355a. Supplement, not supplant

Funds made available under subpart 1 or subpart 2 of this part shall be used to supplement, and not supplant, any other Federal, State, or local education funds.

(Pub. L. 89–10, title VI, § 6232, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

§ 7355b. Rule of construction

Nothing in this part shall be construed to prohibit a local educational agency that enters into cooperative arrangements with other local educational agencies for the provision of special, compensatory, or other education services, pursuant to State law or a written agreement, from entering into similar arrangements for the use, or the coordination of the use, of the funds made available under this part.

(Pub. L. 89–10, title VI, § 6233, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

§ 7355c. Authorization of appropriations

There are authorized to be appropriated to carry out this part $300,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years, to be distributed equally between subparts 1 and 2 of this part.

(Pub. L. 89–10, title VI, § 6234, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

PART C—GENERAL PROVISIONS

§ 7371. Prohibition against Federal mandates, direction, or control

Nothing in this subchapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content, academic achievement standards and assessments, curriculum, or program of instruction, as a condition of eligibility to receive funds under this chapter.

(Pub. L. 89–10, title VI, § 6301, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1897.)

[1] So in original. Probably should be ''subpart 2).''

PRIOR PROVISIONS

A prior section 7371, Pub. L. 89–10, title VI, § 6401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3712, related to maintenance of effort and supplementary nature of Federal funds, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7217 of this title.

A prior section 6301 of Pub. L. 89–10 was classified to section 7351 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7372. Rule of construction on equalized spending

Nothing in this subchapter shall be construed to mandate equalized spending per pupil for a State, local educational agency, or school.

(Pub. L. 89–10, title VI, § 6302, as added Pub. L. 107–110, title VI, § 601, Jan. 8, 2002, 115 Stat. 1898.)

PRIOR PROVISIONS

A prior section 7372, Pub. L. 89–10, title VI, § 6402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3713, related to participation of children enrolled in private schools, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7217a of this title.

A prior section 6302 of Pub. L. 89–10 was classified to section 7352 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 7373, Pub. L. 89–10, title VI, § 6403, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3715, which related to Federal administration, was omitted in the general amendment of this subchapter by Pub. L. 107–110. See section 7217b of this title.

SUBCHAPTER VII—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

CODIFICATION

Title VII of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title VII is shown, herein, as having been added by Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1907, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

PART A—INDIAN EDUCATION

§ 7401. Statement of policy

It is the policy of the United States to fulfill the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people for the education of Indian children. The Federal Government will continue to work with local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities toward the goal of ensuring that programs that serve Indian children are of the highest quality and provide for not only the basic elementary and secondary educational needs, but also the unique educational and culturally related academic needs of these children.

(Pub. L. 89–10, title VII, § 7101, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1907.)

PRIOR PROVISIONS

A prior section 7401, Pub. L. 89–10, title VII, § 7101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat.

3716, set forth short title of Bilingual Education Act, prior to the general amendment of this subchapter by Pub. L. 107–110.

SAVINGS PROVISIONS

Pub. L. 107–110, title VII, §703, Jan. 8, 2002, 115 Stat. 1947, provided that: ''Funds appropriated for parts A, B, and C of title IX of the Elementary and Secondary Education Act of 1965 [former 20 U.S.C. 7801 et seq., 7901 et seq., 7931 et seq.] (as in effect on the day before the date of enactment of this Act [Jan. 8, 2002]) shall be available for use under parts A, B, and C, respectively, of title VII of such Act [parts A, B, and C, respectively, of this subchapter], as added by this section [section 701].''

EXECUTIVE ORDER NO. 13096

Ex. Ord. No. 13096, Aug. 6, 1998, 63 F.R. 42681, which related to American Indian and Alaska Native education, was revoked by Ex. Ord. No. 13336, §9(b), Apr. 30, 2004, 69 F.R. 25297, set out as a note below.

EX. ORD. NO. 13336. AMERICAN INDIAN AND ALASKA NATIVE EDUCATION

Ex. Ord. No. 13336, Apr. 30, 2004, 69 F.R. 25295, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to recognize the unique educational and culturally related academic needs of American Indian and Alaska Native students consistent with the unique political and legal relationship of the Federal Government with tribal governments, it is hereby ordered as follows:

SECTION 1. *Purpose*. The United States has a unique legal relationship with Indian tribes and a special relationship with Alaska Native entities as provided in the Constitution of the United States, treaties, and Federal statutes. This Administration is committed to continuing to work with these Federally recognized tribal governments on a government-to-government basis, and supports tribal sovereignty and self-determination. It is the purpose of this order to assist American Indian and Alaska Native students in meeting the challenging student academic standards of the No Child Left Behind Act of 2001 (Public Law 107–110 [see Tables for classification]) in a manner that is consistent with tribal traditions, languages, and cultures. This order builds on the innovations, reforms, and high standards of the No Child Left Behind Act of 2001, including: stronger accountability for results; greater flexibility in the use of Federal funds; more choices for parents; and an emphasis on research-based instruction that works.

SEC. 2. *Interagency Working Group*. There is established an Interagency Working Group on American Indian and Alaska Native Education (Working Group) to oversee the implementation of this order.

(a) The Working Group's members shall consist exclusively of the heads of the executive branch departments, agencies, or offices listed below:

(i) the Department of Education;

(ii) the Department of the Interior;

(iii) the Department of Health and Human Services;

(iv) the Department of Agriculture;

(v) the Department of Justice;

(vi) the Department of Labor; and

(vii) such other executive branch departments, agencies, or offices as the Co-Chairs of the Working Group may designate.

A member of the Working Group may designate, to perform the Working Group functions of the member, an employee of the member's department, agency, or office who is either an officer of the United States appointed by the President, or a full-time employee serving in a position with pay equal to or greater than the minimum rate payable for GS–15 of the General Schedule. The Working Group shall be led by the Secretaries of Education and the Interior, or their designees under this section, who shall serve as Co-Chairs.

(b) The function of the Working Group is to oversee the implementation of this order. The Working Group shall, within 90 days of the date of this order, develop a Federal interagency plan that recommends initiatives, strategies, and ideas for future interagency actions that promote the purpose, as stated in section 1, of this order. In carrying out its activities under this order, the Working Group may consult with representatives of American Indian and Alaska Native tribes and organizations, in conformity with Executive Order 13175 of November 6, 2000 [25 U.S.C. 450 note], and with the National Advisory Council on Indian Education (NACIE). Any such consultations shall be for the purpose of obtaining information and advice concerning American Indian and Alaska Native education and shall be conducted in a manner that seeks individual advice and does not involve collective judgment or consensus advice or deliberation.

SEC. 3. *Study and Report*. The Secretary of Education, in coordination with the Working Group, shall conduct a multi-year study of American Indian and Alaska Native education with the purpose of improving American Indian and Alaska Native students' ability to meet the challenging student academic standards of the No Child Left Behind Act of 2001.

(a) The study shall include, but not be limited to:

(i) the compilation of comprehensive data on the academic achievement and progress of American Indian and Alaska Native students toward meeting the challenging student academic standards of the No Child Left Behind Act of 2001;

(ii) identification and dissemination of research-based practices and proven methods in raising academic achievement and, in particular, reading achievement, of American Indian and Alaska Native students;

(iii) assessment of the impact and role of native language and culture on the development of educational strategies to improve academic achievement;

(iv) development of methods to strengthen early childhood education so that American Indian and Alaska Native students enter school ready to learn; and

(v) development of methods to increase the high school graduation rate and develop pathways to college and the workplace for American Indian and Alaska Native students.

The Secretary of Education shall develop an agenda, including proposed timelines and ongoing activities, for the conduct of the study, and shall make that agenda available to the public on the Internet.

(b) The Secretary of Education, in coordination with the Working Group, shall issue a report to the President that shall:

(i) provide the latest data available from the study;

(ii) comprehensively describe the educational status and progress of American Indian and Alaska Native students with respect to meeting the goals outlined in the No Child Left Behind Act of 2001 and any other student achievement goals the Secretary of Education or the Secretary of the Interior may deem necessary;

(iii) report on proven methods for improving American Indian and Alaska Native student academic achievement; and

(iv) update the Federal interagency plan outlined in section 2(b) of this order.

SEC. 4. *Enhancement of Research Capabilities of Tribal-Level Educational Institutions*. The Secretary of Education and the Secretary of the Interior shall consult with the entities set forth in section 2(a) of this order and tribally controlled colleges and universities to seek ways to develop and enhance the capacity of tribal governments, tribal universities and colleges, and schools and educational programs serving American Indian and Alaska Native students and communities to carry out, disseminate, and implement education research, as well as to develop related partnerships or collaborations with non-tribal universities, colleges, and research organizations.

SEC. 5. *National Conference*. The Secretary of Education and the Secretary of the Interior, in collaboration with the Working Group and Federal, State, tribal, and local government representatives, shall jointly convene a forum on the No Child Left Behind Act of 2001 [Pub. L. 107–110, see Tables for classification] to identify means to enhance communication, collaboration, and cooperative strategies to improve the education of American Indian and Alaska Native students attending Federal, State, tribal, and local schools.

SEC. 6. *Administration*. The Department of Education shall provide appropriate administrative services and staff support to the Working Group. With the consent of the Department of Education, other participating agencies may provide administrative support to the Working Group, to the extent permitted by law and consistent with their statutory authority.

SEC. 7. *Termination*. The Working Group established under section 2 of this order shall terminate not later than 5 years from the date of this order, unless extended by the President.

SEC. 8. *Consultation*. The Secretary of Education and Secretary of the Interior shall consult the Attorney General as appropriate on the implementation of this order, to ensure that such implementation affords the equal protection of the laws required by the due process clause of the Fifth Amendment to the Constitution.

SEC. 9. *General Provisions*.

(a) This order is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

(b) Executive Order 13096 of August 6, 1998 [formerly set out as a note above], is revoked.

GEORGE W. BUSH.

§ 7402. Purpose

(a) Purpose

It is the purpose of this part to support the efforts of local educational agencies, Indian tribes and organizations, postsecondary institutions, and other entities to meet the unique educational and culturally related academic needs of American Indian and Alaska Native students, so that such students can meet the same challenging State student academic achievement standards as all other students are expected to meet.

(b) Programs

This part carries out the purpose described in subsection (a) of this section by authorizing programs of direct assistance for—

(1) meeting the unique educational and culturally related academic needs of American Indians and Alaska Natives;

(2) the education of Indian children and adults;

(3) the training of Indian persons as educators and counselors, and in other professions serving Indian people; and

(4) research, evaluation, data collection, and technical assistance.

(Pub. L. 89–10, title VII, § 7102, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1907.)

PRIOR PROVISIONS

A prior section 7402, Pub. L. 89–10, title VII, § 7102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3716, set forth findings, policy, and purpose of Bilingual Education Act, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 7403 to 7405 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7403, Pub. L. 89–10, title VII, § 7103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3718, authorized appropriations for bilingual education. See section 6801 of this title.

Section 7404, Pub. L. 89–10, title VII, § 7104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3718, related to Native American and Alaska Native children in school. See sections 6822 and 6893 of this title.

Section 7405, Pub. L. 89–10, title VII, § 7105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719, related to residents of territories and freely associated nations. See section 6894 of this title.

SUBPART 1—FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES

§ 7421. Purpose

It is the purpose of this subpart to support local educational agencies in their efforts to reform elementary school and secondary school programs that serve Indian students in order to ensure that such programs—

(1) are based on challenging State academic content and student academic achievement standards that are used for all students; and

(2) are designed to assist Indian students in meeting those standards.

(Pub. L. 89–10, title VII, § 7111, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1908.)

PRIOR PROVISIONS

A prior section 7421, Pub. L. 89–10, title VII, § 7111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3719, related to financial assistance for bilingual education, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6911 of this title.

§ 7422. Grants to local educational agencies and tribes

(a) In general

The Secretary may make grants, from allocations made under section 7423 of this title, to local educational agencies and Indian tribes, in accordance with this section and section 7423 of this title.

(b) Local educational agencies

(1) Enrollment requirements

A local educational agency shall be eligible for a grant under this subpart for any fiscal year if the number of Indian children eligible under section 7427 of this title who were enrolled in the schools of the agency, and to whom the agency provided free public education, during the preceding fiscal year—

(A) was at least 10; or

(B) constituted not less than 25 percent of the total number of individuals enrolled in the schools of such agency.

(2) Exclusion

The requirement of paragraph (1) shall not apply in Alaska, California, or Oklahoma, or with respect to any local educational agency located on, or in proximity to, a reservation.

(c) Indian tribes

(1) In general

If a local educational agency that is otherwise eligible for a grant under this subpart

does not establish a committee under section 7424(c)(4) of this title for such grant, an Indian tribe that represents not less than ½ of the eligible Indian children who are served by such local educational agency may apply for such grant.

(2) Special rule

The Secretary shall treat each Indian tribe applying for a grant pursuant to paragraph (1) as if such Indian tribe were a local educational agency for purposes of this subpart, except that any such tribe is not subject to section 7424(c)(4), section 7428(c), or section 7429 of this title.

(Pub. L. 89–10, title VII, §7112, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1908.)

PRIOR PROVISIONS

A prior section 7422, Pub. L. 89–10, title VII, §7112, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3719, related to program development and implementation grants, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7423. Amount of grants

(a) Amount of grant awards

(1) In general

Except as provided in subsection (b) of this section and paragraph (2), the Secretary shall allocate to each local educational agency that has an approved application under this subpart an amount equal to the product of—

(A) the number of Indian children who are eligible under section 7427 of this title and served by such agency; and

(B) the greater of—

(i) the average per pupil expenditure of the State in which such agency is located; or

(ii) 80 percent of the average per pupil expenditure of all the States.

(2) Reduction

The Secretary shall reduce the amount of each allocation otherwise determined under this section in accordance with subsection (e) of this section.

(b) Minimum grant

(1) In general

Notwithstanding subsection (e) of this section, an entity that is eligible for a grant under section 7422 of this title, and a school that is operated or supported by the Bureau of Indian Affairs that is eligible for a grant under subsection (d) of this section, that submits an application that is approved by the Secretary, shall, subject to appropriations, receive a grant under this subpart in an amount that is not less than $3,000.

(2) Consortia

Local educational agencies may form a consortium for the purpose of obtaining grants under this subpart.

(3) Increase

The Secretary may increase the minimum grant under paragraph (1) to not more than $4,000 for all grantees if the Secretary determines such increase is necessary to ensure the quality of the programs provided.

(c) Definition

For the purpose of this section, the term ''average per pupil expenditure'', used with respect to a State, means an amount equal to—

(1) the sum of the aggregate current expenditures of all the local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies, without regard to the sources of funds from which such local or State expenditures were made, during the second fiscal year preceding the fiscal year for which the computation is made; divided by

(2) the aggregate number of children who were included in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

(d) Schools operated or supported by the Bureau of Indian Affairs

(1) In general

Subject to subsection (e) of this section, in addition to the grants awarded under subsection (a) of this section, the Secretary shall allocate to the Secretary of the Interior an amount equal to the product of—

(A) the total number of Indian children enrolled in schools that are operated by—

(i) the Bureau of Indian Affairs; or

(ii) an Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, for the children of that tribe under a contract with, or grant from, the Department of the Interior under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or the Tribally Controlled Schools Act of 1988 [25 U.S.C. 2501 et seq.]; and

(B) the greater of—

(i) the average per pupil expenditure of the State in which the school is located; or

(ii) 80 percent of the average per pupil expenditure of all the States.

(2) Special rule

Any school described in paragraph (1)(A) that wishes to receive an allocation under this subpart shall submit an application in accordance with section 7424 of this title, and shall otherwise be treated as a local educational agency for the purpose of this subpart, except that such school shall not be subject to section 7424(c)(4) of this title, section 7428(c) of this title, or section 7429 of this title.

(e) Ratable reductions

If the sums appropriated for any fiscal year under section 7492(a) of this title are insufficient to pay in full the amounts determined for local educational agencies under subsection (a)(1) of this section and for the Secretary of the Interior under subsection (d) of this section, each of those amounts shall be ratably reduced.

(Pub. L. 89–10, title VII, §7113, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1908.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (d)(1)(A)(ii), is title I of Pub. L. 93–638, Jan. 4,

1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Tribally Controlled Schools Act of 1988, referred to in subsec. (d)(1)(A)(ii), is part B (§ 5201–5212) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 385, as amended, which is classified generally to chapter 27 (§ 2501 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 2501 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 7423, Pub. L. 89–10, title VII, § 7113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3720, related to program enhancement projects, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6912 of this title.

§ 7424. Applications

(a) Application required

Each local educational agency that desires to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(b) Comprehensive program required

Each application submitted under subsection (a) of this section shall include a description of a comprehensive program for meeting the needs of Indian children served by the local educational agency, including the language and cultural needs of the children, that—

(1) describes how the comprehensive program will offer programs and activities to meet the culturally related academic needs of American Indian and Alaska Native students;

(2)(A) is consistent with the State and local plans submitted under other provisions of this chapter; and

(B) includes academic content and student academic achievement goals for such children, and benchmarks for attaining such goals, that are based on the challenging State academic content and student academic achievement standards adopted under subchapter I of this chapter for all children;

(3) explains how Federal, State, and local programs, especially programs carried out under subchapter I of this chapter, will meet the needs of such students;

(4) demonstrates how funds made available under this subpart will be used for activities described in section 7425 of this title;

(5) describes the professional development opportunities that will be provided, as needed, to ensure that—

(A) teachers and other school professionals who are new to the Indian community are prepared to work with Indian children; and

(B) all teachers who will be involved in programs assisted under this subpart have been properly trained to carry out such programs; and

(6) describes how the local educational agency—

(A) will periodically assess the progress of all Indian children enrolled in the schools of the local educational agency, including Indian children who do not participate in programs assisted under this subpart, in meeting the goals described in paragraph (2);

(B) will provide the results of each assessment referred to in subparagraph (A) to—

(i) the committee described in subsection (c)(4) of this section; and

(ii) the community served by the local educational agency; and

(C) is responding to findings of any previous assessments that are similar to the assessments described in subparagraph (A).

(c) Assurances

Each application submitted under subsection (a) of this section shall include assurances that—

(1) the local educational agency will use funds received under this subpart only to supplement the funds that, in the absence of the Federal funds made available under this subpart, such agency would make available for the education of Indian children, and not to supplant such funds;

(2) the local educational agency will prepare and submit to the Secretary such reports, in such form and containing such information, as the Secretary may require to—

(A) carry out the functions of the Secretary under this subpart; and

(B) determine the extent to which activities carried out with funds provided to the local educational agency under this subpart are effective in improving the educational achievement of Indian students served by such agency;

(3) the program for which assistance is sought—

(A) is based on a comprehensive local assessment and prioritization of the unique educational and culturally related academic needs of the American Indian and Alaska Native students for whom the local educational agency is providing an education;

(B) will use the best available talents and resources, including individuals from the Indian community; and

(C) was developed by such agency in open consultation with parents of Indian children and teachers, and, if appropriate, Indian students from secondary schools, including through public hearings held by such agency to provide to the individuals described in this subparagraph a full opportunity to understand the program and to offer recommendations regarding the program; and

(4) the local educational agency developed the program with the participation and written approval of a committee—

(A) that is composed of, and selected by—

(i) parents of Indian children in the local educational agency's schools;

(ii) teachers in the schools; and

(iii) if appropriate, Indian students attending secondary schools of the agency;

(B) a majority of whose members are parents of Indian children;

(C) that has set forth such policies and procedures, including policies and procedures relating to the hiring of personnel, as will ensure that the program for which as-

sistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served;

(D) with respect to an application describing a schoolwide program in accordance with section 7425(c) of this title, that has—

(i) reviewed in a timely fashion the program; and

(ii) determined that the program will not diminish the availability of culturally related activities for American Indian and Alaska Native students; and

(E) that has adopted reasonable bylaws for the conduct of the activities of the committee and abides by such bylaws.

(Pub. L. 89–10, title VII, § 7114, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1910.)

PRIOR PROVISIONS

A prior section 7424, Pub. L. 89–10, title VII, § 7114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3721, related to comprehensive school grants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6913 of this title.

§ 7425. Authorized services and activities

(a) General requirements

Each local educational agency that receives a grant under this subpart shall use the grant funds, in a manner consistent with the purpose specified in section 7421 of this title, for services and activities that—

(1) are designed to carry out the comprehensive program of the local educational agency for Indian students, and described in the application of the local educational agency submitted to the Secretary under section 7424(a) of this title;

(2) are designed with special regard for the language and cultural needs of the Indian students; and

(3) supplement and enrich the regular school program of such agency.

(b) Particular activities

The services and activities referred to in subsection (a) of this section may include—

(1) culturally related activities that support the program described in the application submitted by the local educational agency;

(2) early childhood and family programs that emphasize school readiness;

(3) enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of challenging State academic content and student academic achievement standards;

(4) integrated educational services in combination with other programs that meet the needs of Indian children and their families;

(5) career preparation activities to enable Indian students to participate in programs such as the programs supported by the Carl D. Perkins Vocational and Technical Education Act of 1998 [20 U.S.C. 2301 et seq.], including programs for tech-prep education, mentoring, and apprenticeship;

(6) activities to educate individuals concerning substance abuse and to prevent substance abuse;

(7) the acquisition of equipment, but only if the acquisition of the equipment is essential to achieve the purpose described in section 7421 of this title;

(8) activities that promote the incorporation of culturally responsive teaching and learning strategies into the educational program of the local educational agency;

(9) activities that incorporate American Indian and Alaska Native specific curriculum content, consistent with State standards, into the curriculum used by the local educational agency;

(10) family literacy services; and

(11) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors.

(c) Schoolwide programs

Notwithstanding any other provision of law, a local educational agency may use funds made available to such agency under this subpart to support a schoolwide program under section 6314 of this title if—

(1) the committee established pursuant to section 7424(c)(4) of this title approves the use of the funds for the schoolwide program; and

(2) the schoolwide program is consistent with the purpose described in section 7421 of this title.

(d) Limitation on administrative costs

Not more than 5 percent of the funds provided to a grantee under this subpart for any fiscal year may be used for administrative purposes.

(Pub. L. 89–10, title VII, § 7115, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1912.)

REFERENCES IN TEXT

The Carl D. Perkins Vocational and Technical Education Act of 1998, referred to in subsec. (b)(5), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which is classified generally to chapter 44 (§ 2301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of this title and Tables.

PRIOR PROVISIONS

A prior section 7425, Pub. L. 89–10, title VII, § 7115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3722, related to systemwide improvement grants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6913 of this title.

§ 7426. Integration of services authorized

(a) Plan

An entity receiving funds under this subpart may submit a plan to the Secretary for the integration of education and related services provided to Indian students.

(b) Consolidation of programs

Upon the receipt of an acceptable plan under subsection (a) of this section, the Secretary, in cooperation with each Federal agency providing grants for the provision of education and related services to the entity, shall authorize the entity to consolidate, in accordance with such plan, the federally funded education and related services programs of the entity and the Federal pro-

grams, or portions of the programs, serving Indian students in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

(c) Programs affected

The funds that may be consolidated in a demonstration project under any such plan referred to in subsection (a) of this section shall include funds for any Federal program exclusively serving Indian children, or the funds reserved under any Federal program to exclusively serve Indian children, under which the entity is eligible for receipt of funds under a statutory or administrative formula for the purposes of providing education and related services that would be used to serve Indian students.

(d) Plan requirements

For a plan to be acceptable pursuant to subsection (b) of this section, the plan shall—

(1) identify the programs or funding sources to be consolidated;

(2) be consistent with the objectives of this section concerning authorizing the services to be integrated in a demonstration project;

(3) describe a comprehensive strategy that identifies the full range of potential educational opportunities and related services to be provided to assist Indian students to achieve the objectives set forth in this subpart;

(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the State, tribal, or local agency or agencies to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the entity believes need to be waived in order to implement the plan;

(8) set forth measures for academic content and student academic achievement goals designed to be met within a specific period of time; and

(9) be approved by a committee formed in accordance with section 7424(c)(4) of this title, if such a committee exists.

(e) Plan review

Upon receipt of the plan from an eligible entity, the Secretary shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the entity submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the entity to implement the plan. Notwithstanding any other provision of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by the entity or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the objectives of this subpart or those provisions of the statute from which the program involved derives authority that are specifically applicable to Indian students.

(f) Plan approval

Within 90 days after the receipt of an entity's plan by the Secretary, the Secretary shall inform the entity, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the entity shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend the plan or to petition the Secretary to reconsider such disapproval.

(g) Responsibilities of Department of Education

Not later than 180 days after January 8, 2002, the Secretary of Education, the Secretary of the Interior, and the head of any other Federal department or agency identified by the Secretary of Education, shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this section. The lead agency head for a demonstration project under this section shall be—

(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978 [25 U.S.C. 2001 et seq.]; or

(2) the Secretary of Education, in the case of any other entity.

(h) Responsibilities of lead agency

The responsibilities of the lead agency shall include—

(1) the use of a single report format related to the plan for the individual project, which shall be used by an eligible entity to report on the activities undertaken under the project;

(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by an eligible entity to report on all project expenditures;

(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

(4) the provision of technical assistance to an eligible entity appropriate to the project, except that an eligible entity shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

(i) Report requirements

A single report format shall be developed by the Secretary, consistent with the requirements of this section. Such report format shall require that reports described in subsection (h) of this section, together with records maintained on the consolidated program at the local level, shall contain such information as will allow a determination that the eligible entity has complied with the requirements incorporated in its approved plan, including making a demonstration of student academic achievement, and will provide assurances to each Secretary that the eligible entity has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements that have not been waived.

(j) No reduction in amounts

In no case shall the amount of Federal funds available to an eligible entity involved in any demonstration project be reduced as a result of the enactment of this section.

(k) Interagency fund transfers authorized

The Secretary is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise available to an eligible entity in order to further the objectives of this section.

(*l*) Administration of funds

(1) In general

Program funds for the consolidated programs shall be administered in such a manner as to allow for a determination that funds from a specific program are spent on allowable activities authorized under such program, except that the eligible entity shall determine the proportion of the funds granted that shall be allocated to such program.

(2) Separate records not required

Nothing in this section shall be construed as requiring the eligible entity to maintain separate records tracing any services or activities conducted under the approved plan to the individual programs under which funds were authorized for the services or activities, nor shall the eligible entity be required to allocate expenditures among such individual programs.

(m) Overage

The eligible entity may commingle all administrative funds from the consolidated programs and shall be entitled to the full amount of such funds (under each program's or agency's regulations). The overage (defined as the difference between the amount of the commingled funds and the actual administrative cost of the programs) shall be considered to be properly spent for Federal audit purposes, if the overage is used for the purposes provided for under this section.

(n) Fiscal accountability

Nothing in this part shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to chapter 75 of title 31.

(*o*) Report on statutory obstacles to program integration

(1) Preliminary report

Not later than 2 years after January 8, 2002, the Secretary of Education shall submit a preliminary report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the status of the implementation of the demonstration projects authorized under this section.

(2) Final report

Not later than 5 years after January 8, 2002, the Secretary of Education shall submit a report to the Committee on Education and the Workforce and the Committee on Resources of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Indian Affairs of the Senate on the results of the implementation of the demonstration projects authorized under this section. Such report shall identify statutory barriers to the ability of participants to integrate more effectively their education and related services to Indian students in a manner consistent with the objectives of this section.

(p) Definitions

For the purposes of this section, the term ''Secretary'' means—

(1) the Secretary of the Interior, in the case of an entity meeting the definition of a contract or grant school under title XI of the Education Amendments of 1978 [25 U.S.C. 2001 et seq.]; or

(2) the Secretary of Education, in the case of any other entity.

(Pub. L. 89–10, title VII, § 7116, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1913.)

REFERENCES IN TEXT

The Education Amendments of 1978, referred to in subsecs. (g)(1) and (p)(1), is Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2143, as amended. Title XI of the Act is classified principally to chapter 22 (§ 2001 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of this title and Tables.

PRIOR PROVISIONS

A prior section 7426, Pub. L. 89–10, title VII, § 7116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3723, related to applications for grants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6914 of this title.

§ 7427. Student eligibility forms

(a) In general

The Secretary shall require that, as part of an application for a grant under this subpart, each applicant shall maintain a file, with respect to each Indian child for whom the local educational agency provides a free public education, that contains a form that sets forth information establishing the status of the child as an Indian child eligible for assistance under this subpart, and that otherwise meets the requirements of subsection (b) of this section.

(b) Forms

The form described in subsection (a) of this section shall include—

(1) either—

(A)(i) the name of the tribe or band of Indians (as defined in section 7491 of this title) with respect to which the child claims membership;

(ii) the enrollment number establishing the membership of the child (if readily available); and

(iii) the name and address of the organization that maintains updated and accurate membership data for such tribe or band of Indians; or

(B) the name, the enrollment number (if readily available), and the name and address

of the organization responsible for maintaining updated and accurate membership data, of any parent or grandparent of the child from whom the child claims eligibility under this subpart, if the child is not a member of the tribe or band of Indians (as so defined);

(2) a statement of whether the tribe or band of Indians (as so defined), with respect to which the child, or parent or grandparent of the child, claims membership, is federally recognized;

(3) the name and address of the parent or legal guardian of the child;

(4) a signature of the parent or legal guardian of the child that verifies the accuracy of the information supplied; and

(5) any other information that the Secretary considers necessary to provide an accurate program profile.

(c) Statutory construction

Nothing in this section shall be construed to affect a definition contained in section 7491 of this title.

(d) Forms and standards of proof

The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985–86 academic year to establish the eligibility of a child for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the forms and standards of proof used—

(1) to establish eligibility under this subpart; and

(2) to meet the requirements of subsection (a) of this section.

(e) Documentation

For purposes of determining whether a child is eligible to be counted for the purpose of computing the amount of a grant award under section 7423 of this title, the membership of the child, or any parent or grandparent of the child, in a tribe or band of Indians (as so defined) may be established by proof other than an enrollment number, notwithstanding the availability of an enrollment number for a member of such tribe or band. Nothing in subsection (b) of this section shall be construed to require the furnishing of an enrollment number.

(f) Monitoring and evaluation review

(1) In general

(A) Review

For each fiscal year, in order to provide such information as is necessary to carry out the responsibility of the Secretary to provide technical assistance under this subpart, the Secretary shall conduct a monitoring and evaluation review of a sampling of the recipients of grants under this subpart. The sampling conducted under this subparagraph shall take into account the size of and the geographic location of each local educational agency.

(B) Exception

A local educational agency may not be held liable to the United States or be subject to any penalty, by reason of the findings of an audit that relates to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, the eligibility of a child for an entitlement under the Indian Elementary and Secondary School Assistance Act.

(2) False information

Any local educational agency that provides false information in an application for a grant under this subpart shall—

(A) be ineligible to apply for any other grant under this subpart; and

(B) be liable to the United States for any funds from the grant that have not been expended.

(3) Excluded children

A student who provides false information for the form required under subsection (a) of this section shall not be counted for the purpose of computing the amount of a grant under section 7423 of this title.

(g) Tribal grant and contract schools

Notwithstanding any other provision of this section, in calculating the amount of a grant under this subpart to a tribal school that receives a grant or contract from the Bureau of Indian Affairs, the Secretary shall use only one of the following, as selected by the school:

(1) A count of the number of students in the schools certified by the Bureau.

(2) A count of the number of students for whom the school has eligibility forms that comply with this section.

(h) Timing of child counts

For purposes of determining the number of children to be counted in calculating the amount of a local educational agency's grant under this subpart (other than in the case described in subsection (g)(1) of this section), the local educational agency shall—

(1) establish a date on, or a period not longer than 31 consecutive days during, which the agency counts those children, if that date or period occurs before the deadline established by the Secretary for submitting an application under section 7424 of this title; and

(2) determine that each such child was enrolled, and receiving a free public education, in a school of the agency on that date or during that period, as the case may be.

(Pub. L. 89–10, title VII, § 7117, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1916.)

REFERENCES IN TEXT

The Indian Elementary and Secondary School Assistance Act, referred to in subsecs. (d) and (f)(1)(B), is title III of act Sept. 30, 1950, ch. 1124, as added by Pub. L. 92–318, title IV, § 411(a), June 23, 1972, 86 Stat. 335, as amended, which was classified generally to subchapter III (§ 241aa et seq.) of chapter 13 of this title, prior to repeal by Pub. L. 100–297, title V, § 5352(1), Apr. 28, 1988, 102 Stat. 414.

PRIOR PROVISIONS

A prior section 7427, Pub. L. 89–10, title VII, § 7117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727, related to intensified instruction for limited English proficient students, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7428. Payments

(a) In general

Subject to subsections (b) and (c) of this section, the Secretary shall pay to each local educational agency that submits an application that is approved by the Secretary under this subpart the amount determined under section 7423 of this title. The Secretary shall notify the local educational agency of the amount of the payment not later than June 1 of the year for which the Secretary makes the payment.

(b) Payments taken into account by the State

The Secretary may not make a grant under this subpart to a local educational agency for a fiscal year if, for such fiscal year, the State in which the local educational agency is located takes into consideration payments made under this chapter[1] in determining the eligibility of the local educational agency for State aid, or the amount of the State aid, with respect to the free public education of children during such fiscal year or the preceding fiscal year.

(c) Reduction of payment for failure to maintain fiscal effort

(1) In general

The Secretary may not pay a local educational agency the full amount of a grant award determined under section 7423 of this title for any fiscal year unless the State educational agency notifies the Secretary, and the Secretary determines, that with respect to the provision of free public education by the local educational agency for the preceding fiscal year, the combined fiscal effort of the local educational agency and the State, computed on either a per student or aggregate expenditure basis, was not less than 90 percent of the amount of the combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

(2) Failure to maintain effort

If, for the preceding fiscal year, the Secretary determines that a local educational agency and State failed to maintain the combined fiscal effort for such agency at the level specified in paragraph (1), the Secretary shall—

(A) reduce the amount of the grant that would otherwise be made to such agency under this subpart in the exact proportion of the failure to maintain the fiscal effort at such level; and

(B) not use the reduced amount of the agency and State expenditures for the preceding year to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

(3) Waiver

(A) In general

The Secretary may waive the requirement of paragraph (1) for a local educational agency, for not more than 1 year at a time, if the Secretary determines that the failure to comply with such requirement is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the agency's financial resources.

(B) Future determinations

The Secretary shall not use the reduced amount of the agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) for any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of the waiver.

(d) Reallocations

The Secretary may reallocate, in a manner that the Secretary determines will best carry out the purpose of this subpart, any amounts that—

(1) based on estimates made by local educational agencies or other information, the Secretary determines will not be needed by such agencies to carry out approved programs under this subpart; or

(2) otherwise become available for reallocation under this subpart.

(Pub. L. 89–10, title VII, § 7118, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1918.)

PRIOR PROVISIONS

A prior section 7428, Pub. L. 89–10, title VII, § 7118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727, related to capacity building, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6915 of this title.

§ 7429. State educational agency review

Before submitting an application to the Secretary under section 7424 of this title, a local educational agency shall submit the application to the State educational agency, which may comment on such application. If the State educational agency comments on the application, the agency shall comment on all applications submitted by local educational agencies in the State and shall provide those comments to the respective local educational agencies, with an opportunity to respond.

(Pub. L. 89–10, title VII, § 7119, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1919.)

PRIOR PROVISIONS

A prior section 7429, Pub. L. 89–10, title VII, § 7119, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727, authorized subgrants, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 7430 to 7434 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7430, Pub. L. 89–10, title VII, § 7120, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3727, related to priority on funding of programs for limited English proficient students.

Section 7431, Pub. L. 89–10, title VII, § 7121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728, related to coordination with other programs. See section 6844 of this title.

Section 7432, Pub. L. 89–10, title VII, § 7122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728,

[1] So in original. Probably should be ''this subpart''.

related to programs for Native Americans and Puerto Rico. See sections 6848 and 6916 of this title.

Section 7433, Pub. L. 89–10, title VII, § 7123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728, related to evaluations. See sections 6841 and 6917 of this title.

Section 7434, Pub. L. 89–10, title VII, § 7124, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3728, related to construction of provisions. See sections 6845 and 6918 of this title.

SUBPART 2—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

§ 7441. Improvement of educational opportunities for Indian children

(a) Purpose

(1) In general

It is the purpose of this section to support projects to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities and achievement of Indian children.

(2) Coordination

The Secretary shall take the necessary actions to achieve the coordination of activities assisted under this subpart with—

(A) other programs funded under this chapter; and

(B) other Federal programs operated for the benefit of American Indian and Alaska Native children.

(b) Eligible entities

In this section, the term ''eligible entity'' means a State educational agency, local educational agency, Indian tribe, Indian organization, federally supported elementary school or secondary school for Indian students, Indian institution (including an Indian institution of higher education), or a consortium of such entities.

(c) Grants authorized

(1) In general

The Secretary shall award grants to eligible entities to enable such entities to carry out activities that meet the purpose of this section, including—

(A) innovative programs related to the educational needs of educationally disadvantaged children;

(B) educational services that are not available to such children in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian children in one or more of the core academic subjects of English, mathematics, science, foreign languages, art, history, and geography;

(C) bilingual and bicultural programs and projects;

(D) special health and nutrition services, and other related activities, that address the special health, social, and psychological problems of Indian children;

(E) special compensatory and other programs and projects designed to assist and encourage Indian children to enter, remain in, or reenter school, and to increase the rate of high school graduation for Indian children;

(F) comprehensive guidance, counseling, and testing services;

(G) early childhood and kindergarten programs, including family-based preschool programs that emphasize school readiness and parental skills, and the provision of services to Indian children with disabilities;

(H) partnership projects between local educational agencies and institutions of higher education that allow secondary school students to enroll in courses at the postsecondary level to aid such students in the transition from secondary to postsecondary education;

(I) partnership projects between schools and local businesses for career preparation programs designed to provide Indian youth with the knowledge and skills such youth need to make an effective transition from school to a high-skill, high-wage career;

(J) programs designed to encourage and assist Indian students to work toward, and gain entrance into, an institution of higher education;

(K) family literacy services;

(L) activities that recognize and support the unique cultural and educational needs of Indian children, and incorporate appropriately qualified tribal elders and seniors; or

(M) other services that meet the purpose described in this section.

(2) Professional development

Professional development of teaching professionals and paraprofessionals may be a part of any program assisted under this section.

(d) Grant requirements and applications

(1) Grant requirements

(A) In general

The Secretary may make multiyear grants under subsection (c) of this section for the planning, development, pilot operation, or demonstration of any activity described in subsection (c) of this section for a period not to exceed 5 years.

(B) Priority

In making multiyear grants described in this paragraph, the Secretary shall give priority to entities submitting applications that present a plan for combining two or more of the activities described in subsection (c) of this section over a period of more than 1 year.

(C) Progress

The Secretary shall make a grant payment for a grant described in this paragraph to an eligible entity after the initial year of the multiyear grant only if the Secretary determines that the eligible entity has made substantial progress in carrying out the activities assisted under the grant in accordance with the application submitted under paragraph (3) and any subsequent modifications to such application.

(2) Dissemination grants

(A) In general

In addition to awarding the multiyear grants described in paragraph (1), the Sec-

retary may award grants under subsection (c) of this section to eligible entities for the dissemination of exemplary materials or programs assisted under this section.

(B) Determination

The Secretary may award a dissemination grant described in this paragraph if, prior to awarding the grant, the Secretary determines that the material or program to be disseminated—

(i) has been adequately reviewed;

(ii) has demonstrated educational merit; and

(iii) can be replicated.

(3) Application

(A) In general

Any eligible entity that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

(B) Contents

Each application submitted to the Secretary under subparagraph (A), other than an application for a dissemination grant under paragraph (2), shall contain—

(i) a description of how parents of Indian children and representatives of Indian tribes have been, and will be, involved in developing and implementing the activities for which assistance is sought;

(ii) assurances that the applicant will participate, at the request of the Secretary, in any national evaluation of activities assisted under this section;

(iii) information demonstrating that the proposed program for the activities is a scientifically based research program, where applicable, which may include a program that has been modified to be culturally appropriate for students who will be served;

(iv) a description of how the applicant will incorporate the proposed activities into the ongoing school program involved once the grant period is over; and

(v) such other assurances and information as the Secretary may reasonably require.

(e) Administrative costs

Not more than 5 percent of the funds provided to a grantee under this subpart for any fiscal year may be used for administrative purposes.

(Pub. L. 89–10, title VII, § 7121, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1919.)

PRIOR PROVISIONS

A prior section 7121 of Pub. L. 89–10 was classified to section 7431 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7442. Professional development for teachers and education professionals

(a) Purposes

The purposes of this section are—

(1) to increase the number of qualified Indian individuals in teaching or other education professions that serve Indian people;

(2) to provide training to qualified Indian individuals to enable such individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(3) to improve the skills of qualified Indian individuals who serve in the capacities described in paragraph (2).

(b) Eligible entities

For the purpose of this section, the term ''eligible entity'' means—

(1) an institution of higher education, including an Indian institution of higher education;

(2) a State educational agency or local educational agency, in consortium with an institution of higher education;

(3) an Indian tribe or organization, in consortium with an institution of higher education; and

(4) a Bureau-funded school (as defined in section 2026[1] of title 25).

(c) Program authorized

The Secretary is authorized to award grants to eligible entities having applications approved under this section to enable those entities to carry out the activities described in subsection (d) of this section.

(d) Authorized activities

(1) In general

Grant funds under this section shall be used for activities to provide support and training for Indian individuals in a manner consistent with the purposes of this section. Such activities may include continuing programs, symposia, workshops, conferences, and direct financial support, and may include programs designed to train tribal elders and seniors.

(2) Special rules

(A) Type of training

For education personnel, the training received pursuant to a grant under this section may be inservice or preservice training.

(B) Program

For individuals who are being trained to enter any field other than teaching, the training received pursuant to a grant under this section shall be in a program that results in a graduate degree.

(e) Application

Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

(f) Special rule

In awarding grants under this section, the Secretary—

(1) shall consider the prior performance of the eligible entity; and

(2) may not limit eligibility to receive a grant under this section on the basis of—

(A) the number of previous grants the Secretary has awarded such entity; or

[1] See References in Text note below.

(B) the length of any period during which such entity received such grants.

(g) Grant period

Each grant under this section shall be awarded for a period of not more than 5 years.

(h) Service obligation

(1) In general

The Secretary shall require, by regulation, that an individual who receives training pursuant to a grant made under this section—

(A) perform work—

(i) related to the training received under this section; and

(ii) that benefits Indian people; or

(B) repay all or a prorated part of the assistance received.

(2) Reporting

The Secretary shall establish, by regulation, a reporting procedure under which a grant recipient under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning compliance with the work requirement under paragraph (1).

(Pub. L. 89–10, title VII, § 7122, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1922.)

REFERENCES IN TEXT

Section 2026 of title 25, referred to in subsec. (b)(4), was omitted in the general amendment of chapter 22 of Title 25, Indians, by Pub. L. 107–110, title X, § 1042, Jan. 8, 2002, 115 Stat. 2007. See section 2021 of Title 25.

PRIOR PROVISIONS

A prior section 7122 of Pub. L. 89–10 was classified to section 7432 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

SUBPART 3—NATIONAL ACTIVITIES

§ 7451. National research activities

(a) Authorized activities

The Secretary may use funds made available under section 7492(b) of this title for each fiscal year to—

(1) conduct research related to effective approaches for the education of Indian children and adults;

(2) evaluate federally assisted education programs from which Indian children and adults may benefit;

(3) collect and analyze data on the educational status and needs of Indians; and

(4) carry out other activities that are consistent with the purpose of this part.

(b) Eligibility

The Secretary may carry out any of the activities described in subsection (a) of this section directly or through grants to, or contracts or cooperative agreements with, Indian tribes, Indian organizations, State educational agencies, local educational agencies, institutions of higher education, including Indian institutions of higher education, and other public and private agencies and institutions.

(c) Coordination

Research activities supported under this section—

(1) shall be carried out in consultation with the Institute of Education Sciences to ensure that such activities are coordinated with and enhance the research and development activities supported by the Institute; and

(2) may include collaborative research activities that are jointly funded and carried out by the Office of Indian Education Programs and the Institute of Education Sciences.

(Pub. L. 89–10, title VII, § 7131, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1923; amended Pub. L. 107–279, title IV, § 404(d)(5)(E), (8), Nov. 5, 2002, 116 Stat. 1986.)

PRIOR PROVISIONS

A prior section 7451, Pub. L. 89–10, title VII, § 7131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3729, authorized research, evaluation of activities, and dissemination of information. See section 6931 of this title.

AMENDMENTS

2002—Subsec. (c)(1). Pub. L. 107–279 substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement'' and ''by the Institute'' for ''by the Office''.

Subsec. (c)(2). Pub. L. 107–279, § 404(d)(5)(E), substituted ''Institute of Education Sciences'' for ''Office of Educational Research and Improvement''.

§ 7452. In-service training for teachers of Indian children

(a) Grants authorized

In addition to the grants authorized by section 7442(c) of this title, the Secretary may make grants to eligible consortia for the provision of high quality in-service training. The Secretary may make such a grant to—

(1) a consortium of a tribal college and an institution of higher education that awards a degree in education; or

(2) a consortium of—

(A) a tribal college;

(B) an institution of higher education that awards a degree in education; and

(C) one or more elementary schools or secondary schools operated by the Bureau of Indian Affairs, local educational agencies serving Indian children, or tribal educational agencies.

(b) Use of funds

(1) In-service training

A consortium that receives a grant under subsection (a) of this section shall use the grant funds only to provide high quality in-service training to teachers, including teachers who are not Indians, in schools of local educational agencies with substantial numbers of Indian children enrolled in their schools, in order to better meet the needs of those children.

(2) Components

The training described in paragraph (1) shall include such activities as preparing teachers to use the best available scientifically based research practices and learning strategies, and to make the most effective use of curricula and materials, to respond to the unique needs of Indian children in their classrooms.

(c) Preference for Indian applicants

In applying section 7473 of this title to this section, the Secretary shall give a preference to

any consortium that includes one or more of the entities described in section 7473 of this title.

(Pub. L. 89–10, title VII, § 7132, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1924.)

PRIOR PROVISIONS

A prior section 7452, Pub. L. 89–10, title VII, § 7132, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3729, related to research activities, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6932 of this title.

§ 7453. Fellowships for Indian students

(a) Fellowships

(1) Authority

The Secretary is authorized to award fellowships to Indian students to enable such students to study in graduate and professional programs at institutions of higher education.

(2) Requirements

The fellowships described in paragraph (1) shall be awarded to Indian students to enable such students to pursue a course of study—

(A) of not more than 4 academic years; and

(B) that leads—

(i) toward a postbaccalaureate degree in medicine, clinical psychology, psychology, law, education, or a related field; or

(ii) to an undergraduate or graduate degree in engineering, business administration, natural resources, or a related field.

(b) Stipends

The Secretary shall pay to Indian students awarded fellowships under subsection (a) of this section such stipends (including allowances for subsistence of such students and dependents of such students) as the Secretary determines to be consistent with prevailing practices under comparable federally supported programs.

(c) Payments to institutions in lieu of tuition

The Secretary shall pay to the institution of higher education at which such a fellowship recipient is pursuing a course of study, in lieu of tuition charged to such recipient, such amounts as the Secretary may determine to be necessary to cover the cost of education provided to such recipient.

(d) Special rules

(1) In general

If a fellowship awarded under subsection (a) of this section is vacated prior to the end of the period for which the fellowship is awarded, the Secretary may award an additional fellowship for the unexpired portion of the period of the first fellowship.

(2) Written notice

Not later than 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) of this section for such academic term written notice of—

(A) the amount of the funding for the fellowship; and

(B) any stipends or other payments that will be made under this section to, or for the benefit of, the individual for the academic term.

(3) Priority

Not more than 10 percent of the fellowships awarded under subsection (a) of this section shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

(e) Service obligation

(1) In general

The Secretary shall require, by regulation, that an individual who receives financial assistance under this section—

(A) perform work—

(i) related to the training for which the individual receives the assistance under this section; and

(ii) that benefits Indian people; or

(B) repay all or a prorated portion of such assistance.

(2) Reporting

The Secretary shall establish, by regulation, a reporting procedure under which a recipient of assistance under this section shall, not later than 12 months after the date of completion of the training, and periodically thereafter, provide information concerning the compliance of such recipient with the work requirement described in paragraph (1).

(f) Administration of fellowships

The Secretary may administer the fellowships authorized under this section through a grant to, or contract or cooperative agreement with, an Indian organization with demonstrated qualifications to administer all facets of the program assisted under this section.

(Pub. L. 89–10, title VII, § 7133, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1924.)

PRIOR PROVISIONS

A prior section 7453, Pub. L. 89–10, title VII, § 7133, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3730, related to academic excellence awards, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6933 of this title.

§ 7454. Gifted and talented Indian students

(a) Program authorized

The Secretary is authorized to—

(1) establish two centers for gifted and talented Indian students at tribally controlled community colleges in accordance with this section; and

(2) support demonstration projects described in subsection (c) of this section.

(b) Eligible entities

The Secretary shall make grants, or enter into contracts, for the activities described in subsection (a) of this section, to or with—

(1) two tribally controlled community colleges that—

(A) are eligible for funding under the Tribally Controlled College or University Assistance Act of 1978 [25 U.S.C. 1801 et seq.]; and

(B) are fully accredited; or

(2) the American Indian Higher Education Consortium,

if the Secretary does not receive applications that the Secretary determines to be approvable from two colleges that meet the requirements of paragraph (1).

(c) Use of funds

(1) In general

Funds made available through the grants made, or contracts entered into, by the Secretary under subsection (b) of this section shall be used for—

(A) the establishment of centers described in subsection (a) of this section; and

(B) carrying out demonstration projects designed to—

(i) address the special needs of Indian students in elementary schools and secondary schools who are gifted and talented; and

(ii) provide such support services to the families of the students described in clause (i) as are needed to enable such students to benefit from the projects.

(2) Subcontracts

Each recipient of a grant or contract under subsection (b) of this section to carry out a demonstration project under subsection (a) of this section may enter into a contract with any other entity, including the Children's Television Workshop, to carry out the demonstration project.

(3) Demonstration projects

Demonstration projects assisted under subsection (b) of this section may include—

(A) the identification of the special needs of gifted and talented Indian students, particularly at the elementary school level, giving attention to—

(i) identifying the emotional and psychosocial needs of such students; and

(ii) providing such support services to the families of such students as are needed to enable such students to benefit from the projects;

(B) the conduct of educational, psychosocial, and developmental activities that the Secretary determines hold a reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including—

(i) demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions; and

(ii) carrying out mentoring and apprenticeship programs;

(C) the provision of technical assistance and the coordination of activities at schools that receive grants under subsection (d) of this section with respect to the activities assisted under such grants, the evaluation of programs assisted under such grants, or the dissemination of such evaluations;

(D) the use of public television in meeting the special educational needs of such gifted and talented children;

(E) leadership programs designed to replicate programs for such children throughout the United States, including disseminating information derived from the demonstration projects conducted under subsection (a) of this section; and

(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the provision of such support services to the families of such children as are needed to enable such children to benefit from the projects.

(4) Application

Each eligible entity desiring a grant or contract under subsection (b) of this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

(d) Additional grants

(1) In general

The Secretary, in consultation with the Secretary of the Interior, shall award 5 grants to schools funded by the Bureau of Indian Affairs (hereafter referred to individually in this section as a ''Bureau school'') for program research and development and the development and dissemination of curriculum and teacher training material, regarding—

(A) gifted and talented students;

(B) college preparatory studies (including programs for Indian students with an interest in pursuing teaching careers);

(C) students with special culturally related academic needs, including students with social, lingual, and cultural needs; or

(D) mathematics and science education.

(2) Applications

Each Bureau school desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information, as the Secretary may reasonably require.

(3) Special rule

Each application described in paragraph (2) shall be developed, and each grant under this subsection shall be administered, jointly by the supervisor of the Bureau school and the local educational agency serving such school.

(4) Requirements

In awarding grants under paragraph (1), the Secretary shall achieve a mixture of the programs described in paragraph (1) that ensures that Indian students at all grade levels and in all geographic areas of the United States are able to participate in a program assisted under this subsection.

(5) Grant period

Subject to the availability of appropriations, a grant awarded under paragraph (1) shall be awarded for a 3-year period and may be renewed by the Secretary for additional 3-year periods if the Secretary determines that the performance of the grant recipient has been satisfactory.

(6) Dissemination

(A) Cooperative efforts

The dissemination of any materials developed from activities assisted under paragraph (1) shall be carried out in cooperation with entities that receive funds pursuant to subsection (b) of this section.

(B) Report

The Secretary shall prepare and submit to the Secretary of the Interior and to Congress a report concerning any results from activities described in this subsection.

(7) Evaluation costs

(A) Division

The costs of evaluating any activities assisted under paragraph (1) shall be divided between the Bureau schools conducting such activities and the recipients of grants or contracts under subsection (b) of this section who conduct demonstration projects under subsection (a) of this section.

(B) Grants and contracts

If no funds are provided under subsection (b) of this section for—

(i) the evaluation of activities assisted under paragraph (1);

(ii) technical assistance and coordination with respect to such activities; or

(iii) the dissemination of the evaluations referred to in clause (i),

the Secretary shall make such grants, or enter into such contracts, as are necessary to provide for the evaluations, technical assistance, and coordination of such activities, and the dissemination of the evaluations.

(e) Information network

The Secretary shall encourage each recipient of a grant or contract under this section to work cooperatively as part of a national network to ensure that the information developed by the grant or contract recipient is readily available to the entire educational community.

(Pub. L. 89–10, title VII, §7134, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1925.)

REFERENCES IN TEXT

The Tribally Controlled College or University Assistance Act of 1978, referred to in subsec. (b)(1)(A), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (§1801 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 7454, Pub. L. 89–10, title VII, §7134, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3730, related to State grant program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6934 of this title.

§7455. Grants to tribes for education administrative planning and development

(a) In general

The Secretary may make grants to Indian tribes, and tribal organizations approved by Indian tribes, to plan and develop a centralized tribal administrative entity to—

(1) coordinate all education programs operated by the tribe or within the territorial jurisdiction of the tribe;

(2) develop education codes for schools within the territorial jurisdiction of the tribe;

(3) provide support services and technical assistance to schools serving children of the tribe; and

(4) perform child-find screening services for the preschool-aged children of the tribe to—

(A) ensure placement in appropriate educational facilities; and

(B) coordinate the provision of any needed special services for conditions such as disabilities and English language skill deficiencies.

(b) Period of grant

Each grant awarded under this section may be awarded for a period of not more than 3 years. Such grant may be renewed upon the termination of the initial period of the grant if the grant recipient demonstrates to the satisfaction of the Secretary that renewing the grant for an additional 3-year period is necessary to carry out the objectives of the grant described in subsection (c)(2)(A) of this section.

(c) Application for grant

(1) In general

Each Indian tribe and tribal organization desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

(2) Contents

Each application described in paragraph (1) shall contain—

(A) a statement describing the activities to be conducted, and the objectives to be achieved, under the grant; and

(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and for determining whether such objectives are achieved.

(3) Approval

The Secretary may approve an application submitted by a tribe or tribal organization pursuant to this section only if the Secretary is satisfied that such application, including any documentation submitted with the application—

(A) demonstrates that the applicant has consulted with other education entities, if any, within the territorial jurisdiction of the applicant who will be affected by the activities to be conducted under the grant;

(B) provides for consultation with such other education entities in the operation and evaluation of the activities conducted under the grant; and

(C) demonstrates that there will be adequate resources provided under this section or from other sources to complete the activities for which assistance is sought, except that the availability of such other resources

shall not be a basis for disapproval of such application.

(d) Restriction

A tribe may not receive funds under this section if such tribe receives funds under section 2024[1] of title 25.

(Pub. L. 89–10, title VII, § 7135, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1928.)

REFERENCES IN TEXT

Section 2024 of title 25, referred to in subsec. (d), was omitted in the general amendment of chapter 22 of Title 25, Indians, by Pub. L. 107–110, title X, § 1042, Jan. 8, 2002, 115 Stat. 2007. See section 2020 of Title 25.

PRIOR PROVISIONS

A prior section 7455, Pub. L. 89–10, title VII, § 7135, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3731, established National Clearinghouse for Bilingual Education, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7013 of this title.

§ 7456. Improvement of educational opportunities for adult Indians

(a) In general

The Secretary shall make grants to State educational agencies, local educational agencies, and Indian tribes, institutions, and organizations—

(1) to support planning, pilot, and demonstration projects that are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs that are designed to stimulate—

(A) the provision of basic literacy opportunities for all nonliterate Indian adults; and

(B) the provision of opportunities to all Indian adults to qualify for a secondary school diploma, or its recognized equivalent, in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving literacy and secondary school equivalency for Indians;

(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of secondary school completion among Indians; and

(5) to encourage the dissemination of information and materials relating to, and the evaluation of, the effectiveness of education programs that may offer educational opportunities to Indian adults.

(b) Educational services

The Secretary may make grants to Indian tribes, institutions, and organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

(c) Information and evaluation

The Secretary may make grants to, and enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations, for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations of the programs, services, and resources; and

(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of the programs in achieving the purposes of the programs with respect to Indian adults.

(d) Applications

(1) In general

Each entity desiring a grant or contract under this section shall submit to the Secretary an application at such time, in such manner, containing such information, and consistent with such criteria, as the Secretary may prescribe in regulations.

(2) Contents

Each application described in paragraph (1) shall contain—

(A) a statement describing the activities to be conducted and the objectives to be achieved under the grant or contract; and

(B) a description of the method to be used for evaluating the effectiveness of the activities for which assistance is sought and determining whether the objectives of the grant or contract are achieved.

(3) Approval

The Secretary shall not approve an application described in paragraph (1) unless the Secretary determines that such application, including any documentation submitted with the application, indicates that—

(A) there has been adequate participation, by the individuals to be served and the appropriate tribal communities, in the planning and development of the activities to be assisted; and

(B) the individuals and tribal communities referred to in subparagraph (A) will participate in the operation and evaluation of the activities to be assisted.

(4) Priority

In approving applications under paragraph (1), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(e) Administrative costs

Not more than 5 percent of the funds made available to an entity through a grant or contract made or entered into under this section for a fiscal year may be used to pay for administrative costs.

(Pub. L. 89–10, title VII, § 7136, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1929.)

PRIOR PROVISIONS

A prior section 7456, Pub. L. 89–10, title VII, § 7136, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3732, related to instructional materials development, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6935 of this title.

[1] See References in Text note below.

SUBPART 4—FEDERAL ADMINISTRATION

§ 7471. National Advisory Council on Indian Education

(a) Membership

There is established a National Advisory Council on Indian Education (hereafter in this section referred to as the ''Council''), which shall—

(1) consist of 15 Indian members, who shall be appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations; and

(2) represent different geographic areas of the United States.

(b) Duties

The Council shall—

(1) advise the Secretary concerning the funding and administration (including the development of regulations and administrative policies and practices) of any program, including any program established under this part—

(A) with respect to which the Secretary has jurisdiction; and

(B)(i) that includes Indian children or adults as participants; or

(ii) that may benefit Indian children or adults;

(2) make recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs; and

(3) submit to Congress, not later than June 30 of each year, a report on the activities of the Council, including—

(A) any recommendations that the Council considers appropriate for the improvement of Federal education programs that include Indian children or adults as participants, or that may benefit Indian children or adults; and

(B) recommendations concerning the funding of any program described in subparagraph (A).

(Pub. L. 89–10, title VII, § 7141, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1930.)

PRIOR PROVISIONS

A prior section 7471, Pub. L. 89–10, title VII, § 7141, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3732, set forth purpose of former subpart relating to professional development, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6951 of this title.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 7472. Peer review

The Secretary may use a peer review process to review applications submitted to the Secretary under subpart 2 or subpart 3 of this part.

(Pub. L. 89–10, title VII, § 7142, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1931.)

PRIOR PROVISIONS

A prior section 7472, Pub. L. 89–10, title VII, § 7142, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3732, related to training for all teachers program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7473. Preference for Indian applicants

In making grants and entering into contracts or cooperative agreements under subpart 2 or subpart 3 of this part, the Secretary shall give a preference to Indian tribes, organizations, and institutions of higher education under any program with respect to which Indian tribes, organizations, and institutions are eligible to apply for grants, contracts, or cooperative agreements.

(Pub. L. 89–10, title VII, § 7143, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1931.)

PRIOR PROVISIONS

A prior section 7473, Pub. L. 89–10, title VII, § 7143, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3733, related to bilingual education teachers and personnel grants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6951 of this title.

§ 7474. Minimum grant criteria

The Secretary may not approve an application for a grant, contract, or cooperative agreement under subpart 2 or subpart 3 of this part unless the application is for a grant, contract, or cooperative agreement that is—

(1) of sufficient size, scope, and quality to achieve the purpose or objectives of such grant, contract, or cooperative agreement; and

(2) based on relevant research findings.

(Pub. L. 89–10, title VII, § 7144, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1931.)

PRIOR PROVISIONS

A prior section 7474, Pub. L. 89–10, title VII, § 7144, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3733, related to bilingual education career ladder program, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 7475 to 7480 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7475, Pub. L. 89–10, title VII, § 7145, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3734, related to graduate fellowships in bilingual education program.

Section 7476, Pub. L. 89–10, title VII, § 7146, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3735, related to application for professional development award. See section 6951 of this title.

Section 7477, Pub. L. 89–10, title VII, § 7147, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736, set forth program requirements.

Section 7478, Pub. L. 89–10, title VII, § 7148, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736, authorized payment of stipends to persons participating in programs.

Section 7479, Pub. L. 89–10, title VII, § 7149, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736, related to program evaluations. See section 6951 of this title.

Section 7480, Pub. L. 89–10, title VII, § 7150, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736, related to use of funds for second language competence.

SUBPART 5—DEFINITIONS; AUTHORIZATIONS OF APPROPRIATIONS

§ 7491. Definitions

For the purposes of this part:

(1) Adult

The term ''adult'' means an individual who—

(A) has attained the age of 16 years; or

(B) has attained an age that is greater than the age of compulsory school attendance under an applicable State law.

(2) Free public education

The term ''free public education'' means education that is—

(A) provided at public expense, under public supervision and direction, and without tuition charge; and

(B) provided as elementary or secondary education in the applicable State or to preschool children.

(3) Indian

The term ''Indian'' means an individual who is—

(A) a member of an Indian tribe or band, as membership is defined by the tribe or band, including—

(i) any tribe or band terminated since 1940; and

(ii) any tribe or band recognized by the State in which the tribe or band resides;

(B) a descendant, in the first or second degree, of an individual described in subparagraph (A);

(C) considered by the Secretary of the Interior to be an Indian for any purpose;

(D) an Eskimo, Aleut, or other Alaska Native; or

(E) a member of an organized Indian group that received a grant under the Indian Education Act of 1988 as in effect the day preceding October 20, 1994.

(Pub. L. 89–10, title VII, § 7151, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1931.)

REFERENCES IN TEXT

The Indian Education Act of 1988, as in effect the day preceding October 20, 1994, referred to in par. (3)(E), is part C (§§ 5301–5352) of title V of Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 395, which was classified principally to chapter 28 (§ 2601 et seq.) of Title 25, Indians, prior to repeal by Pub. L. 103–382, title III, § 367, Oct. 20, 1994, 108 Stat. 3976.

PRIOR PROVISIONS

A prior section 7491, Pub. L. 89–10, title VII, § 7161, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3736, set forth special rule relating to transition, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7492. Authorizations of appropriations

(a) Subpart 1

For the purpose of carrying out subpart 1 of this part, there are authorized to be appropriated $96,400,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(b) Subparts 2 and 3

For the purpose of carrying out subparts 2 and 3 of this part, there are authorized to be appropriated $24,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(Pub. L. 89–10, title VII, § 7152, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1932.)

PART B—NATIVE HAWAIIAN EDUCATION

§ 7511. Short title

This part may be cited as the ''Native Hawaiian Education Act''.

(Pub. L. 89–10, title VII, § 7201, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1932.)

PRIOR PROVISIONS

Provisions naming former part B (§ 7901 et seq.) of subchapter IX of this chapter as the ''Native Hawaiian Education Act'' were contained in section 7901 of this title, prior to the general amendment of subchapter IX by Pub. L. 107–110.

A prior section 7511, Pub. L. 89–10, title VII, § 7201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3737, set forth short title of the Foreign Language Assistance Act of 1994, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7512. Findings

Congress finds the following:

(1) Native Hawaiians are a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago, whose society was organized as a nation and internationally recognized as a nation by the United States, Britain, France, and Japan, as evidenced by treaties governing friendship, commerce, and navigation.

(2) At the time of the arrival of the first nonindigenous people in Hawaii in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient subsistence social system based on a communal land tenure system with a sophisticated language, culture, and religion.

(3) A unified monarchal government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii.

(4) From 1826 until 1893, the United States recognized the sovereignty and independence of the Kingdom of Hawaii, which was established in 1810 under Kamehameha I, extended full and complete diplomatic recognition to the Kingdom of Hawaii, and entered into treaties and conventions with the Kingdom of Hawaii to govern friendship, commerce and navigation in 1826, 1842, 1849, 1875, and 1887.

(5) In 1893, the sovereign, independent, internationally recognized, and indigenous government of Hawaii, the Kingdom of Hawaii, was overthrown by a small group of non-Hawaiians, including United States citizens, who were assisted in their efforts by the United States Minister, a United States naval rep-

resentative, and armed naval forces of the United States. Because of the participation of United States agents and citizens in the overthrow of the Kingdom of Hawaii, in 1993 the United States apologized to Native Hawaiians for the overthrow and the deprivation of the rights of Native Hawaiians to self-determination through Public Law 103–150 (107 Stat. 1510).

(6) In 1898, the joint resolution entitled ''Joint Resolution to provide for annexing the Hawaiian Islands to the United States'', approved July 7, 1898 (30 Stat. 750), ceded absolute title of all lands held by the Republic of Hawaii, including the government and crown lands of the former Kingdom of Hawaii, to the United States, but mandated that revenue generated from the lands be used ''solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes''.

(7) By 1919, the Native Hawaiian population had declined from an estimated 1,000,000 in 1778 to an alarming 22,600, and in recognition of this severe decline, Congress enacted the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), which designated approximately 200,000 acres of ceded public lands for homesteading by Native Hawaiians.

(8) Through the enactment of the Hawaiian Homes Commission Act, 1920, Congress affirmed the special relationship between the United States and the Native Hawaiians, which was described by then Secretary of the Interior Franklin K. Lane, who said: ''One thing that impressed me . . . was the fact that the natives of the island who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty.''.

(9) In 1938, Congress again acknowledged the unique status of the Hawaiian people by including in the Act of June 20, 1938 (52 Stat. 781, chapter 530; 16 U.S.C. 391b, 391b–1, 392b, 392c, 396, 396a), a provision to lease lands within the National Parks extension to Native Hawaiians and to permit fishing in the area ''only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance.''.

(10) Under the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for the administration of the Hawaiian Home Lands to the State of Hawaii but reaffirmed the trust relationship between the United States and the Hawaiian people by retaining the exclusive power to enforce the trust, including the power to approve land exchanges and amendments to such Act affecting the rights of beneficiaries under such Act.

(11) In 1959, under the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', the United States also ceded to the State of Hawaii title to the public lands formerly held by the United States, but mandated that such lands be held by the State ''in public trust'' and reaffirmed the special relationship that existed between the United States and the Hawaiian people by retaining the legal responsibility to enforce the public trust responsibility of the State of Hawaii for the betterment of the conditions of Native Hawaiians, as defined in section 201(a) of the Hawaiian Homes Commission Act, 1920.

(12) The United States has recognized and reaffirmed that—

(A) Native Hawaiians have a cultural, historic, and land-based link to the indigenous people who exercised sovereignty over the Hawaiian Islands, and that group has never relinquished its claims to sovereignty or its sovereign lands;

(B) Congress does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous people of a once sovereign nation as to whom the United States has established a trust relationship;

(C) Congress has also delegated broad authority to administer a portion of the Federal trust responsibility to the State of Hawaii;

(D) the political status of Native Hawaiians is comparable to that of American Indians and Alaska Natives; and

(E) the aboriginal, indigenous people of the United States have—

(i) a continuing right to autonomy in their internal affairs; and

(ii) an ongoing right of self-determination and self-governance that has never been extinguished.

(13) The political relationship between the United States and the Native Hawaiian people has been recognized and reaffirmed by the United States, as evidenced by the inclusion of Native Hawaiians in—

(A) the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.);

(B) the American Indian Religious Freedom Act (42 U.S.C. 1996[, 1996a]);

(C) the National Museum of the American Indian Act (20 U.S.C. 80q et seq.);

(D) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.);

(E) the National Historic Preservation Act (16 U.S.C. 470 et seq.);

(F) the Native American Languages Act (25 U.S.C. 2901 et seq.);

(G) the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4401 et seq.);

(H) the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.); and

(I) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(14) In 1981, Congress instructed the Office of Education to submit to Congress a comprehensive report on Native Hawaiian education. The report, entitled the ''Native Hawaiian Educational Assessment Project'', was released in 1983 and documented that Native Hawaiians scored below parity with regard to national norms on standardized achievement tests, were disproportionately represented in many negative social and physical statistics indicative of special educational needs, and had educational needs that were related to their

unique cultural situation, such as different learning styles and low self-image.

(15) In recognition of the educational needs of Native Hawaiians, in 1988, Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (102 Stat. 130) to authorize and develop supplemental educational programs to address the unique conditions of Native Hawaiians.

(16) In 1993, the Kamehameha Schools Bishop Estate released a 10-year update of findings of the Native Hawaiian Educational Assessment Project, which found that despite the successes of the programs established under title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, many of the same educational needs still existed for Native Hawaiians. Subsequent reports by the Kamehameha Schools Bishop Estate and other organizations have generally confirmed those findings. For example—

(A) educational risk factors continue to start even before birth for many Native Hawaiian children, including—

(i) late or no prenatal care;

(ii) high rates of births by Native Hawaiian women who are unmarried; and

(iii) high rates of births to teenage parents;

(B) Native Hawaiian students continue to begin their school experience lagging behind other students in terms of readiness factors such as vocabulary test scores;

(C) Native Hawaiian students continue to score below national norms on standardized education achievement tests at all grade levels;

(D) both public and private schools continue to show a pattern of lower percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

(E) Native Hawaiian students continue to be overrepresented among students qualifying for special education programs provided to students with learning disabilities, mild mental retardation, emotional impairment, and other such disabilities;

(F) Native Hawaiians continue to be underrepresented in institutions of higher education and among adults who have completed four or more years of college;

(G) Native Hawaiians continue to be disproportionately represented in many negative social and physical statistics indicative of special educational needs, as demonstrated by the fact that—

(i) Native Hawaiian students are more likely to be retained in grade level and to be excessively absent in secondary school;

(ii) Native Hawaiian students have the highest rates of drug and alcohol use in the State of Hawaii; and

(iii) Native Hawaiian children continue to be disproportionately victimized by child abuse and neglect; and

(H) Native Hawaiians now comprise over 23 percent of the students served by the State of Hawaii Department of Education, and there are and will continue to be geographically rural, isolated areas with a high Native Hawaiian population density.

(17) In the 1998 National Assessment of Educational Progress, Hawaiian fourth-graders ranked 39th among groups of students from 39 States in reading. Given that Hawaiian students rank among the lowest groups of students nationally in reading, and that Native Hawaiian students rank the lowest among Hawaiian students in reading, it is imperative that greater focus be placed on beginning reading and early education and literacy in Hawaii.

(18) The findings described in paragraphs (16) and (17) are inconsistent with the high rates of literacy and integration of traditional culture and Western education historically achieved by Native Hawaiians through a Hawaiian language-based public school system established in 1840 by Kamehameha III.

(19) Following the overthrow of the Kingdom of Hawaii in 1893, Hawaiian medium schools were banned. After annexation, throughout the territorial and statehood period of Hawaii, and until 1986, use of the Hawaiian language as an instructional medium in education in public schools was declared unlawful. The declaration caused incalculable harm to a culture that placed a very high value on the power of language, as exemplified in the traditional saying: ''I ka ''ōlelo nō ke ola; I ka ''ōlelo nō ka make. In the language rests life; In the language rests death.''.

(20) Despite the consequences of over 100 years of nonindigenous influence, the Native Hawaiian people are determined to preserve, develop, and transmit to future generations their ancestral territory and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.

(21) The State of Hawaii, in the constitution and statutes of the State of Hawaii—

(A) reaffirms and protects the unique right of the Native Hawaiian people to practice and perpetuate their culture and religious customs, beliefs, practices, and language;

(B) recognizes the traditional language of the Native Hawaiian people as an official language of the State of Hawaii, which may be used as the language of instruction for all subjects and grades in the public school system; and

(C) promotes the study of the Hawaiian culture, language, and history by providing a Hawaiian education program and using community expertise as a suitable and essential means to further the program.

(Pub. L. 89–10, title VII, § 7202, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1932.)

REFERENCES IN TEXT

Public Law 103–150, referred to in par. (5), is Pub. L. 103–150, Nov. 23, 1993, 107 Stat. 1510, which is not classified to the Code.

Joint Resolution to provide for annexing the Hawaiian Islands to the United States, approved July 7, 1898, referred to in par. (6), is act July 7, 1898, No. 55, 30 Stat.

750, known as the Newlands Resolution. For complete classification of this Act to the Code, see Tables.

The Hawaiian Homes Commission Act, 1920, referred to in pars. (7), (8), and (11), is act July 9, 1921, ch. 42, 42 Stat. 108, as amended, which was classified generally to sections 691 to 718 of Title 48, Territories and Insular Possessions, and was omitted from the Code. Section 201 of the Act was classified to section 692 of Title 48.

Act of June 20, 1938, referred to in par. (9), is act June 20, 1938, ch. 530, 52 Stat. 781, as amended, which is classified to sections 391b, 391b–1, 392b, 392c, 396, and 396a of Title 16, Conservation. For complete classification of this Act to the Code, see Tables.

An Act to provide for the admission of the State of Hawaii into the Union, referred to in pars. (10) and (11), is Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, as amended, popularly known as the Hawaii Statehood Admissions Act, which is set out as a note preceding former section 491 of Title 48, Territories and Insular Possessions. For complete classification of this Act to the Code, see Tables.

The Native American Programs Act of 1974, referred to in par. (13)(A), is title VIII of Pub. L. 88–452, as added by Pub. L. 93–644, §11, Jan. 4, 1975, 88 Stat. 2324, as amended, which is classified generally to subchapter VIII (§2991 et seq.) of chapter 34 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 2991 of Title 42 and Tables.

The American Indian Religious Freedom Act, referred to in par. (13)(B), is Pub. L. 95–341, Aug. 11, 1978, 92 Stat. 469, as amended, which is classified to sections 1996 and 1996a of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1996 of Title 42 and Tables.

The National Museum of the American Indian Act, referred to in par. (13)(C), is Pub. L. 101–185, Nov. 28, 1989, 103 Stat. 1336, as amended, which is classified generally to subchapter XIII (§80q et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 80q of this title and Tables.

The Native American Graves Protection and Repatriation Act, referred to in par. (13)(D), is Pub. L. 101–601, Nov. 16, 1990, 104 Stat. 3048, which is classified principally to chapter 32 (§3001 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 25 and Tables.

The National Historic Preservation Act, referred to in par. (13)(E), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (§470 et seq.) of chapter 1A of Title 16, Conservation. For complete classification of this Act to the Code, see section 470(a) of Title 16 and Tables.

The Native American Languages Act, referred to in par. (13)(F), is title I of Pub. L. 101–477, Oct. 30, 1990, 104 Stat. 1153, as amended, which is classified generally to chapter 31 (§2901 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 2901 of Title 25 and Tables.

The American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, referred to in par. (13)(G), is title XV of Pub. L. 99–498, Oct. 17, 1986, 100 Stat. 1600, as amended, which is classified generally to chapter 56 (§4401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4401 of this title and Tables.

The Workforce Investment Act of 1998, referred to in par. (13)(H), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended. Title I of the Act is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Older Americans Act of 1965, referred to in par. (13)(I), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

The Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, referred to in pars. (15) and (16), is Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130, as amended. Title IV of the Act was classified generally to chapter 61 (§4901 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, §363, Oct. 20, 1994, 108 Stat. 3975.

PRIOR PROVISIONS

A prior section 7512, Pub. L. 89–10, title VII, §7202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3737, set forth findings of the Foreign Language Assistance Act of 1994, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7513. Purposes

The purposes of this part are to—

(1) authorize and develop innovative educational programs to assist Native Hawaiians;

(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including resources made available under this part, on Native Hawaiian education, and to provide periodic assessment and data collection;

(3) supplement and expand programs and authorities in the area of education to further the purposes of this subchapter; and

(4) encourage the maximum participation of Native Hawaiians in planning and management of Native Hawaiian education programs.

(Pub. L. 89–10, title VII, §7203, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1937.)

PRIOR PROVISIONS

A prior section 7513, Pub. L. 89–10, title VII, §7203, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3737, authorized foreign language assistance program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7259a of this title.

§ 7514. Native Hawaiian Education Council and island councils

(a) Establishment of Native Hawaiian Education Council

In order to better effectuate the purposes of this part through the coordination of educational and related services and programs available to Native Hawaiians, including those programs receiving funding under this part, the Secretary is authorized to establish a Native Hawaiian Education Council (hereafter in this part referred to as the ''Education Council'').

(b) Composition of Education Council

The Education Council shall consist of not more than 21 members, unless otherwise determined by a majority of the council.

(c) Conditions and terms

(1) Conditions

At least 10 members of the Education Council shall be Native Hawaiian education service providers and 10 members of the Education Council shall be Native Hawaiians or Native Hawaiian education consumers. In addition, a representative of the State of Hawaii Office of Hawaiian Affairs shall serve as a member of the Education Council.

(2) Appointments

The members of the Education Council shall be appointed by the Secretary based on recommendations received from the Native Hawaiian community.

(3) Terms

Members of the Education Council shall serve for staggered terms of 3 years, except as provided in paragraph (4).

(4) Council determinations

Additional conditions and terms relating to membership on the Education Council, including term lengths and term renewals, shall be determined by a majority of the Education Council.

(d) Native Hawaiian Education Council grant

The Secretary shall make a direct grant to the Education Council to carry out the following activities:

(1) Coordinate the educational and related services and programs available to Native Hawaiians, including the programs assisted under this part.

(2) Assess the extent to which such services and programs meet the needs of Native Hawaiians, and collect data on the status of Native Hawaiian education.

(3) Provide direction and guidance, through the issuance of reports and recommendations, to appropriate Federal, State, and local agencies in order to focus and improve the use of resources, including resources made available under this part, relating to Native Hawaiian education, and serve, where appropriate, in an advisory capacity.

(4) Make direct grants, if such grants enable the Education Council to carry out the duties of the Education Council, as described in paragraphs (1) through (3).

(e) Additional duties of the Education Council

(1) In general

The Education Council shall provide copies of any reports and recommendations issued by the Education Council, including any information that the Education Council provides to the Secretary pursuant to subsection (i) of this section, to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Indian Affairs of the Senate.

(2) Annual report

The Education Council shall prepare and submit to the Secretary an annual report on the Education Council's activities.

(3) Island council support and assistance

The Education Council shall provide such administrative support and financial assistance to the island councils established pursuant to subsection (f) of this section as the Secretary determines to be appropriate, in a manner that supports the distinct needs of each island council.

(f) Establishment of island councils

(1) In general

In order to better effectuate the purposes of this part and to ensure the adequate representation of island and community interests within the Education Council, the Secretary is authorized to facilitate the establishment of Native Hawaiian education island councils (hereafter in this part referred to as an ''island council'') for the following islands:

(A) Hawaii.
(B) Maui.
(C) Molokai.
(D) Lanai.
(E) Oahu.
(F) Kauai.
(G) Niihau.

(2) Composition of island councils

Each island council shall consist of parents, students, and other community members who have an interest in the education of Native Hawaiians, and shall be representative of individuals concerned with the educational needs of all age groups, from children in preschool through adults. At least three-fourths of the members of each island council shall be Native Hawaiians.

(g) Administrative provisions relating to Education Council and island councils

The Education Council and each island council shall meet at the call of the chairperson of the appropriate council, or upon the request of the majority of the members of the appropriate council, but in any event not less often than four times during each calendar year. The provisions of the Federal Advisory Committee Act shall not apply to the Education Council and each island council.

(h) Compensation

Members of the Education Council and each island council shall not receive any compensation for service on the Education Council and each island council, respectively.

(i) Report

Not later than 4 years after January 8, 2002, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Indian Affairs of the Senate a report that summarizes the annual reports of the Education Council, describes the allocation and use of funds under this part, and contains recommendations for changes in Federal, State, and local policy to advance the purposes of this part.

(Pub. L. 89–10, title VII, § 7204, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1937.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 7514, Pub. L. 89–10, title VII, § 7204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3738, related to applications for grants, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7259b of this title.

§ 7515. Program authorized

(a) General authority

(1) Grants and contracts

The Secretary is authorized to make direct grants to, or enter into contracts with—

(A) Native Hawaiian educational organizations;

(B) Native Hawaiian community-based organizations;

(C) public and private nonprofit organizations, agencies, and institutions with experience in developing or operating Native Hawaiian programs or programs of instruction in the Native Hawaiian language; and

(D) consortia of the organizations, agencies, and institutions described in subparagraphs (A) through (C),

to carry out programs that meet the purposes of this part.

(2) Priorities

In awarding grants or contracts to carry out activities described in paragraph (3), the Secretary shall give priority to entities proposing projects that are designed to address—

(A) beginning reading and literacy among students in kindergarten through third grade;

(B) the needs of at-risk children and youth;

(C) needs in fields or disciplines in which Native Hawaiians are underemployed; and

(D) the use of the Hawaiian language in instruction.

(3) Authorized activities

Activities provided through programs carried out under this part may include—

(A) the development and maintenance of a statewide Native Hawaiian early education and care system to provide a continuum of services for Native Hawaiian children from the prenatal period of the children through age 5;

(B) the operation of family-based education centers that provide such services as—

(i) programs for Native Hawaiian parents and their infants from the prenatal period of the infants through age 3;

(ii) preschool programs for Native Hawaiians; and

(iii) research on, and development and assessment of, family-based, early childhood, and preschool programs for Native Hawaiians;

(C) activities that enhance beginning reading and literacy in either the Hawaiian or the English language among Native Hawaiian students in kindergarten through third grade and assistance in addressing the distinct features of combined English and Hawaiian literacy for Hawaiian speakers in fifth and sixth grade;

(D) activities to meet the special needs of Native Hawaiian students with disabilities, including—

(i) the identification of such students and their needs;

(ii) the provision of support services to the families of those students; and

(iii) other activities consistent with the requirements of the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(E) activities that address the special needs of Native Hawaiian students who are gifted and talented, including—

(i) educational, psychological, and developmental activities designed to assist in the educational progress of those students; and

(ii) activities that involve the parents of those students in a manner designed to assist in the students' educational progress;

(F) the development of academic and vocational curricula to address the needs of Native Hawaiian children and adults, including curriculum materials in the Hawaiian language and mathematics and science curricula that incorporate Native Hawaiian tradition and culture;

(G) professional development activities for educators, including—

(i) the development of programs to prepare prospective teachers to address the unique needs of Native Hawaiian students within the context of Native Hawaiian culture, language, and traditions;

(ii) in-service programs to improve the ability of teachers who teach in schools with concentrations of Native Hawaiian students to meet those students' unique needs; and

(iii) the recruitment and preparation of Native Hawaiians, and other individuals who live in communities with a high concentration of Native Hawaiians, to become teachers;

(H) the operation of community-based learning centers that address the needs of Native Hawaiian families and communities through the coordination of public and private programs and services, including—

(i) preschool programs;

(ii) after-school programs;

(iii) vocational and adult education programs; and

(iv) programs that recognize and support the unique cultural and educational needs of Native Hawaiian children, and incorporate appropriately qualified Native Hawaiian elders and seniors;

(I) activities, including program co-location, to enable Native Hawaiians to enter and complete programs of postsecondary education, including—

(i) provision of full or partial scholarships for undergraduate or graduate study that are awarded to students based on their academic promise and financial need, with a priority, at the graduate level, given to students entering professions in which Native Hawaiians are underrepresented;

(ii) family literacy services;

(iii) counseling and support services for students receiving scholarship assistance;

(iv) counseling and guidance for Native Hawaiian secondary students who have the potential to receive scholarships; and

(v) faculty development activities designed to promote the matriculation of Native Hawaiian students;

(J) research and data collection activities to determine the educational status and needs of Native Hawaiian children and adults;

(K) other research and evaluation activities related to programs carried out under this part; and

(L) other activities, consistent with the purposes of this part, to meet the educational needs of Native Hawaiian children and adults.

(4) Special rule and conditions

(A) Institutions outside Hawaii

The Secretary shall not establish a policy under this section that prevents a Native Hawaiian student enrolled at a 2- or 4-year degree granting institution of higher education outside of the State of Hawaii from receiving a scholarship pursuant to paragraph (3)(I).

(B) Scholarship conditions

The Secretary shall establish conditions for receipt of a scholarship awarded under paragraph (3)(I). The conditions shall require that an individual seeking such a scholarship enter into a contract to provide professional services, either during the scholarship period or upon completion of a program of postsecondary education, to the Native Hawaiian community.

(b) Administrative costs

Not more than 5 percent of funds provided to a recipient of a grant or contract under subsection (a) of this section for any fiscal year may be used for administrative purposes.

(c) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section and section 7514 of this title such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(2) Reservation

Of the funds appropriated under this subsection, the Secretary shall reserve $500,000 for fiscal year 2002 and each of the 5 succeeding fiscal years to make a direct grant to the Education Council to carry out section 7514 of this title.

(3) Availability

Funds appropriated under this subsection shall remain available until expended.

(Pub. L. 89–10, title VII, § 7205, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1939.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (a)(3)(D)(iii), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

PRIOR PROVISIONS

A prior section 7515, Pub. L. 89–10, title VII, § 7205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3738, related to elementary school foreign language incentive program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7259c of this title.

§ 7516. Administrative provisions

(a) Application required

No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application to the Secretary at such time, in such manner, and containing such information as the Secretary may determine to be necessary to carry out the provisions of this part.

(b) Special rule

Each applicant for a grant or contract under this part shall submit the application for comment to the local educational agency serving students who will participate in the program to be carried out under the grant or contract, and include those comments, if any, with the application to the Secretary.

(Pub. L. 89–10, title VII, § 7206, as added Pub. L. 107–110, title VII, § 701, Jan. 8, 2002, 115 Stat. 1941.)

PRIOR PROVISIONS

A prior section 7516, Pub. L. 89–10, title VII, § 7206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3739, authorized appropriations for foreign language assistance, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7517. Definitions

In this part:

(1) Native Hawaiian

The term ''Native Hawaiian'' means any individual who is—

(A) a citizen of the United States; and

(B) a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii, as evidenced by—

(i) genealogical records;

(ii) Kupuna (elders) or Kamaaina (long-term community residents) verification; or

(iii) certified birth records.

(2) Native Hawaiian community-based organization

The term ''Native Hawaiian community-based organization'' means any organization that is composed primarily of Native Hawaiians from a specific community and that assists in the social, cultural, and educational development of Native Hawaiians in that community.

(3) Native Hawaiian educational organization

The term ''Native Hawaiian educational organization'' means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians;

(B) has Native Hawaiians in substantive and policymaking positions within the organization;

(C) incorporates Native Hawaiian perspective, values, language, culture, and traditions into the core function of the organization;

(D) has demonstrated expertise in the education of Native Hawaiian youth; and

(E) has demonstrated expertise in research and program development.

(4) Native Hawaiian language

The term ''Native Hawaiian language'' means the single Native American language indigenous to the original inhabitants of the State of Hawaii.

(5) Native Hawaiian organization

The term ''Native Hawaiian organization'' means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians;

(B) has Native Hawaiians in substantive and policymaking positions within the organization; and

(C) is recognized by the Governor of Hawaii for the purpose of planning, conducting, or administering programs (or portions of programs) for the benefit of Native Hawaiians.

(6) Office of Hawaiian Affairs

The term ''Office of Hawaiian Affairs'' means the Office of Hawaiian Affairs established by the Constitution of the State of Hawaii.

(Pub. L. 89–10, title VII, §7207, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1941.)

PART C—ALASKA NATIVE EDUCATION

§ 7541. Short title

This part may be cited as the ''Alaska Native Educational Equity, Support, and Assistance Act''.

(Pub. L. 89–10, title VII, §7301, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1942.)

PRIOR PROVISIONS

Provisions naming former part C (§7931 et seq.) of subchapter IX of this chapter as the ''Alaska Native Educational Equity, Support and Assistance Act'' were contained in section 7931 of this title, prior to the general amendment of subchapter IX by Pub. L. 107–110.

A prior section 7541, Pub. L. 89–10, title VII, §7301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3739, set forth findings and purpose of emergency immigrant education program, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6961 of this title.

§ 7542. Findings

Congress finds and declares the following:

(1) The attainment of educational success is critical to the betterment of the conditions, long-term well-being, and preservation of the culture of Alaska Natives.

(2) It is the policy of the Federal Government to encourage the maximum participation by Alaska Natives in the planning and the management of Alaska Native education programs.

(3) Alaska Native children enter and exit school with serious educational handicaps.

(4) The educational achievement of Alaska Native children is far below national norms. Native performance on standardized tests is low, Native student dropout rates are high, and Natives are significantly underrepresented among holders of baccalaureate degrees in the State of Alaska. As a result, Native students are being denied their opportunity to become full participants in society by grade school and high school educations that are condemning an entire generation to an underclass status and a life of limited choices.

(5) The programs authorized in this part, combined with expanded Head Start, infant learning, and early childhood education programs, and parent education programs, are essential if educational handicaps are to be overcome.

(6) The sheer magnitude of the geographic barriers to be overcome in delivering educational services in rural Alaska and Alaska villages should be addressed through the development and implementation of innovative, model programs in a variety of areas.

(7) Native children should be afforded the opportunity to begin their formal education on a par with their non-Native peers. The Federal Government should lend support to efforts developed by and undertaken within the Alaska Native community to improve educational opportunity for all students.

(Pub. L. 89–10, title VII, §7302, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1942.)

PRIOR PROVISIONS

A prior section 7542, Pub. L. 89–10, title VII, §7302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3739, related to State administrative costs, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6962 of this title.

§ 7543. Purposes

The purposes of this part are as follows:

(1) To recognize the unique educational needs of Alaska Natives.

(2) To authorize the development of supplemental educational programs to benefit Alaska Natives.

(3) To supplement existing programs and authorities in the area of education to further the purposes of this part.

(4) To provide direction and guidance to appropriate Federal, State and local agencies to focus resources, including resources made available under this part, on meeting the educational needs of Alaska Natives.

(Pub. L. 89–10, title VII, §7303, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1943.)

PRIOR PROVISIONS

A prior section 7543, Pub. L. 89–10, title VII, §7303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3739, related to withholding, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6963 of this title.

§ 7544. Program authorized

(a) General authority

(1) Grants and contracts

The Secretary is authorized to make grants to, or enter into contracts with, Alaska Native organizations, educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, cultural and community-based organizations with experience in developing or operating programs to benefit Alaska Natives, and consortia of organizations and entities described in this paragraph to carry out programs that meet the purposes of this part.

(2) Permissible activities

Activities provided through programs carried out under this part may include the following:

(A) The development and implementation of plans, methods, and strategies to improve the education of Alaska Natives.

(B) The development of curricula and educational programs that address the educational needs of Alaska Native students, including the following:

(i) Curriculum materials that reflect the cultural diversity or the contributions of Alaska Natives.

(ii) Instructional programs that make use of Native Alaskan languages.

(iii) Networks that introduce successful programs, materials, and techniques to urban and rural schools.

(C) Professional development activities for educators, including the following:

(i) Programs to prepare teachers to address the cultural diversity and unique needs of Alaska Native students.

(ii) In-service programs to improve the ability of teachers to meet the unique needs of Alaska Native students.

(iii) Recruitment and preparation of teachers who are Alaska Native, reside in communities with high concentrations of Alaska Native students, or are likely to succeed as teachers in isolated, rural communities and engage in cross-cultural instruction in Alaska.

(D) The development and operation of home instruction programs for Alaska Native preschool children, to ensure the active involvement of parents in their children's education from the earliest ages.

(E) Family literacy services.

(F) The development and operation of student enrichment programs in science and mathematics that—

(i) are designed to prepare Alaska Native students from rural areas, who are preparing to enter secondary school, to excel in science and math;

(ii) provide appropriate support services to the families of such students that are needed to enable such students to benefit from the programs; and

(iii) may include activities that recognize and support the unique cultural and educational needs of Alaska Native children, and incorporate appropriately qualified Alaska Native elders and seniors.

(G) Research and data collection activities to determine the educational status and needs of Alaska Native children and adults.

(H) Other research and evaluation activities related to programs carried out under this part.

(I) Remedial and enrichment programs to assist Alaska Native students in performing at a high level on standardized tests.

(J) Education and training of Alaska Native students enrolled in a degree program that will lead to certification or licensing as teachers.

(K) Parenting education for parents and caregivers of Alaska Native children to improve parenting and caregiving skills (including skills relating to discipline and cognitive development), including parenting education provided through in-home visitation of new mothers.

(L) Cultural education programs operated by the Alaska Native Heritage Center and designed to share the Alaska Native culture with students.

(M) A cultural exchange program operated by the Alaska Humanities Forum and designed to share Alaska Native culture with urban students in a rural setting, which shall be known as the Rose Cultural Exchange Program.

(N) Activities carried out through Even Start programs carried out under subpart 3 of part B of subchapter I of this chapter and Head Start programs carried out under the Head Start Act [42 U.S.C. 9831 et seq.], including the training of teachers for programs described in this subparagraph.

(O) Other early learning and preschool programs.

(P) Dropout prevention programs operated by the Cook Inlet Tribal Council's Partners for Success program.

(Q) An Alaska Initiative for Community Engagement program.

(R) Career preparation activities to enable Alaska Native children and adults to prepare for meaningful employment, including programs providing tech-prep, mentoring, training, and apprenticeship activities.

(S) Provision of operational support and purchasing of equipment, to develop regional vocational schools in rural areas of Alaska, including boarding schools, for Alaska Native students in grades 9 through 12, or at higher levels of education, to provide the students with necessary resources to prepare for skilled employment opportunities.

(T) Other activities, consistent with the purposes of this part, to meet the educational needs of Alaska Native children and adults.

(3) Home instruction programs

Home instruction programs for Alaska Native preschool children carried out under paragraph (2)(D) may include the following:

(A) Programs for parents and their infants, from the prenatal period of the infant through age 3.

(B) Preschool programs.

(C) Training, education, and support for parents in such areas as reading readiness, observation, story telling, and critical thinking.

(b) Limitation on administrative costs

Not more than 5 percent of funds provided to a grantee under this section for any fiscal year may be used for administrative purposes.

(c) Priorities

In awarding grants or contracts to carry out activities described in subsection (a)(2) of this section, except for activities listed in subsection (d)(2) of this section, the Secretary shall give priority to applications from Alaska Native regional nonprofit organizations, or consortia that include at least one Alaska Native regional nonprofit organization.

(d) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

(2) Availability of funds

Of the funds appropriated and made available under this section for a fiscal year, the Secretary shall make available—

(A) not less than $1,000,000 to support activities described in subsection (a)(2)(K) of this section;

(B) not less than $1,000,000 to support activities described in subsection (a)(2)(L) of this section;

(C) not less than $1,000,000 to support activities described in subsection (a)(2)(M) of this section;

(D) not less than $2,000,000 to support activities described in subsection (a)(2)(P) of this section; and

(E) not less than $2,000,000 to support activities described in subsection (a)(2)(Q) of this section.

(Pub. L. 89–10, title VII, §7304, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1943; amended Pub. L. 108–11, title II, §2504, Apr. 16, 2003, 117 Stat. 599.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (a)(2)(N), is subchapter B (§635 et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 7544, Pub. L. 89–10, title VII, §7304, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3740, related to State allocations, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6964 of this title.

AMENDMENTS

2003—Subsec. (a)(2)(P). Pub. L. 108–11 substituted ''operated by'' for ''such as''.

§ 7545. Administrative provisions

(a) Application required

No grant may be made under this part, and no contract may be entered into under this part, unless the entity seeking the grant or contract submits an application to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this part.

(b) Applications

A State educational agency or local educational agency may apply for an award under this part only as part of a consortium involving an Alaska Native organization. The consortium may include other eligible applicants.

(c) Consultation required

Each applicant for an award under this part shall provide for ongoing advice from and consultation with representatives of the Alaska Native community.

(d) Local educational agency coordination

Each applicant for an award under this part shall inform each local educational agency serving students who would participate in the program to be carried out under the grant or contract about the application.

(Pub. L. 89–10, title VII, §7305, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1946.)

PRIOR PROVISIONS

A prior section 7545, Pub. L. 89–10, title VII, §7305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3741, related to State applications, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6965 of this title.

§ 7546. Definitions

In this part:

(1) Alaska Native

The term ''Alaska Native'' has the same meaning as the term ''Native'' has in section 1602(b) of title 43.

(2) Alaska Native organization

The term ''Alaska Native organization'' means a federally recognized tribe, consortium of tribes, regional nonprofit Native association, and another organization that—

(A) has or commits to acquire expertise in the education of Alaska Natives; and

(B) has Alaska Natives in substantive and policymaking positions within the organization.

(Pub. L. 89–10, title VII, §7306, as added Pub. L. 107–110, title VII, §701, Jan. 8, 2002, 115 Stat. 1946.)

PRIOR PROVISIONS

A prior section 7546, Pub. L. 89–10, title VII, §7306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3743, related to administrative provisions, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 6966 of this title.

Prior sections 7547 to 7602 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7547, Pub. L. 89–10, title VII, §7307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3743, related to uses of funds. See section 6967 of this title.

Section 7548, Pub. L. 89–10, title VII, § 7308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, related to reports. See section 6968 of this title.

Section 7549, Pub. L. 89–10, title VII, § 7309, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, authorized appropriations.

Section 7571, Pub. L. 89–10, title VII, § 7401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, related to release time. See section 6981 of this title.

Section 7572, Pub. L. 89–10, title VII, § 7402, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, related to acquisition or development of education technology.

Section 7573, Pub. L. 89–10, title VII, § 7403, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, related to notification of awards. See section 6982 of this title.

Section 7574, Pub. L. 89–10, title VII, § 7404, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, related to continued eligibility for grants.

Section 7575, Pub. L. 89–10, title VII, § 7405, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3744, related to coordination and reporting requirements. See section 6983 of this title.

Section 7601, Pub. L. 89–10, title VII, § 7501, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3745; amended Pub. L. 105–244, title I, § 102(a)(6)(J), title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1619, 1828, defined terms. See section 7011 of this title.

Section 7602, Pub. L. 89–10, title VII, § 7502, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3748, related to regulations and parental notification. See sections 7012 and 7014 of this title.

SUBCHAPTER VIII—IMPACT AID

PRIOR PROVISIONS

Provisions similar to those in this subchapter were contained in chapters 13 (§ 236 et seq.) and 19 (§ 631 et seq.) of this title prior to repeal by Pub. L. 103–382, § 331.

§ 7701. Purpose

In order to fulfill the Federal responsibility to assist with the provision of educational services to federally connected children in a manner that promotes control by local educational agencies with little or no Federal or State involvement, because certain activities of the Federal Government, such as activities to fulfill the responsibilities of the Federal Government with respect to Indian tribes and activities under section 571 of title 50, Appendix, place a financial burden on the local educational agencies serving areas where such activities are carried out, and to help such children meet challenging State standards, it is the purpose of this subchapter to provide financial assistance to local educational agencies that—

(1) experience a substantial and continuing financial burden due to the acquisition of real property by the United States;

(2) educate children who reside on Federal property and whose parents are employed on Federal property;

(3) educate children of parents who are in the military services and children who live in low-rent housing;

(4) educate heavy concentrations of children whose parents are civilian employees of the Federal Government and do not reside on Federal property; or

(5) need special assistance with capital expenditures for construction activities because of the enrollments of substantial numbers of children who reside on Federal lands and because of the difficulty of raising local revenue through bond referendums for capital projects due to the inability to tax Federal property.

(Pub. L. 89–10, title VIII, § 8001, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3749; amended Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1802], Oct. 30, 2000, 114 Stat. 1654, 1654A–368; Pub. L. 108–189, § 2(f), Dec. 19, 2003, 117 Stat. 2866.)

PRIOR PROVISIONS

A prior section 8001 of Pub. L. 89–10 was classified to section 3351 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

Another prior section 8001 of Pub. L. 89–10 was renumbered section 9001 and was classified to section 3381 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2003—Pub. L. 108–189 substituted ''section 571'' for ''section 574'' in introductory provisions.

2000—Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1802(1)], in introductory provisions, inserted ''in a manner that promotes control by local educational agencies with little or no Federal or State involvement'' after ''educational services to federally connected children'' and '', such as activities to fulfill the responsibilities of the Federal Government with respect to Indian tribes and activities under section 574 of title 50, Appendix,'' after ''certain activities of the Federal Government''.

Par. (4). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1802(2)], inserted ''or'' at end.

Pars. (5), (6). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1802(3)–(5)], redesignated par. (6) as (5), inserted ''and because of the difficulty of raising local revenue through bond referendums for capital projects due to the inability to tax Federal property'' before period at end, and struck out former par. (5) which read as follows: ''experience sudden and substantial increases or decreases in enrollments because of military realignments; or''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1818], Oct. 30, 2000, 114 Stat. 1654, 1654A–389, provided that: ''This title [amending this section and sections 1228, 7702, 7703, 7705, 7707, 7709 to 7713, and 7714 of this title, repealing section 7706 of this title, and enacting provisions set out as notes under sections 6301, 7703, and 7711 of this title], and the amendments made by this title, shall take effect on October 1, 2000, or the date of the enactment of this Act [Oct. 30, 2000], whichever occurs later.''

EFFECTIVE DATE

Pub. L. 103–382, § 3(a)(1), Oct. 20, 1994, 108 Stat. 3518, provided that:

''(A) Title I [amending generally Pub. L. 89–10 (formerly chapter 47 of this title, now this chapter)] and the amendment made by title I of this Act shall take effect July 1, 1995, except that those provisions of title I that apply to programs under title VIII (Impact Aid) of the Elementary and Secondary Education Act of 1965 [this subchapter], as amended by this Act, and to programs under such Act [this chapter] that are conducted on a competitive basis, shall be effective with respect to appropriations for use under such programs for fiscal year 1995 and for subsequent fiscal years.

''(B) Title VIII of the Elementary and Secondary Education Act of 1965 [this subchapter], as amended by title I of this Act, shall take effect on the date of the enactment of this Act [Oct. 20, 1994].''

§ 7702. Payments relating to Federal acquisition of real property

(a) In general

Where the Secretary, after consultation with any local educational agency and with the ap-

propriate State educational agency, determines for a fiscal year ending prior to October 1, 2003—

(1) that the United States owns Federal property in the local educational agency, and that such property—

(A) has been acquired by the United States since 1938;

(B) was not acquired by exchange for other Federal property in the local educational agency which the United States owned before 1939; and

(C) had an assessed value (determined as of the time or times when so acquired) aggregating 10 percent or more of the assessed value of—

(i) all real property in the local educational agency (similarly determined as of the time or times when such Federal property was so acquired); or

(ii) all real property in the local educational agency as assessed in the first year preceding or succeeding acquisition, whichever is greater, only if—

(I) the assessment of all real property in the local educational agency is not made at the same time or times that such Federal property was so acquired and assessed; and

(II) State law requires an assessment be made of property so acquired; and

(2) that such agency is not being substantially compensated for the loss in revenue resulting from such ownership by increases in revenue accruing to the agency from the conduct of Federal activities with respect to such Federal property,

then such agency shall be eligible to receive the amount described in subsection (b) of this section.

(b) Amount

(1) In general

(A)(i)(I) Subject to subclauses (II) and (III), the amount that a local educational agency shall be paid under subsection (a) of this section for a fiscal year shall be calculated in accordance with paragraph (2).

(II) Except as provided in subclause (III), the Secretary may not reduce the amount of a payment under this section to a local educational agency for a fiscal year by (aa) the amount equal to the amount of revenue, if any, the agency received during the previous fiscal year from activities conducted on Federal property eligible under this section and located in a school district served by the agency, including amounts received from any Federal department or agency (other than the Department of Education) from such activities, by reason of receipt of such revenue, or (bb) any other amount by reason of receipt of such revenue.

(III) If the amount equal to the sum of (aa) the proposed payment under this section to a local educational agency for a fiscal year and (bb) the amount of revenue described in subclause (II)(aa) received by the agency during the previous fiscal year, exceeds the maximum amount the agency is eligible to receive under this section for the fiscal year involved, then the Secretary shall reduce the amount of the proposed payment under this section by an amount equal to such excess amount.

(ii) For purposes of clause (i), the amount of revenue that a local educational agency receives during the previous fiscal year from activities conducted on Federal property shall not include payments received by the agency from the Secretary of Defense to support—

(I) the operation of a domestic dependent elementary or secondary school; or

(II) the provision of a free public education to dependents of members of the Armed Forces residing on or near a military installation.

(B) If funds appropriated under section 7714(a) of this title are insufficient to pay the amount determined under subparagraph (A), the Secretary shall calculate the payment for each eligible local educational agency in accordance with subsection (h) of this section.

(C) Notwithstanding any other provision of this subsection, a local educational agency may not be paid an amount under this section that, when added to the amount such agency receives under section 7703(b) of this title, exceeds the maximum amount that such agency is eligible to receive for such fiscal year under section 7703(b)(1)(C) of this title, or the maximum amount that such agency is eligible to receive for such fiscal year under this section, whichever is greater.

(2) Application of current levied real property tax rate

In calculating the amount that a local educational agency is eligible to receive for a fiscal year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies, or imputed for fiscally dependent local educational agencies, to the current annually determined aggregate assessed value of such acquired Federal property.

(3) Determination of aggregate assessed value

Such aggregate assessed value of such acquired Federal property shall be determined on the basis of the highest and best use of property adjacent to such acquired Federal property as of the time such value is determined, and provided to the Secretary, by the local official responsible for assessing the value of real property located in the jurisdiction of such local educational agency for the purpose of levying a property tax.

(c) Applicability to Tennessee Valley Authority Act

For the purpose of this section, any real property with respect to which payments are being made under section 13 of the Tennessee Valley Authority Act of 1933 [16 U.S.C. 831*l*] shall not be regarded as Federal property.

(d) Ownership by United States

The United States shall be deemed to own Federal property for the purposes of this chapter, where—

(1) prior to the transfer of Federal property, the United States owned Federal property

meeting the requirements of subparagraphs (A), (B), and (C) of subsection (a)(1) of this section; and

(2) the United States transfers a portion of the property referred to in paragraph (1) to another nontaxable entity, and the United States—

(A) restricts some or any construction on such property;

(B) requires that the property be used in perpetuity for the public purposes for which the property was conveyed;

(C) requires the grantee of the property to report to the Federal Government (or its agent) regarding information on the use of the property;

(D) except with the approval of the Federal Government (or its agent), prohibits the sale, lease, assignment, or other disposal of the property unless such sale, lease, assignment, or other disposal is to another eligible government agency; and

(E) reserves to the Federal Government a right of reversion at any time the Federal Government (or its agent) deems it necessary for the national defense.

(e) Local educational agency containing Forest Service land and serving certain counties

Beginning with fiscal year 1995, a local educational agency shall be deemed to meet the requirements of subsection (a)(1)(C) of this section if such local educational agency meets the following requirements:

(1) Acreage and acquisition by the Forest Service

The local educational agency serves a school district that contains between 20,000 and 60,000 acres of land that has been acquired by the Forest Service of the Department of Agriculture between 1915 and 1990, as demonstrated by written evidence from the Forest Service satisfactory to the Secretary.

(2) County charter

The local educational agency serves a county chartered under State law in 1875 or 1890.

(f) Special rule

(1) Beginning with fiscal year 1994, and notwithstanding any other provision of law limiting the period during which fiscal year 1994 funds may be obligated, the Secretary shall treat the local educational agency serving the Wheatland R–II School District, Wheatland, Missouri, as meeting the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) (20 U.S.C. 237(a)(1)(C)) or subsection (a)(1)(C) of this section.

(2) For each fiscal year beginning with fiscal year 1999, the Secretary shall treat the Webster School District, Day County, South Dakota as meeting the eligibility requirements of subsection (a)(1)(C) of this section.

(3) For each fiscal year beginning with fiscal year 2000, the Secretary shall treat the Central Union, California; Island, California; Hill City, South Dakota; and Wall, South Dakota local educational agencies as meeting the eligibility requirements of subsection (a)(1)(C) of this section.

(4) For the purposes of payments under this section for each fiscal year beginning with fiscal year 2000, the Secretary shall treat the Hot Springs, South Dakota local educational agency as if it had filed a timely application under this section for fiscal year 1994 if the Secretary has received the fiscal year 1994 application, as well as Exhibits A and B not later than December 1, 1999.

(5) For purposes of payments under this section for each fiscal year beginning with fiscal year 2000, the Secretary shall treat the Hueneme, California local educational agency as if it had filed a timely application under this section if the Secretary has received the fiscal year 1995 application not later than December 1, 1999.

(g) Former districts

(1) In general

Where the school district of any local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at any time such agency files an application under section 7705 of this title) for any fiscal year after fiscal year 1994 to have (A) the eligibility of such local educational agency, and (B) the amount which such agency shall be eligible to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school districts as such agency shall designate in such election.

(2) Eligible local educational agencies

A local educational agency referred to in paragraph (1) is any local educational agency that, for fiscal year 1994 or any preceding fiscal year, applied for and was determined eligible under section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect for such fiscal year.

(h) Payments with respect to fiscal years in which insufficient funds are appropriated

For any fiscal year for which the amount appropriated under section 7714(a) of this title is insufficient to pay to each eligible local educational agency the full amount determined under subsection (b) of this section, the Secretary shall make payments to each local educational agency under this section as follows:

(1) Foundation payments for pre-1995 recipients

(A) In general

The Secretary shall first make a foundation payment to each local educational agency that is eligible to receive a payment under this section for the fiscal year involved and that filed, or has been determined pursuant to statute to have filed a timely application, and met, or has been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) for any of the fiscal years 1989 through 1994.

(B) Amount

The amount of a payment under subparagraph (A) for a local educational agency shall be equal to 38 percent of the local educational agency's maximum entitlement amount under section 2 of the Act of September 30, 1950, for fiscal year 1994 (or if the local educational agency did not meet, or has not been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 for fiscal year 1994, the local educational agency's maximum entitlement amount under such section 2 for the most recent fiscal year preceding 1994).

(C) Insufficient appropriations

If the amount appropriated under section 7714(a) of this title is insufficient to pay the full amount determined under this paragraph for all eligible local educational agencies for the fiscal year, then the Secretary shall ratably reduce the payment to each local educational agency under this paragraph.

(2) Payments for 1995 recipients

(A) In general

From any amounts remaining after making payments under paragraph (1) for the fiscal year involved, the Secretary shall make a payment to each eligible local educational agency that received a payment under this section for fiscal year 1995, or whose application under this section for fiscal year 1995 was determined pursuant to statute to be timely filed for purposes of payments for subsequent fiscal years.

(B) Amount

The amount of a payment under subparagraph (A) for a local educational agency shall be determined as follows:

(i) Calculate the difference between the amount appropriated to carry out this section for fiscal year 1995 and the total amount of foundation payments made under paragraph (1) for the fiscal year.

(ii) Determine the percentage share for each local educational agency described in subparagraph (A) by dividing the assessed value of the Federal property of the local educational agency for fiscal year 1995 determined in accordance with subsection (b)(3) of this section, by the total eligible national assessed value of the eligible Federal property of all such local educational agencies for fiscal year 1995, as so determined.

(iii) Multiply the percentage share described in clause (ii) for the local educational agency by the amount determined under clause (i).

(3) Subsection (i) recipients

From any funds remaining after making payments under paragraphs (1) and (2) for the fiscal year involved, the Secretary shall make payments in accordance with subsection (i) of this section.

(4) Remaining funds

From any funds remaining after making payments under paragraphs (1), (2), and (3) for the fiscal year involved—

(A) the Secretary shall make a payment to each local educational agency that received a foundation payment under paragraph (1) for the fiscal year involved in an amount that bears the same relation to 25 percent of the remainder as the amount the local educational agency received under paragraph (1) for the fiscal year involved bears to the amount all local educational agencies received under paragraph (1) for the fiscal year involved; and

(B) the Secretary shall make a payment to each local educational agency that is eligible to receive a payment under this section for the fiscal year involved in an amount that bears the same relation to 75 percent of the remainder as a percentage share determined for the local educational agency (by dividing the maximum amount that the agency is eligible to receive under subsection (b) of this section by the total of the maximum amounts for all such agencies) bears to the percentage share determined (in the same manner) for all local educational agencies eligible to receive a payment under this section for the fiscal year involved, except that, for the purpose of calculating a local educational agency's maximum amount under subsection (b) of this section, data from the most current fiscal year shall be used.

(i) Special payments

(1) In general

For any fiscal year beginning with fiscal year 2000 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996 and for which subsection (b)(1)(B) of this section applies, the Secretary shall use the remainder described in subsection (h)(3) of this section for the fiscal year involved (not to exceed the amount equal to the difference between (A) the amount appropriated to carry out this section for fiscal year 1997 and (B) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency described in paragraph (2).

(2) Local educational agency described

A local educational agency described in this paragraph is a local educational agency that—

(A) received a payment under this section for fiscal year 1996;

(B) serves a school district that contains all or a portion of a United States military academy;

(C) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

(D) demonstrates to the satisfaction of the Secretary that such agency's per-pupil rev-

enue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.

(j) Repealed. Pub. L. 107–110, title VIII, § 801(d), Jan. 8, 2002, 115 Stat. 1948

(k) Special rule

For purposes of payments under this section for each fiscal year beginning with fiscal year 1998—

(1) the Secretary shall, for the Stanley County, South Dakota local educational agency, calculate payments as if subsection (e) of this section had been in effect for fiscal year 1994; and

(2) the Secretary shall treat the Delaware Valley, Pennsylvania local educational agency as if it had filed a timely application under section 2 of Public Law 81–874 for fiscal year 1994.

(*l*) Prior year data

Notwithstanding any other provision of this section, in determining the eligibility of a local educational agency for a payment under subsection (b) or (h)(4)(B) of this section for a fiscal year, and in calculating the amount of such payment, the Secretary—

(1) shall use data from the prior fiscal year with respect to the Federal property involved, including data with respect to the assessed value of the property and the real property tax rate for current expenditures levied against or imputed to the property; and

(2) shall use data from the second prior fiscal year with respect to determining the amount of revenue referred to in subsection (b)(1)(A)(i) of this section.

(m) Eligibility

(1) Old Federal property

Except as provided in paragraph (2), a local educational agency that is eligible to receive a payment under this section for Federal property acquired by the Federal Government, before October 30, 2000, shall be eligible to receive the payment only if the local educational agency submits an application for a payment under this section not later than 7 years after October 30, 2000.

(2) Combined Federal property

A local educational agency that is eligible to receive a payment under this section for Federal property acquired by the Federal Government before October 30, 2000, shall be eligible to receive the payment if—

(A) the Federal property, when combined with other Federal property in the school district served by the local educational agency acquired by the Federal Government after October 30, 2000, meets the requirements of subsection (a) of this section; and

(B) the local educational agency submits an application for a payment under this section not later than 7 years after the date of acquisition of the Federal property acquired after October 30, 2000.

(3) New Federal property

A local educational agency that is eligible to receive a payment under this section for Federal property acquired by the Federal Government after October 30, 2000, shall be eligible to receive the payment only if the local educational agency submits an application for a payment under this section not later than 7 years after the date of acquisition.

(n) Loss of eligibility

(1) In general

Notwithstanding any other provision of this section, the Secretary shall make a minimum payment to a local educational agency described in paragraph (2), for the first fiscal year that the agency loses eligibility for assistance under this section as a result of property located within the school district served by the agency failing to meet the definition of Federal property under section 7713(5)(C)(iii) of this title, in an amount equal to 90 percent of the amount received by the agency under this section for the preceding year.

(2) Local educational agency described

A local educational agency described in this paragraph is an agency that—

(A) was eligible for, and received, a payment under this section for fiscal year 2002; and

(B) beginning in fiscal year 2003 or a subsequent fiscal year, is no longer eligible for payments under this section as provided for in subsection (a)(1)(C) of this section as a result of the transfer of the Federal property involved to a non-Federal entity.

(Pub. L. 89–10, title VIII, § 8002, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3749; amended Pub. L. 104–195, §§ 1, 6, Sept. 16, 1996, 110 Stat. 2379, 2382; Pub. L. 105–18, title VI, §§ 60004, 60006, June 12, 1997, 111 Stat. 214, 215; Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1498; Pub. L. 105–277, div. A, § 101(f) [title III], Oct. 21, 1998, 112 Stat. 2681–337, 2681–365; Pub. L. 106–113, div. B, § 1000(a)(4) [title III], Nov. 29, 1999, 113 Stat. 1535, 1501A–247; Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803], Oct. 30, 2000, 114 Stat. 1654, 1654A–369; Pub. L. 107–110, title VIII, § 801(a)–(e), Jan. 8, 2002, 115 Stat. 1947, 1948; Pub. L. 108–447, div. F, title III, § 305, Dec. 8, 2004, 118 Stat. 3151.)

REFERENCES IN TEXT

Section 2 of the Act of September 30, 1950 and section 2 of Public Law 81–874, referred to in subsecs. (f)(1), (g)(2), (h)(1)(A), (B), and (k)(2), means section 2 of act Sept. 30, 1950, ch. 1124, which was classified to section 237 of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965.

PRIOR PROVISIONS

A prior section 8002 of Pub. L. 89–10 was renumbered section 9002 and was classified to section 3382 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2004—Subsec. (m). Pub. L. 108–447 substituted ''7 years'' for ''5 years'' in pars. (1), (2)(B), and (3).

2002—Subsec. (h)(1)(A). Pub. L. 107–110, § 801(a)(1), substituted ''and that filed, or has been determined pursuant to statute to have filed a timely application, and met, or has been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950'' for ''and was eligible to receive a payment under section 2 of the Act of September 30, 1950''.

Subsec. (h)(1)(B). Pub. L. 107–110, § 801(a)(2), substituted ''(or if the local educational agency did not meet, or has not been determined pursuant to statute to meet, the eligibility requirements of section 2(a)(1)(C) of the Act of September 30, 1950 for fiscal year 1994'' for ''(or if the local educational agency was not eligible to receive a payment under such section 2 for fiscal year 1994''.

Subsec. (h)(2)(A). Pub. L. 107–110, § 801(b)(1), inserted before period at end '', or whose application under this section for fiscal year 1995 was determined pursuant to statute to be timely filed for purposes of payments for subsequent fiscal years''.

Subsec. (h)(2)(B)(ii). Pub. L. 107–110, § 801(b)(2), substituted ''for each local educational agency described in subparagraph (A)'' for ''for each local educational agency that received a payment under this section for fiscal year 1995''.

Subsec. (h)(4)(B). Pub. L. 107–110, § 801(c), substituted ''(by dividing the maximum amount that the agency is eligible to receive under subsection (b) of this section by the total of the maximum amounts for all such agencies)'' for ''(in the same manner as percentage shares are determined for local educational agencies under paragraph (2)(B)(ii))'' and '', except that, for the purpose of calculating a local educational agency's maximum amount under subsection (b) of this section'' for '', except that for the purpose of calculating a local educational agency's assessed value of the Federal property''.

Subsec. (j). Pub. L. 107–110, § 801(d), struck out subsec. (j) which authorized additional assistance for certain local educational agencies impacted by Federal property acquisition.

Subsec. (n). Pub. L. 107–110, § 801(e), added subsec. (n).

2000—Subsec. (a). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803(a)], substituted ''2003'' for ''1999'' in introductory provisions.

Subsec. (b)(1)(A)(i). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803(b)(1)], designated existing provisions as subcl. (I), substituted ''Subject to subclauses (II) and (III), the amount'' for ''The amount'', struck out '', except that such amount shall be reduced by the Secretary by an amount equal to the amount of revenue, if any, that such agency received during the previous fiscal year from activities conducted on such Federal property'' after ''in accordance with paragraph (2)'', and added subcls. (II) and (III).

Subsec. (b)(1)(B). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803(b)(2)], substituted ''shall calculate the payment for each eligible local educational agency in accordance with subsection (h) of this section'' for ''shall ratably reduce the payment to each eligible local educational agency''.

Subsec. (b)(1)(C). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803(b)(3)], inserted before period at end '', or the maximum amount that such agency is eligible to receive for such fiscal year under this section, whichever is greater''.

Subsec. (h). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803(c)], amended heading and text generally. Prior to amendment, subsec. (h) required the Secretary to pay under subsec. (b) of this section to eligible local education agencies certain minimum amounts for fiscal years 1995 to 2000.

Subsec. (i). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803(d)(2)], substituted ''Special'' for ''Priority'' in heading.

Subsec. (i)(1). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803(d)(1)], amended heading and text of par. (1) generally. Prior to amendment, text read as follows: ''Notwithstanding subsection (b)(1)(B) of this section, and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996—

''(A) the Secretary shall first use the excess amount (not to exceed the amount equal to the difference of (i) the amount appropriated to carry out this section for fiscal year 1997, and (ii) the amount appropriated to carry out this section for fiscal year 1996) to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency described in paragraph (2); and

''(B) the Secretary shall use the remainder of the excess amount to increase the payments to each eligible local educational agency under this section.''

Subsec. (j)(2). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803(e)], struck out ''(A)'' before ''A local educational agency'', redesignated cls. (i) to (v) as subpars. (A) to (E), respectively, and inserted ''and, at the time at which the agency is applying for a payment under this subsection, the agency does not have a military installation located within its geographic boundaries'' before the semicolon at the end of subpar. (C).

Subsec. (*l*). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803(f)], added subsec. (*l*).

Subsec. (m). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1803(g)], added subsec. (m).

1999—Subsec. (f)(3) to (5). Pub. L. 106–113 added pars. (3) to (5).

1998—Subsec. (f). Pub. L. 105–277 designated existing provisions as par. (1) and added par. (2).

Subsec. (k). Pub. L. 105–277 added subsec. (k).

1997—Subsec. (h)(1)(C). Pub. L. 105–18, § 60004, added subpar. (C).

Subsec. (i). Pub. L. 105–18, § 60006, amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: ''Notwithstanding subsection (b)(1)(B) of this section, and for any fiscal year beginning with fiscal year 1997 for which the amount appropriated to carry out this section exceeds the amount so appropriated for fiscal year 1996, the Secretary shall first use such excess amount to increase the payment that would otherwise be made under this section to not more than 50 percent of the maximum amount determined under subsection (b) of this section for any local educational agency that—

''(1) received a payment under this section for fiscal year 1996;

''(2) serves a school district that contains all or a portion of a United States military academy;

''(3) serves a school district in which the local tax assessor has certified that at least 60 percent of the real property is federally owned; and

''(4) demonstrates to the satisfaction of the Secretary that such agency's per-pupil revenue derived from local sources for current expenditures is not less than that revenue for the preceding fiscal year.''

Subsec. (j). Pub. L. 105–78 added subsec. (j).

1996—Subsecs. (g), (h). Pub. L. 104–195, § 1, added subsecs. (g) and (h).

Subsec. (i). Pub. L. 104–195, § 6, added subsec. (i).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 7703. Payments for eligible federally connected children

(a) Computation of payment

(1) In general

For the purpose of computing the amount that a local educational agency is eligible to receive under subsection (b) or (d) of this section for any fiscal year, the Secretary shall determine the number of children who were in average daily attendance in the schools of such agency, and for whom such agency provided free public education, during the preceding school year and who, while in attendance at such schools—

(A)(i) resided on Federal property with a parent employed on Federal property situated in whole or in part within the boundaries of the school district of such agency; or

(ii) resided on Federal property with a parent who is an official of, and accredited by, a foreign government and is a foreign military officer;

(B) resided on Federal property and had a parent on active duty in the uniformed services (as defined in section 101 of title 37);

(C) resided on Indian lands;

(D)(i) had a parent on active duty in the uniformed services (as defined by section 101 of title 37) but did not reside on Federal property; or

(ii) had a parent who is an official of, and has been accredited by, a foreign government and is a foreign military officer but did not reside on Federal property;

(E) resided in low-rent housing;

(F) resided on Federal property and is not described in subparagraph (A) or (B); or

(G) resided with a parent employed on Federal property situated—

(i) in whole or in part in the county in which such agency is located, or in whole or in part in such agency if such agency is located in more than one county; or

(ii) if not in such county, in whole or in part in the same State as such agency.

(2) Determination of weighted student units

For the purpose of computing the basic support payment under subsection (b) of this section, the Secretary shall calculate the total number of weighted student units for a local educational agency by adding together the results obtained by the following computations:

(A) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of 1.0.

(B) Multiply the number of children described in paragraph (1)(C) by a factor of 1.25.

(C) Multiply the number of children described in subparagraphs (A) and (B) of paragraph (1) by a factor of .35 if the local educational agency has—

(i) a number of such children described in such subparagraphs which exceeds 6,500; and

(ii) an average daily attendance for all children which exceeds 100,000.

(D) Multiply the number of children described in subparagraph (D) of paragraph (1) by a factor of .20.

(E) Multiply the number of children described in subparagraph (E) of paragraph (1) by a factor of .10.

(F) Multiply the number of children described in subparagraphs (F) and (G) of paragraph (1) by a factor of .05.

(3) Special rule

The Secretary shall only compute a payment for a local educational agency for children described in subparagraph (F) or (G) of paragraph (1) if the number of such children equals or exceeds 1,000 or such number equals or exceeds 10 percent of the total number of students in average daily attendance in the schools of such agency.

(4) Military installation and Indian housing undergoing renovation or rebuilding

(A) In general

(i) For purposes of computing the amount of a payment for a local educational agency for children described in paragraph (1)(D)(i), the Secretary shall consider such children to be children described in paragraph (1)(B) if the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of Defense, that such children would have resided in housing on Federal property in accordance with paragraph (1)(B) except that such housing was undergoing renovation or rebuilding on the date for which the Secretary determines the number of children under paragraph (1).

(ii) For purposes of computing the amount of a payment for a local educational agency that received a payment for children that resided on Indian lands in accordance with paragraph (1)(C) for the fiscal year prior to the fiscal year for which the local educational agency is making an application, the Secretary shall consider such children to be children described in paragraph (1)(C) if the Secretary determines, on the basis of a certification provided to the Secretary by a designated representative of the Secretary of the Interior or the Secretary of Housing and Urban Development, that such children would have resided in housing on Indian lands in accordance with paragraph (1)(C) except that such housing was undergoing renovation or rebuilding on the date for which the Secretary determines the number of children under paragraph (1).

(B) Limitations

(i)(I) Children described in paragraph (1)(D)(i) may be deemed to be children described in paragraph (1)(B) with respect to housing on Federal property undergoing renovation or rebuilding in accordance with subparagraph (A)(i) for a period not to exceed 3 fiscal years.

(II) The number of children described in paragraph (1)(D)(i) who are deemed to be children described in paragraph (1)(B) with respect to housing on Federal property undergoing renovation or rebuilding in accordance with subparagraph (A)(i) for any fiscal year may not exceed the maximum number of children who are expected to occupy that housing upon completion of the renovation or rebuilding.

(ii)(I) Children that resided on Indian lands in accordance with paragraph (1)(C) for the fiscal year prior to the fiscal year for which the local educational agency is making an application may be deemed to be children described in paragraph (1)(C) with respect to housing on Indian lands undergoing renovation or rebuilding in accordance with subparagraph (A)(ii) for a period not to exceed 3 fiscal years.

(II) The number of children that resided on Indian lands in accordance with paragraph

(1)(C) for the fiscal year prior to the fiscal year for which the local educational agency is making an application who are deemed to be children described in paragraph (1)(C) with respect to housing on Indian lands undergoing renovation or rebuilding in accordance with subparagraph (A)(ii) for any fiscal year may not exceed the maximum number of children who are expected to occupy that housing upon completion of the renovation or rebuilding.

(5) Military "Build to Lease" program housing

(A) In general

For purposes of computing the amount of payment for a local educational agency for children identified under paragraph (1), the Secretary shall consider children residing in housing initially acquired or constructed under the former section 2828(g) of title 10 (commonly known as the ''Build to Lease'' program), as added by section 801 of the Military Construction Authorization Act, 1984, to be children described under paragraph (1)(B) if the property described is within the fenced security perimeter of the military facility upon which such housing is situated.

(B) Additional requirements

If the property described in subparagraph (A) is not owned by the Federal Government, is subject to taxation by a State or political subdivision of a State, and thereby generates revenues for a local educational agency that is applying to receive a payment under this section, then the Secretary—

(i) shall require the local educational agency to provide certification from an appropriate official of the Department of Defense that the property is being used to provide military housing; and

(ii) shall reduce the amount of the payment under this section by an amount equal to the amount of revenue from such taxation received in the second preceding fiscal year by such local educational agency, unless the amount of such revenue was taken into account by the State for such second preceding fiscal year and already resulted in a reduction in the amount of State aid paid to such local educational agency.

(b) Basic support payments; insufficient appropriations; State with only one local educational agency

(1) Basic support payments

(A) In general

From the amount appropriated under section 7714(b) of this title for a fiscal year, the Secretary is authorized to make basic support payments to eligible local educational agencies with children described in subsection (a) of this section.

(B) Eligibility

A local educational agency is eligible to receive a basic support payment under subparagraph (A) for a fiscal year with respect to a number of children determined under subsection (a)(1) of this section only if the number of children so determined with respect to such agency amounts to the lesser of—

(i) at least 400 such children; or

(ii) a number of such children which equals at least 3 percent of the total number of children who were in average daily attendance, during such year, at the schools of such agency and for whom such agency provided free public education.

(C) Maximum amount

The maximum amount that a local educational agency is eligible to receive under this paragraph for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2) of this section, multiplied by the greater of—

(i) one-half of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made;

(ii) one-half of the average per-pupil expenditure of all of the States for the third fiscal year preceding the fiscal year for which the determination is made;

(iii) the comparable local contribution rate certified by the State, as determined under regulations prescribed to carry out the Act of September 30, 1950 (Public Law 874, 81st Congress), as such regulations were in effect on January 1, 1994; or

(iv) the average per-pupil expenditure of the State in which the local educational agency is located, multiplied by the local contribution percentage.

(D) Data

If satisfactory data from the third preceding fiscal year are not available for any of the expenditures described in clause (i) or (ii) of subparagraph (C), the Secretary shall use data from the most recent fiscal year for which data that are satisfactory to the Secretary are available.

(E) Special rule

For purposes of determining the comparable local contribution rate under subparagraph (C)(iii) for a local educational agency described in section 222.39(c)(3) of title 34, Code of Federal Regulations, that had its comparable local contribution rate for fiscal year 1998 calculated pursuant to section 222.39 of title 34, Code of Federal Regulations, the Secretary shall determine such comparable local contribution rate as the rate upon which payments under this subsection for fiscal year 2000 were made to the local educational agency adjusted by the percentage increase or decrease in the per pupil expenditure in the State serving the local educational agency calculated on the basis of the second most recent preceding school year compared to the third most recent preceding school year for which school year data are available.

(F) Increase in local contribution rate due to unusual geographic factors

If the current expenditures in those local educational agencies which the Secretary

has determined to be generally comparable to the local educational agency for which a computation is made under subparagraph (C) are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain, in such agency, a level of education equivalent to that maintained in such other agencies, then the Secretary shall increase the local contribution rate for such agency under subparagraph (C)(iii) by such an amount which the Secretary determines will compensate such agency for the increase in current expenditures necessitated by such unusual geographical factors. The amount of any such supplementary payment may not exceed the per-pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographic factors.

(G) Beginning with fiscal year 2002, for the purpose of calculating a payment under this paragraph for a local educational agency whose local contribution rate was computed under subparagraph (C)(iii) for the previous year, the Secretary shall use a local contribution rate that is not less than 95 percent of the rate that the LEA received for the preceding year.

(2) Basic support payments for heavily impacted local educational agencies

(A) In general

(i) From the amount appropriated under section 7714(b) of this title for a fiscal year, the Secretary is authorized to make basic support payments to eligible heavily impacted local educational agencies with children described in subsection (a) of this section.

(ii) A local educational agency that receives a basic support payment under this paragraph for a fiscal year shall not be eligible to receive a basic support payment under paragraph (1) for that fiscal year.

(B) Eligibility for continuing heavily impacted local educational agencies

(i) In general

A heavily impacted local educational agency is eligible to receive a basic support payment under subparagraph (A) with respect to a number of children determined under subsection (a)(1) of this section if the agency—

(I) received an additional assistance payment under subsection (f) of this section (as such subsection was in effect on the day before October 30, 2000) for fiscal year 2000; and

(II)(aa) is a local educational agency whose boundaries are the same as a Federal military installation;

(bb) has an enrollment of children described in subsection (a)(1) of this section that constitutes a percentage of the total student enrollment of the agency which is not less than 35 percent, has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located or the average per-pupil expenditure of all States (whichever average per-pupil expenditure is greater), except that a local educational agency with a total student enrollment of less than 350 students shall be deemed to have satisfied such per-pupil expenditure requirement, and has a tax rate for general fund purposes which is not less than 95 percent of the average tax rate for general fund purposes of local educational agencies in the State;

(cc) has an enrollment of children described in subsection (a)(1) of this section that constitutes a percentage of the total student enrollment of the agency which is not less than 30 percent, and has a tax rate for general fund purposes which is not less than 125 percent of the average tax rate for general fund purposes for comparable local educational agencies in the State;

(dd) has a total student enrollment of not less than 25,000 students, of which not less than 50 percent are children described in subsection (a)(1) of this section and not less than 6,000 of such children are children described in subparagraphs (A) and (B) of subsection (a)(1) of this section; or

(ee) meets the requirements of subsection (f)(2) of this section applying the data requirements of subsection (f)(4) of this section (as such subsections were in effect on the day before October 30, 2000).

(ii) Loss of eligibility

A heavily impacted local educational agency that met the requirements of clause (i) for a fiscal year shall be ineligible to receive a basic support payment under subparagraph (A) if the agency fails to meet the requirements of clause (i) for a subsequent fiscal year, except that such agency shall continue to receive a basic support payment under this paragraph for the fiscal year for which the ineligibility determination is made.

(iii) Resumption of eligibility

A heavily impacted local educational agency described in clause (i) that becomes ineligible under such clause for 1 or more fiscal years may resume eligibility for a basic support payment under this paragraph for a subsequent fiscal year only if the agency meets the requirements of clause (i) for that subsequent fiscal year, except that such agency shall not receive a basic support payment under this paragraph until the fiscal year succeeding the fiscal year for which the eligibility determination is made.

(C) Eligibility for new heavily impacted local educational agencies

(i) In general

A heavily impacted local educational agency that did not receive an additional assistance payment under subsection (f) of this section (as such subsection was in effect on the day before October 30, 2000) for

fiscal year 2000 is eligible to receive a basic support payment under subparagraph (A) for fiscal year 2002 and any subsequent fiscal year with respect to a number of children determined under subsection (a)(1) of this section only if the agency is a local educational agency whose boundaries are the same as a Federal military installation (or if the agency is a qualified local educational agency as described in clause (iv)), or the agency—

(I) has an enrollment of children described in subsection (a)(1) of this section that constitutes a percentage of the total student enrollment of the agency that—

(aa) is not less than 50 percent if such agency receives a payment on behalf of children described in subparagraphs (F) and (G) of such subsection; or

(bb) is not less than 40 percent if such agency does not receive a payment on behalf of such children;

(II)(aa) for a local educational agency that has a total student enrollment of 350 or more students, has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located; or

(bb) for a local educational agency that has a total student enrollment of less than 350 students, has a per-pupil expenditure that is less than the average per-pupil expenditure of a comparable local education agency or three comparable local educational agencies in the State in which the local educational agency is located; and

(III) has a tax rate for general fund purposes that is at least 95 percent of the average tax rate for general fund purposes of comparable local educational agencies in the State.

(ii) Resumption of eligibility

A heavily impacted local educational agency described in clause (i) that becomes ineligible under such clause for 1 or more fiscal years may resume eligibility for a basic support payment under this paragraph for a subsequent fiscal year only if the agency is a local educational agency whose boundaries are the same as a Federal military installation (or if the agency is a qualified local educational agency as described in clause (iv)), or meets the requirements of clause (i), for that subsequent fiscal year, except that such agency shall continue to receive a basic support payment under this paragraph for the fiscal year for which the ineligibility determination is made.

(iii) Application

With respect to the first fiscal year for which a heavily impacted local educational agency described in clause (i) applies for a basic support payment under subparagraph (A), or with respect to the first fiscal year for which a heavily impacted local educational agency applies for a basic support payment under subparagraph (A) after becoming ineligible under clause (i) for 1 or more preceding fiscal years, the agency shall apply for such payment at least 1 year prior to the start of that first fiscal year.

(iv) Qualified local educational agency

A qualified local educational agency described in this clause is an agency that meets the following requirements:

(I) The boundaries of the agency are the same as island property designated by the Secretary of the Interior to be property that is held in trust by the Federal Government.

(II) The agency has no taxing authority.

(III) The agency received a payment under paragraph (1) for fiscal year 2001.

(D) Maximum amount for regular heavily impacted local educational agencies

(i) Except as provided in subparagraph (E), the maximum amount that a heavily impacted local educational agency is eligible to receive under this paragraph for any fiscal year is the sum of the total weighted student units, as computed under subsection (a)(2) of this section and subject to clause (ii), multiplied by the greater of—

(I) four-fifths of the average per-pupil expenditure of the State in which the local educational agency is located for the third fiscal year preceding the fiscal year for which the determination is made; or

(II) four-fifths of the average per-pupil expenditure of all of the States for the third fiscal year preceding the fiscal year for which the determination is made.

(ii)(I) For a local educational agency with respect to which 35 percent or more of the total student enrollment of the schools of the agency are children described in subparagraph (D) or (E) (or a combination thereof) of subsection (a)(1) of this section, the Secretary shall calculate the weighted student units of such children for purposes of subsection (a)(2) of this section by multiplying the number of such children by a factor of 0.55.

(II) For a local educational agency that has an enrollment of 100 or fewer children described in subsection (a)(1) of this section, the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) of this section by multiplying the number of such children by a factor of 1.75.

(III) For a local educational agency that does not qualify under (B)(i)(II)(aa)[1] of this subsection and has an enrollment of more than 100 but not more than 1,000 children described in subsection (a)(1) of this section, the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) of this section by multi-

[1] So in original. Probably should be ''paragraph (2)(B)(i)(II)(aa)''.

plying the number of such children by a factor of 1.25.

(E) Maximum amount for large heavily impacted local educational agencies

(i)(I) Subject to clause (ii), the maximum amount that a heavily impacted local educational agency described in subclause (II) is eligible to receive under this paragraph for any fiscal year shall be determined in accordance with the formula described in paragraph (1)(C).

(II) A heavily impacted local educational agency described in this subclause is a local educational agency that has a total student enrollment of not less than 25,000 students, of which not less than 50 percent are children described in subsection (a)(1) of this section and not less than 6,000 of such children are children described in subparagraphs (A) and (B) of subsection (a)(1) of this section.

(ii) For purposes of calculating the maximum amount described in clause (i), the factor used in determining the weighted student units under subsection (a)(2) of this section with respect to children described in subparagraphs (A) and (B) of subsection (a)(1) of this section shall be 1.35.

(F) Data

For purposes of providing assistance under this paragraph the Secretary—

(i) shall use student, revenue, expenditure, and tax data from the third fiscal year preceding the fiscal year for which the local educational agency is applying for assistance under this paragraph; and

(ii) except as provided in subparagraph (C)(i)(I), shall include all of the children described in subparagraphs (F) and (G) of subsection (a)(1) of this section enrolled in schools of the local educational agency in determining (I) the eligibility of the agency for assistance under this paragraph, and (II) the amount of such assistance if the number of such children meet the requirements of subsection (a)(3) of this section.

(G) Determination of average tax rates for general fund purposes

For the purpose of determining average tax rates for general fund purposes for local educational agencies in a State under this paragraph (except under subparagraph (C)(i)(II)(bb)), the Secretary shall use either—

(i) the average tax rate for general fund purposes for comparable local educational agencies, as determined by the Secretary in regulations; or

(ii) the average tax rate of all the local educational agencies in the State.

(H) Eligibility for heavily impacted local educational agencies affected by privatization of military housing

(i) Eligibility

For any fiscal year, a heavily impacted local educational agency that received a basic support payment under this paragraph for the prior fiscal year, but is ineligible for such payment for the current fiscal year under subparagraph (B), (C), (D), or (E), as the case may be, by reason of the conversion of military housing units to private housing described in clause (iii), shall be deemed to meet the eligibility requirements under subparagraph (B) or (C), as the case may be, for the period during which the housing units are undergoing such conversion.

(ii) Amount of payment

The amount of a payment to a heavily impacted local educational agency for a fiscal year by reason of the application of clause (i), and calculated in accordance with subparagraph (D) or (E), as the case may be, shall be based on the number of children in average daily attendance in the schools of such agency for the fiscal year and under the same provisions of subparagraph (D) or (E) under which the agency was paid during the prior fiscal year.

(iii) Conversion of military housing units to private housing described

For purposes of clause (i), ''conversion of military housing units to private housing'' means the conversion of military housing units to private housing units pursuant to subchapter IV of chapter 169 of title 10 or pursuant to any other related provision of law.

(3) Payments with respect to fiscal years in which insufficient funds are appropriated

(A) In general

For any fiscal year in which the sums appropriated under section 7714(b) of this title are insufficient to pay to each local educational agency the full amount computed under paragraphs (1) and (2), the Secretary shall make payments in accordance with this paragraph.

(B) Learning opportunity threshold payments in lieu of payments under paragraph (1)

(i) For fiscal years described in subparagraph (A), the Secretary shall compute a learning opportunity threshold payment (hereafter in this subchapter referred to as the ''threshold payment'') in lieu of basic support payments under paragraph (1) by multiplying the amount obtained under paragraph (1)(C) by the total percentage obtained by adding—

(I) the percentage of federally connected children for each local educational agency determined by calculating the fraction, the numerator of which is the total number of children described under subsection (a)(1) of this section and the denominator of which is the total number of children in average daily attendance at the schools served by such agency; and

(II) the percentage that funds under paragraph (1)(C) represent of the total budget of the local educational agency, determined by calculating the fraction, the numerator of which is the total amount of funds calculated for each local educational

agency under this paragraph, and the denominator of which is the total current expenditures for such agency in the second preceding fiscal year for which the determination is made.

(ii) Such total percentage used to calculate threshold payments under paragraph (1) shall not exceed 100.

(iii) For the purpose of determining the percentages described in subclauses (I) and (II) of clause (i) that are applicable to the local educational agency providing free public education to students in grades 9 through 12 residing on Hanscom Air Force Base, Massachusetts, the Secretary shall consider only that portion of such agency's total enrollment of students in grades 9 through 12 when calculating the percentage under such subclause (I) and only that portion of the total current expenditures attributed to the operation of grades 9 through 12 in such agency when calculating the percentage under subclause (II).

(iv) In the case of a local educational agency that has a total student enrollment of fewer than 1,000 students and that has a per-pupil expenditure that is less than the average per-pupil expenditure of the State in which the agency is located or less than the average per-pupil expenditure of all the States, the total percentage used to calculate threshold payments under clause (i) shall not be less than 40 percent.

(C) Learning opportunity threshold payments in lieu of payments under paragraph (2)

For fiscal years described in subparagraph (A), the learning opportunity threshold payment in lieu of basic support payments under paragraph (2) shall be equal to the amount obtained under subparagraph (D) or (E) of paragraph (2), as the case may be.

(D) Ratable distribution

For fiscal years described in subparagraph (A), the Secretary shall make payments as a ratable distribution based upon the computations made under subparagraphs (B) and (C).

(4) States with only one local educational agency

(A) In general

In any of the 50 States of the United States in which there is only one local educational agency, the Secretary shall, for purposes of subparagraphs (B) and (C) of paragraph (1) or subparagraphs (B) through (D) of paragraph (2), as the case may be, paragraph (3) of this subsection, and subsection (e) of this section, consider each administrative school district in the State to be a separate local educational agency.

(B) Computation of maximum amount of basic support payment and threshold payment

In computing the maximum payment amount under paragraph (1)(C) or subparagraph (D) or (E) of paragraph (2), as the case may be, and the learning opportunity threshold payment under subparagraph (B) or (C) of paragraph (3), as the case may be, for an administrative school district described in subparagraph (A)—

(i) the Secretary shall first determine the maximum payment amount and the total current expenditures for the State as a whole; and

(ii) the Secretary shall then—

(I) proportionately allocate such maximum payment amount among the administrative school districts on the basis of the respective weighted student units of such districts; and

(II) proportionately allocate such total current expenditures among the administrative school districts on the basis of the respective number of students in average daily attendance at such districts.

(5) Local educational agencies affected by removal of Federal property

(A) In general

In computing the amount of a basic support payment under this subsection for a fiscal year for a local educational agency described in subparagraph (B), the Secretary shall meet the additional requirements described in subparagraph (C).

(B) Local educational agency described

A local educational agency described in this subparagraph is a local educational agency with respect to which Federal property (i) located within the boundaries of the agency, and (ii) on which one or more children reside who are receiving a free public education at a school of the agency, is transferred by the Federal Government to another entity in any fiscal year beginning on or after October 30, 2000, so that the property is subject to taxation by the State or a political subdivision of the State.

(C) Additional requirements

The additional requirements described in this subparagraph are the following:

(i) For each fiscal year beginning after the date on which the Federal property is transferred, a child described in subparagraph (B) who continues to reside on such property and who continues to receive a free public education at a school of the agency shall be deemed to be a child who resides on Federal property for purposes of computing under the applicable subparagraph of subsection (a)(1) of this section the amount that the agency is eligible to receive under this subsection.

(ii)(I) For the third fiscal year beginning after the date on which the Federal property is transferred, and for each fiscal year thereafter, the Secretary shall, after computing the amount that the agency is otherwise eligible to receive under this subsection for the fiscal year involved, deduct from such amount an amount equal to the revenue received by the agency for the immediately preceding fiscal year as a result of the taxable status of the former Federal property.

(II) For purposes of determining the amount of revenue to be deducted in ac-

cordance with subclause (I), the local educational agency—

(aa) shall provide for a review and certification of such amount by an appropriate local tax authority; and

(bb) shall submit to the Secretary a report containing the amount certified under item (aa).

(c) Prior year data

(1) In general

Except as provided in subsections (b)(1)(D), (b)(2), and paragraph (2), all calculations under this section shall be based on data for each local educational agency from not later than the fiscal year preceding the fiscal year for which the agency is making application for payment.

(2) Exception

Calculations for a local educational agency that is newly established by a State shall, for the first year of operation of such agency, be based on data from the fiscal year for which the agency is making application for payment.

(d) Children with disabilities

(1) In general

From the amount appropriated under section 7714(c) of this title for a fiscal year, the Secretary shall pay to each eligible local educational agency, on a pro rata basis, the amounts determined by—

(A) multiplying the number of children described in subparagraphs (A)(ii), (B) and (C) of subsection (a)(1) of this section who are eligible to receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) by a factor of 1.0; and

(B) multiplying the number of children described in subparagraph (D) of subsection (a)(1) of this section who are eligible to receive services under such Act by a factor of 0.5.

(2) Use of funds

A local educational agency that receives funds under paragraph (1) shall use such funds to provide a free appropriate public education to children described in paragraph (1) in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(e) Hold harmless

(1) In general

Subject to paragraphs (2) and (3), the total amount the Secretary shall pay a local educational agency under subsection (b) of this section—

(A) for fiscal year 2001 shall not be less than 85 percent of the total amount that the local educational agency received under subsections (b) and (f) of this section for fiscal year 2000; and

(B) for fiscal year 2002 shall not be less than 70 percent of the total amount that the local educational agency received under subsections (b) and (f) of this section for fiscal year 2000.

(2) Maximum amount

The total amount provided to a local educational agency under subparagraph (A) or (B) of paragraph (1) for a fiscal year shall not exceed the maximum basic support payment amount for such agency determined under paragraph (1) or (2) of subsection (b) of this section, as the case may be.

(3) Ratable reductions

(A) In general

If the sums made available under this subchapter for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) for such year, then the Secretary shall ratably reduce the payments to all such agencies for such year.

(B) Additional funds

If additional funds become available for making payments under paragraph (1) for such fiscal year, payments that were reduced under subparagraph (A) shall be increased on the same basis as such payments were reduced.

(f) Other funds

Notwithstanding any other provision of law, a local educational agency receiving funds under this section may also receive funds under section 386 of the National Defense Authorization Act for Fiscal Year 1993 or such section's successor authority.

(g) Maintenance of effort

A local educational agency may receive funds under subsection (b) of this section and section 7702 of this title for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(Pub. L. 89–10, title VIII, § 8003, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3752; amended Pub. L. 104–106, div. A, title X, § 1074(f), (g), Feb. 10, 1996, 110 Stat. 448, 449; Pub. L. 104–195, §§ 3(a), 4(a), 5(a), (b), Sept. 16, 1996, 110 Stat. 2380–2382; Pub. L. 104–201, div. A, title III, § 376, Sept. 23, 1996, 110 Stat. 2503; Pub. L. 104–208, div. A, title I, § 101(e) [title III, § 307(a)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–262; Pub. L. 105–18, title VI, § 60005(a), June 12, 1997, 111 Stat. 214; Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1497; Pub. L. 106–398, § 1 [[div. A], title XVIII, §§ 1804(a), (b)(1), (c), 1805–1808(b)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A–372, 1654A–374 to 1654A–382; Pub. L. 106–554, § 1(a)(1) [title III, § 323], Dec. 21, 2000, 114 Stat. 2763, 2763A–61; Pub. L. 107–20, title II, § 2703(a), July 24, 2001, 115 Stat. 182; Pub. L. 107–110, title VIII, § 802(a)(1), Jan. 8, 2002, 115 Stat. 1949; Pub. L. 107–206, title I, §§ 801, 802, Aug. 2, 2002, 116 Stat. 874; Pub. L. 107–279, title IV, § 406(a), Nov. 5, 2002, 116 Stat. 1986; Pub. L. 107–314, div. A, title III, § 344, Dec. 2, 2002, 116 Stat. 2515; Pub. L. 108–136, div. A, title V, § 537(a), Nov. 24, 2003, 117 Stat. 1475.)

REFERENCES IN TEXT

Section 2828(g) of title 10 (commonly known as the ''Build to Lease'' program), as added by section 801 of

the Military Construction Authorization Act, 1984, referred to in subsec. (a)(5)(A), means the subsection (g) added to section 2828 of Title 10, Armed Forces, by section 801 of Pub. L. 98–115, which was repealed by Pub. L. 102–190, div. B, title XXVIII, §2806(b), Dec. 5, 1991, 105 Stat. 1540.

Act of September 30, 1950, referred to in subsec. (b)(1)(C)(iii), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§236 et seq.) of this title, prior to repeal by Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (d), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

Section 386 of the National Defense Authorization Act for Fiscal Year 1993, referred to in subsec. (f), is section 386 of Pub. L. 102–484, which is set out as a note below.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in section 238 of this title prior to repeal by Pub. L. 103–382, §331(b).

A prior section 8003 of Pub. L. 89–10 was renumbered section 9003 and was classified to section 3383 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2003—Subsec. (b)(2)(H)(i), (ii). Pub. L. 108–136 added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:

''(i) ELIGIBILITY.—For any fiscal year beginning with fiscal year 2003, a heavily impacted local educational agency that received a basic support payment under subparagraph (A) for the prior fiscal year, but is ineligible for such payment for the current fiscal year under subparagraph (B) or (C), as the case may be, by reason of the conversion of military housing units to private housing described in clause (iii), shall be deemed to meet the eligibility requirements under subparagraph (B) or (C), as the case may be, for the period during which the housing units are undergoing such conversion.

''(ii) AMOUNT OF PAYMENT.—The amount of a payment to a heavily impacted local educational agency for a fiscal year by reason of the application of clause (i), and calculated in accordance with subparagraph (D) or (E) (as the case may be), shall be based on the number of children in average daily attendance in the schools of such agency for the fiscal year.''

2002—Subsec. (b)(1)(G). Pub. L. 107–206, §802, added subpar. (G).

Subsec. (b)(2)(C)(i). Pub. L. 107–110, §802(a)(1)(A), inserted ''(or if the agency is a qualified local educational agency as described in clause (iv))'' after ''Federal military installation'' in introductory provisions.

Subsec. (b)(2)(C)(i)(II)(bb). Pub. L. 107–279 amended item (bb) generally. Prior to amendment, item (bb) read as follows: ''for a local educational agency that has a total student enrollment of less than 350 students, has a per-pupil expenditure that is less than the average per-pupil expenditure of a comparable local educational agency in the State in which the agency is located; and''.

Subsec. (b)(2)(C)(ii). Pub. L. 107–110, §802(a)(1)(A), inserted ''(or if the agency is a qualified local educational agency as described in clause (iv))'' after ''Federal military installation''.

Subsec. (b)(2)(C)(iv). Pub. L. 107–110, §802(a)(1)(B), added cl. (iv).

Subsec. (b)(2)(D)(ii)(III). Pub. L. 107–206, §801, amended subcl. (III) generally. Prior to amendment, subcl. (III) read as follows: ''For a local educational agency that has an enrollment of more than 100 but not more than 750 children described in subsection (a)(1) of this section, the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) of this section by multiplying the number of such children by a factor of 1.25.''

Subsec. (b)(2)(H). Pub. L. 107–314 added subpar. (H).

Subsec. (b)(3)(B)(iv). Pub. L. 107–20 inserted ''or less than the average per-pupil expenditure of all the States'' after ''of the State in which the agency is located''.

2000—Subsec. (a)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(c)(1)], substituted ''subsection (b) or (d)'' for ''subsection (b), (d), or (f)'' in introductory provisions.

Subsec. (a)(2)(D). Pub. L. 106–398, §1 [[div. A], title XVIII, §1804(a)(1)(B)], substituted ''subparagraph (D) of paragraph (1) by a factor of .20'' for ''subparagraphs (D) and (E) of paragraph (1) by a factor of .10''.

Subsec. (a)(2)(E), (F). Pub. L. 106–398, §1 [[div. A], title XVIII, §1804(a)(1)(A), (C)], added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (a)(4). Pub. L. 106–398, §1 [[div. A], title XVIII, §1804(b)(1)], inserted ''and Indian'' after ''Military installation'' and ''or rebuilding'' after ''renovation'' in par. heading, designated existing provisions as subpar. (A)(i), inserted subpar. (A) heading, inserted ''or rebuilding'' after ''undergoing renovation'', added cl. (ii) to subpar. (A) and added subpar. (B).

Subsec. (a)(5). Pub. L. 106–398, §1 [[div. A], title XVIII, §1804(c)], added par. (5).

Subsec. (b)(1)(C). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(c)(2)(A)], substituted ''this paragraph'' for ''this subsection'' in introductory provisions.

Subsec. (b)(1)(D), (E). Pub. L. 106–398, §1 [[div. A], title XVIII, §1804(a)(2)], added subpars. (D) and (E).

Subsec. (b)(1)(F). Pub. L. 106–398, §1 [[div. A], title XVIII, §1805], added subpar. (F).

Subsec. (b)(2). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(a)(2)], added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(2)(F). Pub. L. 106–554, §1(a)(1) [title III, §323(a)], substituted ''the Secretary—'' for ''the Secretary'', designated remaining provisions as cl. (i), and added cl. (ii).

Subsec. (b)(2)(G). Pub. L. 106–554, §1(a)(1) [title III, §323(b)], added subpar. (G).

Subsec. (b)(3). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(a)(1)], redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (b)(3)(A). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(b)(1)], substituted ''paragraphs (1) and (2)'' for ''paragraph (1)''.

Subsec. (b)(3)(B). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(b)(2)(A)], inserted ''in lieu of payments under paragraph (1)'' after ''payments'' in heading.

Subsec. (b)(3)(B)(i). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(b)(2)(B)], inserted ''in lieu of basic support payments under paragraph (1)'' before ''by multiplying'' in introductory provisions and struck out ''(not including amounts received under subsection (f) of this section)'' after ''under this paragraph'' in subcl. (II).

Subsec. (b)(3)(B)(iv). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(b)(2)(C)], added cl. (iv).

Subsec. (b)(3)(C). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(b)(4)], added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (b)(3)(D). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(b)(3), (5)], redesignated subpar. (C) as (D) and substituted ''computations made under subparagraphs (B) and (C)'' for ''computation made under subparagraph (B)''.

Subsec. (b)(4). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(a)(1)], redesignated par. (3) as (4).

Subsec. (b)(4)(A). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(c)(2)(B)(i)], substituted ''subparagraphs (B) and (C) of paragraph (1) or subparagraphs (B) through (D) of paragraph (2), as the case may be, paragraph (3) of this subsection'' for ''paragraphs (1)(B), (1)(C), and (2) of this subsection''.

Subsec. (b)(4)(B). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(c)(2)(B)(ii)], in introductory provisions, inserted ''or subparagraph (D) or (E) of paragraph (2), as the case may be,'' after ''paragraph (1)(C)'' and substituted ''subparagraph (B) or (C) of paragraph (3), as the case may be,'' for ''paragraph (2)(B)''.

Subsec. (b)(5). Pub. L. 106–398, §1 [[div. A], title XVIII, §1807], added par. (5).

Subsec. (c)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(c)(3)], substituted ''subsections (b)(1)(D), (b)(2), and paragraph (2)'' for ''paragraph (2) and subsection (f) of this section''.

Subsec. (e). Pub. L. 106–398, §1 [[div. A], title XVIII, §1804(a)(3)], amended heading and text of subsec. (e) generally. Prior to amendment, subsec. (e) required the Secretary to pay local education agencies under subsec. (b) of this section certain minimum amounts for fiscal years 1995 to 1999.

Subsec. (f). Pub. L. 106–398, §1 [[div. A], title XVIII, §§1806(c)(4), 1808(b)(1)], redesignated subsec. (h) as (f) and struck out heading and text of former subsec. (f) which required the Secretary to provide additional assistance to meet special circumstances relating to the provision of education in local educational agencies eligible to receive assistance under this section.

Subsec. (g). Pub. L. 106–398, §1 [[div. A], title XVIII, §1808(a), (b)(1)], redesignated subsec. (i) as (g) and struck out heading and text of former subsec. (g) which related to additional payments for local educational agencies with high concentrations of children with severe disabilities.

Subsec. (h). Pub. L. 106–398, §1 [[div. A], title XVIII, §1808(b)(1)], redesignated subsec. (h) as (f).

Pub. L. 106–398, §1 [[div. A], title XVIII, §1806(c)(5)], substituted ''section 386 of the National Defense Authorization Act for Fiscal Year 1993'' for ''section 6 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994)''.

Subsec. (i). Pub. L. 106–398, §1 [[div. A], title XVIII, §1808(b)(1)], redesignated subsec. (i) as (g).

1997—Subsec. (f)(2)(A)(ii)(I). Pub. L. 105–78, which directed the amendment of section 8003(f)(2)(ii)(I) of the Elementary and Secondary Education Act of 1965 by substituting ''25 percent of the total student enrollment of such agency. For purposes of this subclause, all students described in subsection (a)(1) of this section are used to determine eligibility, regardless of whether or not a local educational agency receives funds for these children from subsection (b) of this section;'' for ''35 percent'' and all that follows through the semicolon, was executed by making the substitution for ''35 percent of the total student enrollment of such agency;'' in subsection (f)(2)(A)(ii)(I) of this section, to reflect the probable intent of Congress.

Subsec. (f)(4). Pub. L. 105–18 struck out hyphen after ''Secretary'' in introductory provisions, redesignated subpar. (A) as entire par. (4), inserted ''expenditure,'' after ''revenue,'', substituted period for semicolon after ''assistance under this subsection'', and struck out subpar. (B) which read as follows: ''shall derive the per pupil expenditure amount for the fiscal year for which the local educational agency is applying for assistance under this subsection for the local educational agency's comparable school districts by increasing or decreasing the per pupil expenditure data for the second fiscal year preceding the fiscal year for which the determination is made by the same percentage increase or decrease reflected between the per pupil expenditure data for the fourth fiscal year preceding the fiscal year for which the determination is made and the per pupil expenditure data for such second year.''

1996—Subsec. (a)(3). Pub. L. 104–201 substituted ''1,000 or such number equals or exceeds 10 percent'' for ''2,000 and such number equals or exceeds 15 percent''.

Subsec. (a)(4). Pub. L. 104–195, §3(a), added par. (4).

Subsec. (b)(3). Pub. L. 104–195, §4(a), added par. (3).

Subsec. (f)(2)(A). Pub. L. 104–106, §1074(f)(1)(A), substituted ''if such agency is eligible for a supplementary payment in accordance with subparagraph (B) or such agency'' for ''only if such agency'' in introductory provisions.

Subsec. (f)(2)(D). Pub. L. 104–106, §1074(f)(1)(B), added subpar. (D).

Subsec. (f)(3)(A). Pub. L. 104–106, §1074(f)(2)(A)(i), inserted ''(other than any amount received under paragraph (2)(B))'' after ''subsection'' in introductory provisions.

Subsec. (f)(3)(A)(i). Pub. L. 104–208, §101(e) [title III, §307(a)(1), (5)], substituted in introductory provisions, ''The Secretary, in conjunction with the local educational agency, shall first determine each of the following:'' for ''The Secretary shall first determine the greater of—'' and inserted concluding provisions.

Subsec. (f)(3)(A)(i)(I). Pub. L. 104–208, §101(e) [title III, §307(a)(2), (3)], substituted ''The average'' for ''the average'' before ''of the State'' and substituted period for semicolon at end.

Pub. L. 104–106, §1074(f)(2)(A)(ii), struck out ''or the average per-pupil expenditure of all the States'' after ''is located''.

Subsec. (f)(3)(A)(i)(II). Pub. L. 104–208, §101(e) [title III, §307(a)(2)], substituted ''The average'' for ''the average''.

Pub. L. 104–208, §101(e) [title III, §307(a)(4)], which directed substitution of period for '': or'', was executed by making substitution for ''; or'' to reflect the probable intent of Congress.

Subsec. (f)(3)(A)(i)(III). Pub. L. 104–208, §101(e) [title III, §307(a)(2)], substituted ''The average'' for ''the average''.

Subsec. (f)(3)(A)(ii). Pub. L. 104–106, §1074(f)(2)(A)(iii), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''The Secretary shall next subtract from the amount determined under clause (i) the average amount of State aid per pupil received by the local educational agency.''

Subsec. (f)(3)(A)(iii). Pub. L. 104–195, §5(b)(1), inserted '', except as provided in subparagraph (C),'' after ''but'' in introductory provisions.

Pub. L. 104–106, §1074(f)(2)(A)(iv), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: ''The Secretary shall next multiply the amount determined under clause (ii) by the total number of students in average daily attendance at the schools of the local educational agency as determined by the Secretary under subsection (a)(1) of this section.''

Subsec. (f)(3)(B). Pub. L. 104–106, §1074(f)(2)(B), amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: ''With respect to payments under this subsection for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of such payments shall be computed by taking the product of the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State.''

Subsec. (f)(3)(C). Pub. L. 104–195, §5(b)(2), added subpar. (C).

Subsec. (f)(4). Pub. L. 104–195, §5(a), substituted ''Data'' for ''Current year data'' in heading, amended subpar. (A) generally, substituting present provisions for provisions which read ''shall use student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and'', and in subpar. (B) substituted ''the fiscal year for which the local educational agency is applying for assistance under this subsection'' for ''such year''.

Pub. L. 104–106, §1074(g), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: ''The Secretary shall, for purposes of providing assistance under this subsection, use—

''(A) student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and

''(B) the most recent data available which is adjusted to such fiscal year.''

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–136, div. A, title V, § 537(b), Nov. 24, 2003, 117 Stat. 1475, provided that: ''The amendment made by subsection (a) [amending this section] shall take effect beginning with basic support payments under section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)) for fiscal year 2003.''

EFFECTIVE DATE OF 2002 AMENDMENTS

Pub. L. 107–279, title IV, § 406(b), Nov. 5, 2002, 116 Stat. 1987, provided that: ''The amendment made by section 406(a) [amending this section] shall be effective on September 30, 2001, and shall apply with respect to fiscal year 2001, and all subsequent fiscal years.''

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1804(b)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–375, provided that: ''The amendments made by paragraph (1) [amending this section] shall apply with respect to payments to a local educational agency for fiscal years beginning before, on, or after the date of the enactment of this Act [Oct. 30, 2000].''

EFFECTIVE DATE OF 1997 AMENDMENTS

Title III of Pub. L. 105–78, Nov. 13, 1997, 111 Stat. 1497, provided in part that: ''The amendment made by this proviso [amending this section] shall apply with respect to fiscal years beginning with fiscal year 1996''.

Section 60005(b) of Pub. L. 105–18 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to fiscal years after fiscal year 1997.''

EFFECTIVE DATE OF 1996 AMENDMENTS

Section 101(e) [title III, § 307(b)] of div. A of Pub. L. 104–208 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to fiscal years beginning with fiscal year 1995.''

Section 3(b) of Pub. L. 104–195 provided that: ''Paragraph (4) of section 8003(a) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7703(a)(4)], as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1995.''

Section 4(b) of Pub. L. 104–195 provided that: ''Paragraph (3) of section 8003(b) of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7703(b)(3)], as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1994.''

Section 5(c) of Pub. L. 104–195 provided that: ''The amendments made by subsections (a) and (b) [amending this section] shall apply with respect to fiscal years after fiscal year 1996.''

TRANSITION PROVISIONS

Pub. L. 107–110, title VIII, § 802(a)(2), Jan. 8, 2002, 115 Stat. 1949, provided that: ''The Secretary shall consider an application for a payment under section 8003(b)(2) [20 U.S.C. 7703(b)(2)] for fiscal year 2002 from a qualified local educational agency described in section 8003(b)(2)(C)(iv), as added by paragraph (1), as meeting the requirements of section 8003(b)(2)(C)(iii), and shall provide a payment under section 8003(b)(2) for fiscal year 2002, if the agency submits to the Secretary an application for payment under such section not later than 30 days after the date of enactment of this Act [Jan. 8, 2002].''

ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES

Pub. L. 102–484, div. A, title III, § 386, Oct. 23, 1992, 106 Stat. 2394, as amended by Pub. L. 103–160, div. A, title III, § 373(a), (b), Nov. 30, 1993, 107 Stat. 1635, 1636; Pub. L. 103–382, title III, § 391(d), Oct. 20, 1994, 108 Stat. 4022; Pub. L. 104–106, div. A, title X, § 1074(c)–(e), (h), Feb. 10, 1996, 110 Stat. 448, 449; Pub. L. 105–85, div. A, title III, § 381(e), Nov. 18, 1997, 111 Stat. 1709; Pub. L. 106–65, div. A, title III, § 351(e), Oct. 5, 1999, 113 Stat. 572, which required the Secretary of Defense, in consultation with the Secretary of Education, to provide financial assistance to certain local educational agencies in States, was repealed by Pub. L. 109–163, div. A, title V, § 572(g), Jan. 6, 2006, 119 Stat. 3273. See section 7703b of this title.

NOTICE TO LOCAL AND STATE EDUCATIONAL AGENCIES OF ENROLLMENT CHANGES DUE TO BASE CLOSURES AND REALIGNMENTS

For provisions requiring Secretary of Defense to identify local educational agencies that will experience at least a 5-percent increase or 10-percent reduction in enrollment in number of dependent children of members of Armed Forces and of civilian employees of Department of Defense enrolled in schools under jurisdiction of such agencies during next academic year as a result of closure or realignment of a military installation, and to transmit notice of schedule of such closure or realignment to affected local and State educational agencies, see section 2833 of Pub. L. 101–189, set out as a note under section 2687 of Title 10, Armed Forces.

§ 7703a. Impact aid for children with severe disabilities

(a) Payments

Subject to subsection (f) of this section, the Secretary of Defense shall make a payment for fiscal years after fiscal year 2001, to each local educational agency eligible to receive a payment for a child described in subparagraph (A)(ii), (B), (D)(i) or (D)(ii) of section 7703(a)(1) of this title that serves two or more such children with severe disabilities, for costs incurred in providing a free appropriate public education to each such child.

(b) Payment amount

The amount of the payment under subsection (a) of this section to a local educational agency for a fiscal year for each child referred to in such subsection with a severe disability shall be—

(1) the payment made on behalf of the child with a severe disability that is in excess of the average per pupil expenditure in the State in which the local educational agency is located; less

(2) the sum of the funds received by the local educational agency—

(A) from the State in which the child resides to defray the educational and related services for such child;

(B) under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to defray the educational and related services for such child; and

(C) from any other source to defray the costs of providing educational and related services to the child which are received due to the presence of a severe disabling condition of such child.

(c) Exclusions

No payment shall be made under subsection (a) of this section on behalf of a child with a severe disability whose individual cost of educational and related services does not exceed—

(1) five times the national or State average per pupil expenditure (whichever is lower), for a child who is provided educational and related services under a program that is located outside the boundaries of the school district of the local educational agency that pays for the free appropriate public education of the student; or

(2) three times the State average per pupil expenditure, for a child who is provided educational and related services under a program offered by the local educational agency, or within the boundaries of the school district served by the local educational agency.

(d) Ratable reduction

If the amount available for a fiscal year for payments under subsection (a) of this section is insufficient to pay the full amount all local educational agencies are eligible to receive under such subsection, the Secretary of Defense shall ratably reduce the amounts of the payments made under such subsection to all local educational agencies by an equal percentage.

(e) Report

Each local educational agency desiring a payment under subsection (a) of this section shall report to the Secretary of Defense—

(1) the number of severely disabled children for which a payment may be made under this section; and

(2) a breakdown of the average cost, by placement (inside or outside the boundaries of the school district of the local educational agency), of providing education and related services to such children.

(f) Payments subject to appropriation

Payments shall be made for any period in a fiscal year under this section only to the extent that funds are appropriated specifically for making such payments for that fiscal year.

(g) Local educational agency defined

In this section, the term ''local educational agency'' has the meaning given that term in section 7713(9) of this title.

(Pub. L. 106–398, §1 [[div. A], title III, §363], Oct. 30, 2000, 114 Stat. 1654, 1654A–77.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2)(B), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

CODIFICATION

Section was enacted as part of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

§ 7703b. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees

(a) Assistance to schools with significant numbers of military dependent students

(1) Assistance authorized

The Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, without such assistance, the local educational agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the local educational agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

(2) Eligible local educational agencies

A local educational agency is eligible for assistance under this subsection for a fiscal year if at least 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of the local educational agency during the preceding school year were military dependent students counted under section 7703(a)(1) of this title.

(b) Assistance to schools with enrollment changes due to base closures, force structure changes, or force relocations

(1) Assistance authorized

To assist communities in making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall provide financial assistance to an eligible local educational agency described in paragraph (2) if, during the period between the end of the school year preceding the fiscal year for which the assistance is authorized and the beginning of the school year immediately preceding that school year, the local educational agency had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(A) not less than five percent in the average daily attendance of military dependent students in the schools of the local educational agency; or

(B) not less than 250 military dependent students in average daily attendance in the schools of the local educational agency.

(2) Eligible local educational agencies

A local educational agency is eligible for assistance under this subsection for a fiscal year if—

(A) the local educational agency is eligible for assistance under subsection (a) of this section for the same fiscal year, or would have been eligible for such assistance if not for the reduction in military dependent students in schools of the local educational agency; and

(B) the overall increase or reduction in military dependent students in schools of the local educational agency is the result of one or more of the following:

(i) The global rebasing plan of the Department of Defense.

(ii) The official creation or activation of one or more new military units.

(iii) The realignment of forces as a result of the base closure process.

(iv) A change in the number of housing units on a military installation.

(3) Calculation of amount of assistance

(A) Pro rata distribution

The amount of the assistance provided under this subsection to a local educational agency that is eligible for such assistance for a fiscal year shall be equal to the product obtained by multiplying—

(i) the per-student rate determined under subparagraph (B) for that fiscal year; by

(ii) the net of the overall increases and reductions in the number of military dependent students in schools of the local educational agency, as determined under paragraph (1).

(B) Per-student rate

For purposes of subparagraph (A)(i), the per-student rate for a fiscal year shall be equal to the dollar amount obtained by dividing—

(i) the total amount of funds made available for that fiscal year to provide assistance under this subsection; by

(ii) the sum of the overall increases and reductions in the number of military dependent students in schools of all eligible local educational agencies for that fiscal year under this subsection.

(C) Maximum amount of assistance

A local educational agency may not receive more than $1,000,000 in assistance under this subsection for any fiscal year.

(4) Duration

Assistance may not be provided under this subsection after September 30, 2010.

(c) Notification

Not later than June 30, 2006, and June 30 of each fiscal year thereafter for which funds are made available to carry out this section, the Secretary of Defense shall notify each local educational agency that is eligible for assistance under this section for that fiscal year of—

(1) the eligibility of the local educational agency for the assistance, including whether the agency is eligible for assistance under either subsection (a) or (b) of this section or both subsections; and

(2) the amount of the assistance for which the local educational agency is eligible.

(d) Disbursement of funds

The Secretary of Defense shall disburse assistance made available under this section for a fiscal year not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (c) of this section for that fiscal year.

(e) Funding for fiscal year 2006

Of the amount authorized to be appropriated pursuant to section 301(5)[1] for operation and maintenance for Defense-wide activities—

(1) $30,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (a) of this section; and

(2) $10,000,000 shall be available only for the purpose of providing assistance to local educational agencies under subsection (b) of this section.

(f) Definitions

In this section:

(1) The term ''base closure process'' means the 2005 base closure and realignment process authorized by Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after January 6, 2006, under section 2687 of title 10 or any other similar law enacted after January 6, 2006.

(2) The term ''local educational agency'' has the meaning given that term in section 7713(9) of this title.

(3) The term ''military dependent students'' refers to—

(A) elementary and secondary school students who are dependents of members of the Armed Forces; and

(B) elementary and secondary school students who are dependents of civilian employees of the Department of Defense.

(4) The term ''State'' means each of the 50 States and the District of Columbia.

(Pub. L. 109–163, div. A, title V, § 572, Jan. 6, 2006, 119 Stat. 3271.)

REFERENCES IN TEXT

Section 301(5), referred to in subsec. (e), is section 301(5) of Pub. L. 109–163, div. A, title III, 119 Stat. 3188, which is not classified to the Code.

The Defense Base Closure and Realignment Act of 1990, referred to in subsec. (f)(1), is part A of title XXIX of div. B of Pub. L. 101–510, Nov. 5, 1990, 104 Stat. 1808, as amended, which is set out as a note under section 2687 of Title 10, Armed Forces. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section is comprised of section 572 of Pub. L. 109–163. Subsec. (g) of section 572 of Pub. L. 109–163 repealed section 386 of Pub. L. 102–484, formerly set out as a note under section 7703 of this title.

Section was enacted as part of the National Defense Authorization Act for Fiscal Year 2006, and not as part of the Elementary and Secondary Education Act of 1965 which comprises this chapter.

§ 7704. Policies and procedures relating to children residing on Indian lands

(a) In general

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall establish policies and procedures to ensure that—

(1) such children participate in programs and activities supported by such funds on an equal basis with all other children;

(2) parents of such children and Indian tribes are afforded an opportunity to present their views on such programs and activities, including an opportunity to make recommendations on the needs of those children and how the local educational agency may help such children realize the benefits of such programs and activities;

(3) parents and Indian tribes are consulted and involved in planning and developing such programs and activities;

[1] See References in Text note below.

(4) relevant applications, evaluations, and program plans are disseminated to the parents and Indian tribes; and

(5) parents and Indian tribes are afforded an opportunity to present their views to such agency regarding such agency's general educational program.

(b) Records

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall maintain records demonstrating such agency's compliance with the requirements contained in subsection (a) of this section.

(c) Waiver

A local educational agency that claims children residing on Indian lands for the purpose of receiving funds under section 7703 of this title shall not be required to comply with the requirements of subsections (a) and (b) of this section for any fiscal year with respect to any Indian tribe from which such agency has received a written statement that the agency need not comply with those subsections because the tribe is satisfied with the provision of educational services by such agency to such children.

(d) Technical assistance and enforcement

The Secretary shall—

(1) provide technical assistance to local educational agencies, parents, and Indian tribes to enable such agencies, parents, and tribes to carry out this section; and

(2) enforce this section through such actions, which may include the withholding of funds, as the Secretary determines to be appropriate, after affording the affected local educational agency, parents, and Indian tribe an opportunity to present their views.

(e) Complaints

(1) In general

(A) Any tribe, or its designee, which has students in attendance at a local educational agency may, in its discretion and without regard to the requirements of any other provision of law, file a written complaint with the Secretary regarding any action of a local educational agency taken pursuant to, or relevant to, the requirements of this section.

(B) Within ten working days from receipt of a complaint, the Secretary shall—

(i) designate a time and place for a hearing into the matters relating to the complaint at a location in close proximity to the local educational agency involved, or if the Secretary determines there is good cause, at some other location convenient to both the tribe, or its designee, and the local educational agency;

(ii) designate a hearing examiner to conduct the hearing; and

(iii) notify the affected tribe or tribes and the local educational agency involved of the time, place, and nature of the hearing and send copies of the complaint to the local educational agency and the affected tribe or tribes.

(2) Hearing

The hearing shall be held within 30 days of the designation of a hearing examiner and shall be open to the public. A record of the proceedings shall be established and maintained.

(3) Evidence; recommendations; cost

The complaining tribe, or its designee, and the local educational agency shall be entitled to present evidence on matters relevant to the complaint and to make recommendations concerning the appropriate remedial actions. Each party to the hearing shall bear only its own costs in the proceedings.

(4) Findings and recommendations

Within 30 days of the completion of the hearing, the hearing examiner shall, on the basis of the record, make written findings of fact and recommendations concerning appropriate remedial action, if any, which should be taken. The hearing examiner's findings and recommendations, along with the hearing record, shall be forwarded to the Secretary.

(5) Written determination

Within 30 days of the Secretary's receipt of the findings, recommendations, and record, the Secretary shall, on the basis of the record, make a written determination of the appropriate remedial action, if any, to be taken by the local educational agency, the schedule for completion of the remedial action, and the reasons for the Secretary's decision.

(6) Copies provided

Upon completion of the Secretary's final determination, the Secretary shall provide the complaining tribe, or its designee, and the local educational agency with copies of the hearing record, the hearing examiner's findings and recommendations, and the Secretary's final determination. The final determination of the Secretary shall be subject to judicial review.

(7) Consolidation

In all actions under this subsection, the Secretary shall have discretion to consolidate complaints involving the same tribe or local educational agency.

(8) Withholding

If the local educational agency rejects the determination of the Secretary, or if the remedy required is not undertaken within the time established and the Secretary determines that an extension of the time established will not effectively encourage the remedy required, the Secretary shall withhold payment of all moneys to which such local agency is eligible under section 7703 of this title until such time as the remedy required is undertaken, except where the complaining tribe or its designee formally requests that such funds be released to the local educational agency, except that the Secretary may not withhold such moneys during the course of the school year if the Secretary determines that such withholding would substantially disrupt the educational programs of the local educational agency.

(9) Rejection of determination

If the local educational agency rejects the determination of the Secretary and a tribe ex-

ercises the option under section 1101(d) of the Education Amendments of 1978, to have education services provided either directly by the Bureau of Indian Affairs or by contract with the Bureau of Indian Affairs, any Indian students affiliated with that tribe who wish to remain in attendance at the local educational agency against whom the complaint which led to the tribal action under such subsection (d) of this section was lodged may be counted with respect to that local educational agency for the purpose of receiving funds under section 7703 of this title. In such event, funds under such section shall not be withheld pursuant to paragraph (8) and no further complaints with respect to such students may be filed under paragraph (1).

(f) Construction

This section is based upon the special relationship between the Indian nations and the United States and nothing in this section shall be construed to relieve any State of any duty with respect to any citizens of that State.

(Pub. L. 89–10, title VIII, § 8004, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3759.)

REFERENCES IN TEXT

Section 1101(d) of the Education Amendments of 1978, referred to in subsec. (e)(9), is section 1101(d) of Pub. L. 95–561, Nov. 1, 1978, 92 Stat. 2315, set out below.

PRIOR PROVISIONS

A prior section 8004 of Pub. L. 89–10 was renumbered section 9004 and was classified to section 3384 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

CONTRACT AUTHORITY OF INDIAN TRIBES IF REMEDIAL ACTION IS NOT TAKEN; ELECTION TO HAVE SERVICES PROVIDED BY BUREAU SCHOOLS; SPECIAL REGULATIONS

Section 1101(d) of Pub. L. 95–561 directed Secretary of Health, Education, and Welfare, in cooperation with Commissioner of Education, within one year of Nov. 1, 1978, to promulgate special regulations which would provide that where a local educational agency had not undertaken the remedial action required by the Commissioner under 20 U.S.C. 240(b)(3)(C)(vi), the affected tribes could elect for the Bureau of Indian Affairs to provide educational services provided by the local educational agency.

§ 7705. Application for payments under sections 7702 and 7703 of this title

(a) In general

A local educational agency desiring to receive a payment under section 7702 or 7703 of this title shall—

(1) submit an application for such payment to the Secretary; and

(2) provide a copy of such application to the State educational agency.

(b) Contents

Each such application shall be submitted in such form and manner, and shall contain such information, as the Secretary may require, including—

(1) information to determine the eligibility of the local educational agency for a payment and the amount of such payment; and

(2) where applicable, an assurance that such agency is in compliance with section 7704 of this title (relating to children residing on Indian lands).

(c) Deadline for submission

The Secretary shall establish deadlines for the submission of applications under this section.

(d) Approval

(1) In general

The Secretary shall approve an application submitted under this section that—

(A) except as provided in paragraph (2), is filed by the deadline established under subsection (c) of this section; and

(B) otherwise meets the requirements of this subchapter.

(2) Reduction in payment

The Secretary shall approve an application filed not more than 60 days after a deadline established under subsection (c) of this section, or not more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to paragraph (3)(A), as the case may be, that otherwise meets the requirements of this subchapter, except that, notwithstanding section 7703(e) of this title, the Secretary shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid.

(3) Late applications

(A) Notice

The Secretary shall, as soon as practicable after the deadline established under subsection (c) of this section, provide to each local educational agency that applied for a payment under section 7702 or 7703 of this title for the prior fiscal year, and with respect to which the Secretary has not received an application for a payment under either such section (as the case may be) for the fiscal year in question, written notice of the failure to comply with the deadline and instruction to ensure that the application is filed not later than 60 days after the date on which the Secretary sends the notice.

(B) Acceptance and approval of late applications

The Secretary shall not accept or approve any application of a local educational agency that is filed more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to subparagraph (A).

(4) State application authority

Notwithstanding any other provision of law, a State educational agency that had been accepted as an applicant for funds under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) in fiscal year 1994 shall be permitted to continue as an applicant under the same conditions by which such agency made application during such fiscal year only if such State educational agency distributes all funds received for the students for which application is being made by such State educational agency to the local

educational agencies providing educational services to such students.

(Pub. L. 89–10, title VIII, § 8005, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3761; amended Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1809], Oct. 30, 2000, 114 Stat. 1654, 1654A–382.)

REFERENCES IN TEXT

Section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994), referred to in subsec. (d)(4), means section 3 of act Sept. 30, 1950, ch. 1124, which was classified to section 238 of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965.

PRIOR PROVISIONS

A prior section 8005 of Pub. L. 89–10 was renumbered section 9005 and was classified to section 3386 of this title, prior to the general amendment of Pub. L. 89–10 by Pub. L. 103–382.

AMENDMENTS

2000—Subsec. (d)(2). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1809(1)], inserted ", or not more than 60 days after the date on which the Secretary sends written notice to the local educational agency pursuant to paragraph (3)(A), as the case may be," after "subsection (c) of this section".

Subsec. (d)(3). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1809(2)], amended heading and text generally. Prior to amendment, text read as follows: "The Secretary shall not accept or approve any application that is filed more than 60 days after a deadline established under subsection (c) of this section."

§ 7706. Repealed. Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1810], Oct. 30, 2000, 114 Stat. 1654, 1654A–383

Section, Pub. L. 89–10, title VIII, § 8006, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3762, related to payments for sudden and substantial increases in attendance of military dependents.

§ 7707. Construction

(a) Construction payments authorized

(1) In general

From 40 percent of the amount appropriated for each fiscal year under section 7714(e) of this title, the Secretary shall make payments in accordance with this subsection to each local educational agency that receives a basic support payment under section 7703(b) of this title for that fiscal year.

(2) Additional requirements

A local educational agency that receives a basic support payment under section 7703(b)(1) of this title shall also meet at least one of the following requirements:

(A) The number of children determined under section 7703(a)(1)(C) of this title for the agency for the preceding school year constituted at least 50 percent of the total student enrollment in the schools of the agency during the preceding school year.

(B) The number of children determined under subparagraphs (B) and (D)(i) of section 7703(a)(1) of this title for the agency for the preceding school year constituted at least 50 percent of the total student enrollment in the schools of the agency during the preceding school year.

(3) Amount of payments

(A) Local educational agencies impacted by military dependent children

The amount of a payment to each local educational agency described in this subsection that is impacted by military dependent children for a fiscal year shall be equal to—

(i)(II) 20 percent of the amount appropriated under section 7714(e) of this title for such fiscal year; divided by

(II) the total number of weighted student units of children described in subparagraphs (B) and (D)(i) of section 7703(a)(1) of this title for all local educational agencies described in this subsection (as calculated under section 7703(a)(2) of this title), including the number of weighted student units of such children attending a school facility described in section 7708(a) of this title if the Secretary does not provide assistance for the school facility under that section for the prior fiscal year; multiplied by

(ii) the total number of such weighted student units for the agency.

(B) Local educational agencies impacted by children who reside on Indian lands

The amount of a payment to each local educational agency described in this subsection that is impacted by children who reside on Indian lands for a fiscal year shall be equal to—

(i)(I) 20 percent of the amount appropriated under section 7714(e) of this title for such fiscal year; divided by

(II) the total number of weighted student units of children described in section 7703(a)(1)(C) of this title for all local educational agencies described in this subsection (as calculated under section 7703(a)(2) of this title); multiplied by

(ii) the total number of such weighted student units for the agency.

(4) Use of funds

Any local educational agency that receives funds under this subsection shall use such funds for construction, as defined in section 7713(3) of this title.

(b) School facility emergency and modernization grants authorized

(1) In general

From 60 percent of the amount appropriated for each fiscal year under section 7714(e) of this title, the Secretary—

(A) shall award emergency grants in accordance with this subsection to eligible local educational agencies to enable the agencies to carry out emergency repairs of school facilities; and

(B) shall award modernization grants in accordance with this subsection to eligible local educational agencies to enable the agencies to carry out the modernization of school facilities.

(2) Priority

In approving applications from local educational agencies for emergency grants and

modernization grants under this subsection, the Secretary shall give priority to applications in accordance with the following:

(A) The Secretary shall first give priority to applications for emergency grants from local educational agencies that meet the requirements of paragraph (3)(A) and, among such applications for emergency grants, shall give priority to those applications of local educational agencies based on the severity of the emergency, as determined by the Secretary.

(B) The Secretary shall next give priority to applications for emergency grants from local educational agencies that meet the requirements of subparagraph (C) or (D) of paragraph (3) and, among such applications for emergency grants, shall give priority to those applications of local educational agencies based on the severity of the emergency, as determined by the Secretary.

(C) The Secretary shall next give priority to applications for modernization grants from local educational agencies that meet the requirements of paragraph (3)(B) and, among such applications for modernization grants, shall give priority to those applications of local educational agencies based on the severity of the need for modernization, as determined by the Secretary.

(D) The Secretary shall next give priority to applications for modernization grants from local educational agencies that meet the requirements of subparagraph (C) or (D) of paragraph (3) and, among such applications for modernization grants, shall give priority to those applications of local educational agencies based on the severity of the need for modernization, as determined by the Secretary.

(3) Eligibility requirements

(A) Emergency grants

A local educational agency is eligible to receive an emergency grant under paragraph (2)(A) if—

(i) the agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent)—

(I) has no practical capacity to issue bonds;

(II) has minimal capacity to issue bonds and is at not less than 75 percent of the agency's limit of bonded indebtedness; or

(III) does not meet the requirements of subclauses (I) and (II) but is eligible to receive funds under section 7703(b)(2) of this title for the fiscal year; and

(ii) the agency is eligible to receive assistance under subsection (a) of this section for the fiscal year and has a school facility emergency, as determined by the Secretary, that poses a health or safety hazard to the students and school personnel assigned to the school facility.

(B) Modernization grants

A local educational agency is eligible to receive a modernization grant under paragraph (2)(C) if—

(i) the agency is eligible to receive assistance under this subchapter for the fiscal year;

(ii) the agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent) meets the requirements of subclause (I), (II), or (III) of subparagraph (A)(i); and

(iii) the agency has facility needs resulting from the presence of the Federal Government, such as the enrollment of federally connected children, the presence of tax-exempt Federal property, or an increase in enrollment due to the expansion of Federal activities, housing privatization, or the acquisition of Federal property.

(C) Additional eligibility for emergency and modernization grants

(i) A local educational agency is eligible to receive an emergency grant or a modernization grant under subparagraph (B) or (D) of paragraph (2), respectively, if the agency meets the following requirements:

(I) The agency receives a basic support payment under section 7703(b) of this title for the fiscal year and the agency meets at least one of the following requirements:

(aa) The number of children determined under section 7703(a)(1)(C) of this title for the agency for the preceding school year constituted at least 40 percent of the total student enrollment in the schools of the agency during the preceding school year.

(bb) The number of children determined under subparagraphs (B) and (D)(i) of section 7703(a)(1)of this title for the agency for the preceding school year constituted at least 40 percent of the total student enrollment in the schools of the agency during the preceding school year.

(II) The agency (or in the case of a local educational agency that does not have the authority to tax or issue bonds, the agency's fiscal agent) is at not less than 75 percent of the agency's limit of bonded indebtedness.

(III) The agency has an assessed value of real property per student that may be taxed for school purposes that is less than the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the local educational agency is located.

(ii) A local educational agency is also eligible to receive a modernization grant under this subparagraph if the agency is eligible to receive assistance under section 7702 of this title for the fiscal year and meets the requirements of subclauses (II) and (III) of clause (i).

(D) Special rule

(i) In general

Any school described in clause (ii) that desires to receive an emergency grant or a

modernization grant under subparagraph (B) or (D) of paragraph (2), respectively, shall, except as provided in the following sentence, submit an application in accordance with paragraph (6), and shall otherwise be treated as a local educational agency for the purpose of this subsection. The school shall submit an application for the grant to the local educational agency of such school and the agency shall submit the application on behalf of the school to the Secretary.

(ii) School described

A school described in this clause is a school that meets the following requirements:

(I) The school is located within the geographic boundaries of a local educational agency that does not meet the applicable eligibility requirements under subparagraph (A), (B), or (C) for a grant under this subsection.

(II) The school meets at least one of the following requirements:

(aa) The number of children determined under section 7703(a)(1)(C) of this title for the school for the preceding school year constituted at least 40 percent of the total student enrollment in the school during the preceding school year.

(bb) The number of children determined under subparagraphs (B) and (D)(i) of section 7703(a)(1) of this title for the school for the preceding school year constituted at least 40 percent of the total student enrollment in the school during the preceding school year.

(III) The school is located within the geographic boundaries of a local educational agency that meets the requirements of subclauses (II) and (III) of subparagraph (C)(i).

(E) Rule of construction

For purposes of subparagraph (A)(i), a local educational agency—

(i) has no practical capacity to issue bonds if the total assessed value of real property that may be taxed for school purposes is less than $25,000,000; and

(ii) has minimal capacity to issue bonds if the total assessed value of real property that may be taxed for school purposes is at least $25,000,000 but not more than $50,000,000.

(4) Award criteria

In awarding emergency grants and modernization grants under this subsection, the Secretary shall consider the following factors:

(A) The ability of the local educational agency to respond to the emergency, or to pay for the modernization project, as the case may be, as measured by—

(i) the agency's level of bonded indebtedness;

(ii) the assessed value of real property per student that may be taxed for school purposes compared to the average of the assessed value of real property per student that may be taxed for school purposes in the State in which the agency is located;

(iii) the agency's total tax rate for school purposes (or, if applicable, for capital expenditures) compared to the average total tax rate for school purposes (or the average capital expenditure tax rate, if applicable) in the State in which the agency is located; and

(iv) funds that are available to the agency, from any other source, including subsection (a) of this section, that may be used for capital expenditures.

(B) The percentage of property in the agency that is nontaxable due to the presence of the Federal Government.

(C) The number and percentages of children described in subparagraphs (A), (B), (C), and (D) of section 7703(a)(1) of this title served in the school facility with the emergency or served in the school facility proposed for modernization, as the case may be.

(D) In the case of an emergency grant, the severity of the emergency, as measured by the threat that the condition of the school facility poses to the health, safety, and well-being of students.

(E) In the case of a modernization grant—

(i) the severity of the need for modernization, as measured by such factors as—

(I) overcrowding, as evidenced by the use of portable classrooms, or the potential for future overcrowding because of increased enrollment; or

(II) the agency's inability to utilize technology or offer a curriculum in accordance with contemporary State standards due to the physical limitations of the current school facility; and

(ii) the age of the school facility proposed for modernization.

(5) Other award provisions

(A) General provisions

(i) Limitations on amount of funds

(I) In general

The amount of funds provided under an emergency grant or a modernization grant awarded under this subsection to a local educational agency that meets the requirements of subclause (II) or (III) of paragraph (3)(A)(i) for purposes of eligibility under subparagraph (A) or (B) of paragraph (3) or that meets the requirements of clause (i) or (ii) of paragraph (3)(C) for purposes of eligibility under such paragraph (3)(C), or to a school that is eligible under paragraph (3)(D)—

(aa) shall not exceed 50 percent of the total cost of the project to be assisted under this subsection; and

(bb) shall not exceed $4,000,000 during any 4-year period.

(II) In-kind contributions

A local educational agency may use in-kind contributions to meet the matching requirement of subclause (I)(aa).

(ii) Prohibitions on use of funds

A local educational agency may not use funds provided under an emergency grant or modernization grant awarded under this subsection for—

(I) a project for a school facility for which the agency does not have full title or other interest;

(II) stadiums or other school facilities that are primarily used for athletic contests, exhibitions, or other events for which admission is charged to the general public; or

(III) the acquisition of real property.

(iii) Supplement, not supplant

A local educational agency shall use funds provided under an emergency grant or modernization grant awarded under this subsection only to supplement the amount of funds that would, in the absence of the Federal funds provided under the grant, be made available from non-Federal sources to carry out emergency repairs of school facilities or to carry out the modernization of school facilities, as the case may be, and not to supplant such funds.

(iv) Maintenance costs

Nothing in this subsection shall be construed to authorize the payment of maintenance costs in connection with any school facility modernized in whole or in part with Federal funds provided under this subsection.

(v) Environmental safeguards

All projects carried out with Federal funds provided under this subsection shall comply with all relevant Federal, State, and local environmental laws and regulations.

(vi) Carry-over of certain applications

A local educational agency that applies for an emergency grant or a modernization grant under this subsection for a fiscal year and does not receive the grant for the fiscal year shall have the application for the grant considered for the following fiscal year, subject to the priority requirements of paragraph (2) and the award criteria requirements of paragraph (4).

(B) Emergency grants; prohibition on use of funds

A local educational agency that is awarded an emergency grant under this subsection may not use amounts under the grant for the complete or partial replacement of an existing school facility unless such replacement is less expensive or more cost-effective than correcting the identified emergency.

(6) Application

A local educational agency that desires to receive an emergency grant or a modernization grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall contain the following:

(A) A description of how the local educational agency meets the award criteria under paragraph (4), including the information described in clauses (i) through (iv) of paragraph (4)(A) and subparagraphs (B) and (C) of paragraph (4).

(B) In the case of an application for an emergency grant—

(i) a description of the school facility deficiency that poses a health or safety hazard to the occupants of the facility and a description of how the deficiency will be repaired; and

(ii) a signed statement from an appropriate local official certifying that a deficiency in the school facility threatens the health or safety of the occupants of the facility or that prevents the use of all or a portion of the building.

(C) In the case of an application for a modernization grant—

(i) an explanation of the need for the school facility modernization project;

(ii) the date on which original construction of the facility to be modernized was completed;

(iii) a listing of the school facilities to be modernized, including the number and percentage of children determined under section 7703(a)(1) of this title in average daily attendance in each school facility; and

(iv) a description of the ownership of the property on which the current school facility is located or on which the planned school facility will be located.

(D) A description of the project for which a grant under this subsection will be used, including a cost estimate for the project.

(E) A description of the interest in, or authority over, the school facility involved, such as an ownership interest or a lease arrangement.

(F) Such other information and assurances as the Secretary may reasonably require.

(7) Report

(A) In general

Not later than January 1 of each year, the Secretary shall prepare and submit to the appropriate congressional committees a report that contains a justification for each grant awarded under this subsection for the prior fiscal year.

(B) Definition

In this paragraph, the term ''appropriate congressional committees'' means—

(i) the Committee on Appropriations and the Committee on Education and the Workforce of the House of Representatives; and

(ii) the Committee on Appropriations and the Committee on Health, Education, Labor, and Pensions of the Senate.

(Pub. L. 89–10, title VIII, §8007, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3763; amended Pub. L. 104–134, title I, §101(d) [title III, §306(b)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–236; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 106–398, §1 [[div. A], title XVIII, §1811], Oct. 30, 2000, 114 Stat. 1654, 1654A–383; Pub. L. 107–110, title VIII, §803, Jan. 8, 2002, 115 Stat. 1950.)

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–110 amended heading and text generally, reorganizing and revising provisions relating to emergency and modernization grants.

2000—Pub. L. 106–398 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (c) authorizing payments to certain local educational agencies for construction.

1996—Subsec. (a)(2)(B). Pub. L. 104–134 struck out ''and in which the agency at any 2 times during the four fiscal years preceding October 20, 1994, was denied by a vote of the agency's eligible voters a bond referendum for the purposes of school construction or renovation'' before semicolon at end.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 7708. Facilities

(a) Current facilities

From the amount appropriated for any fiscal year under section 7714(f) of this title, the Secretary may continue to provide assistance for school facilities that were supported by the Secretary under section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994).

(b) Transfer of facilities

(1) In general

The Secretary shall, as soon as practicable, transfer to the appropriate local educational agency or another appropriate entity all the right, title, and interest of the United States in and to each facility provided under section 10 of the Act of September 23, 1950[1] (Public Law 815, 81st Congress), or under section 204 or 310 of the Act of September 30, 1950[1] (Public Law 874, 81st Congress) (as such Acts were in effect on January 1, 1958).

(2) Other requirements

Any such transfer shall be without charge to such agency or entity, and prior to such transfer, the transfer shall be consented to by the local educational agency or other appropriate entity, and may be made on such terms and conditions as the Secretary deems appropriate to carry out the purposes of this subchapter.

(Pub. L. 89–10, title VIII, § 8008, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3764.)

REFERENCES IN TEXT

Section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in subsec. (a), means section 10 of act Sept. 23, 1950, ch. 995, which was classified to section 640 of this title prior to repeal by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965.

Section 10 of the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Act was in effect on January 1, 1958), referred to in subsec. (b)(1), probably means section 10 of act Sept. 23, 1950, ch. 995, as added by Pub. L. 85–620, title I, § 101, Aug. 12, 1958, 72 Stat. 553, as amended, which was classified to section 640 of this title prior to repeal by Pub. L. 103–382, title III, § 331(a), Oct. 20, 1994, 108 Stat. 3965. The act Sept. 23, 1950, did not contain a section 10 on Jan. 1, 1958.

Sections 204 and 310 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on January 1, 1958), referred to in subsec. (b)(1), probably mean sections 204 and 310 of act Sept. 23, 1950, ch. 995, which were classified to sections 274 and 300, respectively, of this title prior to the general amendment of that Act by Pub. L. 85–620, Aug. 12, 1958, 72 Stat. 548. The act Sept. 30, 1950, did not contain a section 204 or 310 on Jan. 1, 1958.

[1] See References in Text note below.

§ 7709. State consideration of payments in providing State aid

(a) General prohibition

Except as provided in subsection (b) of this section, a State may not—

(1) consider payments under this subchapter in determining for any fiscal year—

(A) the eligibility of a local educational agency for State aid for free public education; or

(B) the amount of such aid; or

(2) make such aid available to local educational agencies in a manner that results in less State aid to any local educational agency that is eligible for such payment than such agency would receive if such agency were not so eligible.

(b) State equalization plans

(1) In general

A State may reduce State aid to a local educational agency that receives a payment under section 7702 or 7703(b) of this title (except the amount calculated in excess of 1.0 under section 7703(a)(2)(B) of this title and, with respect to a local educational agency that receives a payment under section 7703(b)(2) of this title, the amount in excess of the amount that the agency would receive if the agency were deemed to be an agency eligible to receive a payment under section 7703(b)(1) of this title and not section 7703(b)(2) of this title) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A) of this section, that the State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in the State.

(2) Computation

(A) In general

For purposes of paragraph (1), a program of State aid equalizes expenditures among local educational agencies if, in the second fiscal year preceding the fiscal year for which the determination is made, the amount of per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the highest such per-pupil expenditures or revenues did not exceed the amount of such per-pupil expenditures made by, or per-pupil revenues available to, the local educational agency in the State with the lowest such expenditures or revenues by more than 25 percent.

(B) Other factors

In making a determination under this subsection, the Secretary shall—

(i) disregard local educational agencies with per-pupil expenditures or revenues above the 95th percentile or below the 5th percentile of such expenditures or revenues in the State; and

(ii) take into account the extent to which a program of State aid reflects the additional cost of providing free public education in particular types of local educational agencies, such as those that are geographically isolated, or to particular types of students, such as children with disabilities.

(3) Exception

Notwithstanding paragraph (2), if the Secretary determines that the State has substantially revised its program of State aid, the Secretary may certify such program for any fiscal year only if—

(A) the Secretary determines, on the basis of projected data, that the State's program will meet the disparity standard described in paragraph (2) for the fiscal year for which the determination is made; and

(B) the State provides an assurance to the Secretary that, if final data do not demonstrate that the State's program met such standard for the fiscal year for which the determination is made, the State will pay to each affected local educational agency the amount by which the State reduced State aid to the local educational agency.

(c) Procedures for review of State equalization plans

(1) Written notice

(A) In general

Any State that wishes to consider payments described in subsection (b)(1) of this section in providing State aid to local educational agencies shall submit to the Secretary, not later than 120 days before the beginning of the State's fiscal year, a written notice of such State's intention to do so.

(B) Contents

Such notice shall be in the form and contain the information the Secretary requires, including evidence that the State has notified each local educational agency in the State of such State's intention to consider such payments in providing State aid.

(2) Opportunity to present views

Before making a determination under subsection (b) of this section, the Secretary shall afford the State, and local educational agencies in the State, an opportunity to present their views.

(3) Qualification procedures

If the Secretary determines that a program of State aid qualifies under subsection (b) of this section, the Secretary shall—

(A) certify the program and so notify the State; and

(B) afford an opportunity for a hearing, in accordance with section 7711(a) of this title, to any local educational agency adversely affected by such certification.

(4) Nonqualification procedures

If the Secretary determines that a program of State aid does not qualify under subsection (b) of this section, the Secretary shall—

(A) so notify the State; and

(B) afford an opportunity for a hearing, in accordance with section 7711(a) of this title, to the State, and to any local educational agency adversely affected by such determination.

(d) Treatment of State aid

(1) In general

If a State has in effect a program of State aid for free public education for any fiscal year, which is designed to equalize expenditures for free public education among the local educational agencies of that State, payments under this subchapter for any fiscal year may be taken into consideration by such State in determining the relative—

(A) financial resources available to local educational agencies in that State; and

(B) financial need of such agencies for the provision of free public education for children served by such agency, except that a State may consider as local resources funds received under this subchapter only in proportion to the share that local tax revenues covered under a State equalization program are of total local tax revenues.

(2) Prohibition

A State may not take into consideration payments under this subchapter before such State's program of State aid has been certified by the Secretary under subsection (c)(3) of this section.

(e) Remedies for State violations

(1) In general

The Secretary or any aggrieved local educational agency may, not earlier than 150 days after an adverse determination by the Secretary against a State for violation of subsections (a) or (d)(2) of this section or for failure to carry out an assurance under subsection (b)(3)(B) of this section, and if an administrative proceeding has not been concluded within such time, bring an action in a United States district court against such State for such violations or failure.

(2) Immunity

A State shall not be immune under the 11th amendment to the Constitution of the United States from an action described in paragraph (1).

(3) Relief

The court shall grant such relief as the court determines is appropriate.

(Pub. L. 89–10, title VIII, § 8009, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3764; amended Pub. L. 104–195, § 10, Sept. 16, 1996, 110 Stat. 2384; Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1812], Oct. 30, 2000, 114 Stat. 1654, 1654A–386; Pub. L. 107–110, title VIII, § 804, Jan. 8, 2002, 115 Stat. 1956.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107–110 inserted ''and, with respect to a local educational agency that re-

ceives a payment under section 7703(b)(2) of this title, the amount in excess of the amount that the agency would receive if the agency were deemed to be an agency eligible to receive a payment under section 7703(b)(1) of this title and not section 7703(b)(2) of this title'' after ''section 7703(a)(2)(B) of this title''.

2000—Subsec. (a)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1812(1)], struck out ''or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994)'' after ''under this subchapter'' in introductory provisions.

Subsec. (b)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1812(2)], amended heading and text of par. (1) generally. Prior to amendment, text read as follows: ''A State may reduce State aid to a local educational agency that receives a payment under section 7702 or 7703(b) of this title (except the amount calculated in excess of 1.0 under subparagraph (B) of section 7703(a)(2) of this title) or under the Act of September 30, 1950 (Public Law 874, 81st Congress) as such Act was in effect on the day preceding October 20, 1994 (other than an increase in payments described in paragraphs (2)(B), (2)(C), (2)(D), or (3)(B)(ii) of section 3(d) of such Act of September 30, 1950) for any fiscal year if the Secretary determines, and certifies under subsection (c)(3)(A) of this section, that such State has in effect a program of State aid that equalizes expenditures for free public education among local educational agencies in such State.''

Subsec. (d). Pub. L. 106–398, §1 [[div. A], title XVIII, §1812(3)], struck out ''or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994)'' after ''under this subchapter'' wherever appearing.

1996—Subsec. (b)(2)(A). Pub. L. 104–195 substituted ''more than 25 percent'' for ''more than—

''(i) 25 percent for fiscal year 1995, 1996, or 1997; and

''(ii) 20 percent for fiscal year 1998 or 1999''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 7710. Federal administration

(a) Payments in whole dollar amounts

The Secretary shall round any payments under this subchapter to the nearest whole dollar amount.

(b) Other agencies

Each Federal agency administering Federal property on which children reside, and each agency principally responsible for an activity that may occasion assistance under this subchapter, shall, to the maximum extent practicable, comply with requests of the Secretary for information the Secretary may require to carry out this subchapter.

(c) Special rules

(1) Certain children eligible under subparagraphs (A) and (G)(ii) of section 7703(a)(1)

(A) The Secretary shall treat as eligible under subparagraph (A) of section 7703(a)(1) of this title any child who would be eligible under such subparagraph except that the Federal property on which the child resides or on which the child's parent is employed is not in the same State in which the child attends school, if such child meets the requirements of paragraph (3)[1] of this subsection.

(B) The Secretary shall treat as eligible under subparagraph (G) of section 7703(a)(1) of this title any child who would be eligible under such subparagraph except that such child does not meet the requirements of clause (ii) of such subparagraph, if such child meets the requirements of paragraph (3)[1] of this subsection.

(2) Requirements

A child meets the requirements of this paragraph if—

(A) such child resides—

(i) in a State adjacent to the State in which the local educational agency serving the school such child attends is located; or

(ii) with a parent employed on Federal property in a State adjacent to the State in which such agency is located;

(B) the schools of such agency are within a more reasonable commuting distance of such child's home than the schools of the local educational agency that serves the school attendance area where such child resides;

(C) attending the schools of the local educational agency that serves the school attendance area where such child resides will impose a substantial hardship on such child;

(D) the State in which such child attends school provides funds for the education of such child on the same basis as all other public school children in the State, unless otherwise permitted under section 7709(b) of this title; and

(E) such agency received a payment for fiscal year 1999 under section 7703(b) of this title on behalf of children described in paragraph (1).

(Pub. L. 89–10, title VIII, §8010, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3767; amended Pub. L. 106–398, §1 [[div. A], title XVIII, §1813], Oct. 30, 2000, 114 Stat. 1654, 1654A–387.)

AMENDMENTS

2000—Subsec. (c)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1813(1), (2)], redesignated par. (2) as (1) and struck out heading and text of former par. (1). Text read as follows: ''Notwithstanding any other provision of law, for any fiscal year before fiscal year 1995, the Secretary shall treat as eligible under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such subsection was in effect on the day preceding October 20, 1994), and shall forgive the obligation of a local educational agency to repay any amounts that such agency received under such section for such fiscal year based on, any child who would be eligible under such subsections except that such child does not meet the requirements of subsection (a)(1)(B) or (b)(2)(B), respectively, of such section 3, if such child meets the requirements of paragraph (3) of this subsection.''

Subsec. (c)(2). Pub. L. 106–398, §1 [[div. A], title XVIII, §1813(2)], redesignated par. (3) as (2). Former par. (2) redesignated (1).

Subsec. (c)(2)(D). Pub. L. 106–398, §1 [[div. A], title XVIII, §1813(3)(A)], struck out ''section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on the day preceding October 20, 1994) or'' after ''otherwise permitted under''.

Subsec. (c)(2)(E). Pub. L. 106–398, §1 [[div. A], title XVIII, §1813(3)(B)], substituted ''1999'' for ''1994'', struck out ''(or such section's predecessor authority)'' after ''section 7703(b) of this title'', and substituted ''paragraph (1)'' for ''paragraph (2)''.

[1] So in original. Probably should be paragraph ''(2)''.

Subsec. (c)(3). Pub. L. 106–398, §1 [[div. A], title XVIII, §1813(2)], redesignated par. (3) as (2).

§ 7711. Administrative hearings and judicial review

(a) Administrative hearings

A local educational agency and a State that is adversely affected by any action of the Secretary under this subchapter or under the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994) shall be entitled to a hearing on such action in the same manner as if such agency were a person under chapter 5 of title 5 if the local educational agency or State, as the case may be, submits to the Secretary a request for the hearing not later than 60 days after the date of the action of the Secretary under this subchapter.

(b) Judicial review of secretarial action

(1) In general

A local educational agency or a State aggrieved by the Secretary's final decision following an agency proceeding under subsection (a) of this section may, within 30 working days (as determined by the local educational agency or State) after receiving notice of such decision, file with the United States court of appeals for the circuit in which such agency or State is located a petition for review of that action. The clerk of the court shall promptly transmit a copy of the petition to the Secretary. The Secretary shall then file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28.

(2) Findings of fact

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Review

The court shall have exclusive jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(Pub. L. 89–10, title VIII, §8011, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3768; amended Pub. L. 106–398, §1 [[div. A], title XVIII, §1814(a)(1), (b)], Oct. 30, 2000, 114 Stat. 1654, 1654A–387.)

REFERENCES IN TEXT

Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in subsec. (a), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§236 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, §331(b), Oct. 20, 1994, 108 Stat. 3965. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–398, §1 [[div. A], title XVIII, §1814(a)(1)], inserted ''if the local educational agency or State, as the case may be, submits to the Secretary a request for the hearing not later than 60 days after the date of the action of the Secretary under this subchapter'' before period at end.

Subsec. (b)(1). Pub. L. 106–398, §1 [[div. A], title XVIII, §1814(b)], substituted ''30 working days (as determined by the local educational agency or State)'' for ''60 days''.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–398, §1 [[div. A], title XVIII, §1814(a)(2)], Oct. 30, 2000, 114 Stat. 1654, 1654A–387, provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to an action of the Secretary under title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7701 et seq.) initiated on or after the date of the enactment of this Act [Oct. 30, 2000].''

§ 7712. Forgiveness of overpayments

Notwithstanding any other provision of law, the Secretary may forgive the obligation of a local educational agency to repay, in whole or in part, the amount of any overpayment received under this subchapter, or under this subchapter's predecessor authorities, if the Secretary determines that the overpayment was made as a result of an error made by—

(1) the Secretary; or

(2) the local educational agency and repayment of the full amount of the overpayment will result in an undue financial hardship on the agency and seriously harm the agency's educational program.

(Pub. L. 89–10, title VIII, §8012, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3769; amended Pub. L. 106–398, §1 [[div. A], title XVIII, §1815], Oct. 30, 2000, 114 Stat. 1654, 1654A–387.)

AMENDMENTS

2000—Pub. L. 106–398 substituted ''under this subchapter's predecessor authorities'' for ''under the Act of September 30, 1950 (Public Law 874, 81st Congress) or the Act of September 23, 1950 (Public Law 815, 81st Congress) (as such Acts were in effect on the day preceding October 20, 1994)'' in introductory provisions.

§ 7713. Definitions

For purposes of this subchapter:

(1) Armed Forces

The term ''Armed Forces'' means the Army, Navy, Air Force, and Marine Corps.

(2) Average per-pupil expenditure

The term ''average per-pupil expenditure'' means—

(A) the aggregate current expenditures of all local educational agencies in the State; divided by

(B) the total number of children in average daily attendance for whom such agencies provided free public education.

(3) Construction

The term ''construction'' means—

(A) the preparation of drawings and specifications for school facilities;

(B) erecting, building, acquiring, altering, remodeling, repairing, or extending school facilities;

(C) inspecting and supervising the construction of school facilities; and

(D) debt service for such activities.

(4) Current expenditures

The term ''current expenditures'' means expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but does not include expenditures for community services, capital outlay, and debt service, or any expenditures made from funds awarded under part A of subchapter I of this chapter and subchapter VI of this chapter. The determination of whether an expenditure for the replacement of equipment is considered a current expenditure or a capital outlay shall be determined in accordance with generally accepted accounting principles as determined by the State.

(5) Federal property

(A) In general

Except as provided in subparagraphs (B) through (F), the term ''Federal property'' means real property that is not subject to taxation by any State or any political subdivision of a State due to Federal agreement, law, or policy, and that is—

(i) owned by the United States or leased by the United States from another entity;

(ii)(I) held in trust by the United States for individual Indians or Indian tribes;

(II) held by individual Indians or Indian tribes subject to restrictions on alienation imposed by the United States;

(III) conveyed at any time under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] to a Native individual, Native group, or village or regional corporation;

(IV) public land owned by the United States that is designated for the sole use and benefit of individual Indians or Indian tribes; or

(V) used for low-rent housing, as described in paragraph (10), that is located on land described in subclause (I), (II), (III), or (IV) of this clause or on land that met one of those descriptions immediately before such property's use for such housing;

(iii)(I) part of a low-rent housing project assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.];

(II) used to provide housing for homeless children at closed military installations pursuant to section 11411 of title 42; or

(III) used for affordable housing assisted under the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.]; or

(iv) owned by a foreign government or by an international organization.

(B) Schools providing flight training to members of Air Force

The term ''Federal property'' includes, so long as not subject to taxation by any State or any political subdivision of a State, and whether or not that tax exemption is due to Federal agreement, law, or policy, any school providing flight training to members of the Air Force under contract with the Air Force at an airport owned by a State or political subdivision of a State.

(C) Non-Federal easements, leases, licenses, permits, improvements, and certain other real property

The term ''Federal property'' includes, whether or not subject to taxation by a State or a political subdivision of a State—

(i) any non-Federal easement, lease, license, permit, or other such interest in Federal property as otherwise described in this paragraph, but not including any non-Federal fee-simple interest;

(ii) any improvement on Federal property as otherwise described in this paragraph; and

(iii) real property that, immediately before its sale or transfer to a non-Federal party, was owned by the United States and otherwise qualified as Federal property described in this paragraph, but only for one year beyond the end of the fiscal year of such sale or transfer.

(D) Certain Postal Service property and pipelines and utility lines

Notwithstanding any other provision of this paragraph, the term ''Federal property'' does not include—

(i) any real property under the jurisdiction of the United States Postal Service that is used primarily for the provision of postal services; or

(ii) pipelines and utility lines.

(E) Property with respect to which State or local tax revenues may not be expended, allocated, or available for free public education

Notwithstanding any other provision of this paragraph, ''Federal property'' does not include any property on which children reside that is otherwise described in this paragraph if—

(i) no tax revenues of the State or of any political subdivision of the State may be expended for the free public education of children who reside on that Federal property; or

(ii) no tax revenues of the State are allocated or available for the free public education of such children.

(F) Property located in the State of Oklahoma owned by Indian housing authority for low-income housing

The term ''Federal property'' includes any real property located in the State of Oklahoma that—

(i) is owned by an Indian housing authority and used for low-income housing (including housing assisted under or author-

ized by the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.]); and

(ii) at any time—

(I) was designated by treaty as tribal land; or

(II) satisfied the definition of Federal property under section 403(1)(A) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994).

(6) Free public education

The term ''free public education'' means education that is provided—

(A) at public expense, under public supervision and direction, and without tuition charge; and

(B) as elementary or secondary education, as determined under State law, except that, notwithstanding State law, such term—

(i) includes preschool education; and

(ii) does not include any education provided beyond grade 12.

(7) Indian lands

The term ''Indian lands'' means any Federal property described in paragraph (5)(A)(ii) or (5)(F).

(8) Local contribution percentage

(A) In general

The term ''local contribution percentage'' means the percentage of current expenditures in the State derived from local and intermediate sources, as reported to and verified by the National Center for Education Statistics.

(B) Hawaii and District of Columbia

Notwithstanding subparagraph (A), the local contribution percentage for Hawaii and for the District of Columbia shall be the average local contribution percentage for the 50 States and the District of Columbia.

(9) Local educational agency

(A) In general

Except as provided in subparagraph (B), the term ''local educational agency''—

(i) means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent school district, or other school district; and

(ii) includes any State agency that directly operates and maintains facilities for providing free public education.

(B) Exception

The term ''local educational agency'' does not include any agency or school authority that the Secretary determines on a case-by-case basis—

(i) was constituted or reconstituted primarily for the purpose of receiving assistance under this subchapter or the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994) or increasing the amount of such assistance; or

(ii) is not constituted or reconstituted for legitimate educational purposes.

(10) Low-rent housing

The term ''low-rent housing'' means housing located on property that is described in paragraph (5)(A)(iii).

(11) Modernization

The term ''modernization'' means repair, renovation, alteration, or construction, including—

(A) the concurrent installation of equipment; and

(B) the complete or partial replacement of an existing school facility, but only if such replacement is less expensive and more cost-effective than repair, renovation, or alteration of the school facility.

(12) Revenue derived from local sources

The term ''revenue derived from local sources'' means—

(A) revenue produced within the boundaries of a local educational agency and available to such agency for such agency's use; or

(B) funds collected by another governmental unit, but distributed back to a local educational agency in the same proportion as such funds were collected as a local revenue source.

(13) School facilities

The term ''school facilities'' includes—

(A) classrooms and related facilities; and

(B) equipment, machinery, and utilities necessary or appropriate for school purposes.

(Pub. L. 89–10, title VIII, § 8013, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3769; amended Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1816], Oct. 30, 2000, 114 Stat. 1654, 1654A–387; Pub. L. 106–400, § 2, Oct. 30, 2000, 114 Stat. 1675.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (5)(A)(ii)(III), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The United States Housing Act of 1937, referred to in par. (5)(A)(iii)(I), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in par. (5)(A)(iii)(III), (F)(i), is Pub. L. 104–330, Oct. 26, 1996, 110 Stat. 4016, as amended, which is classified principally to chapter 43 (§ 4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on the day preceding October 20, 1994), referred to in pars. (5)(F)(ii)(II) and (9)(B)(i), is act Sept. 30, 1950, ch. 1124, 64 Stat. 1100, as amended, which was classified generally to chapter 13 (§ 236 et seq.) of this title prior to repeal by Pub. L. 103–382, title III, § 331(b), Oct. 20, 1994, 108 Stat. 3965.

Section 403 of the Act was classified to section 244 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2000—Par. (5)(A)(iii)(II). Pub. L. 106–400 made technical amendment to reference in original act which appears in text as reference to section 11411 of title 42.

Par. (5)(A)(iii)(III). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1816(1)(A)], added subcl. (III).

Par. (5)(F)(i). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1816(1)(B)], substituted ''or authorized by the Native American Housing Assistance and Self-Determination Act of 1996'' for ''the mutual help ownership opportunity program under section 202 of the United States Housing Act of 1937''.

Par. (8)(B). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1816(2)], substituted ''the 50 States and the District of Columbia'' for ''all States''.

Pars. (11) to (13). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1816(3), (4)], added par. (11) and redesignated former pars. (11) and (12) as (12) and (13), respectively.

§ 7713a. School facilities for children of Government employees and other residents in Indian reservations, national parks, and national monuments

In order to facilitate the providing of educational opportunities for children of Government employees and other residents in Indian reservations, the national parks and national monuments the Secretary of the Interior is hereby authorized in his discretion to make available for elementary school purposes therein, without charge, space in Government-owned buildings, when such space may be available for such purposes without detriment to the official business of such Indian reservations, national parks and national monuments.

(July 16, 1940, ch. 629, 54 Stat. 761.)

CODIFICATION

Section was not enacted as part of the Elementary and Secondary Education Act of 1965, which comprises this chapter.

Section was formerly classified to section 244a of this title. Prior thereto, section was classified to section 76a of Title 5 prior to the general revision and enactment of Title 5, Government Organization and Employees, by Pub. L. 89–554, § 1, Sept. 6, 1966, 80 Stat. 378.

§ 7714. Authorization of appropriations

(a) Payments for Federal acquisition of real property

For the purpose of making payments under section 7702 of this title, there are authorized to be appropriated $32,000,000 for fiscal year 2000 and such sums as may be necessary for each of the seven succeeding fiscal years.

(b) Basic payments; payments for heavily impacted local educational agencies

For the purpose of making payments under section 7703(b) of this title, there are authorized to be appropriated $809,400,000 for fiscal year 2000 and such sums as may be necessary for each of the seven succeeding fiscal years.

(c) Payments for children with disabilities

For the purpose of making payments under section 7703(d) of this title, there are authorized to be appropriated $50,000,000 for fiscal year 2000 and such sums as may be necessary for each of the seven succeeding fiscal years.

(d) Repealed. Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(d)], Oct. 30, 2000, 114 Stat. 1654, 1654A–388

(e) Construction

For the purpose of carrying out section 7707 of this title, there are authorized to be appropriated $10,052,000 for fiscal year 2000 and such sums as may be necessary for fiscal year 2001, $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the five succeeding fiscal years.

(f) Facilities maintenance

For the purpose of carrying out section 7708 of this title, there are authorized to be appropriated $5,000,000 for fiscal year 2000 and such sums as may be necessary for each of the seven succeeding fiscal years.

(Pub. L. 89–10, title VIII, § 8014, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3772; amended Pub. L. 105–78, title III, Nov. 13, 1997, 111 Stat. 1498; Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817], Oct. 30, 2000, 114 Stat. 1654, 1654A–388; Pub. L. 107–110, title VIII, § 805, Jan. 8, 2002, 115 Stat. 1956.)

AMENDMENTS

2002—Subsecs. (a) to (c). Pub. L. 107–110, § 805(a), substituted ''seven succeeding fiscal years'' for ''three succeeding fiscal years''.

Subsec. (e). Pub. L. 107–110, § 805(b), substituted ''for fiscal year 2001, $150,000,000 for fiscal year 2002, and such sums as may be necessary for each of the five succeeding fiscal years'' for ''for each of the three succeeding fiscal years''.

Subsec. (f). Pub. L. 107–110, § 805(a), substituted ''seven succeeding fiscal years'' for ''three succeeding fiscal years''.

Subsec. (g). Pub. L. 107–110, § 805(c), struck out heading and text of subsec. (g). Text read as follows: ''For the purpose of carrying out section 7702(j) of this title there are authorized to be appropriated $1,500,000 for fiscal year 2000 and such sums as may be necessary for each of the three succeeding fiscal years.''

2000—Subsec. (a). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(a)], substituted ''$32,000,000 for fiscal year 2000'' for ''$16,750,000 for fiscal year 1995'' and ''three'' for ''four''.

Subsec. (b). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(b)], substituted ''section 7703(b)'' for ''subsections (b) and (f) of section 7703'', ''$809,400,000 for fiscal year 2000'' for ''$775,000,000 for fiscal year 1995'', and ''three'' for ''four'' and struck out '', of which 6 percent shall be available, until expended, for each such fiscal year to carry out section 7703(f) of this title'' before period at end.

Subsec. (c). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(c)], substituted ''$50,000,000 for fiscal year 2000'' for ''$45,000,000 for fiscal year 1995'' and ''three'' for ''four''.

Subsec. (d). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(d)], struck out heading and text of subsec. (d). Text read as follows: ''For the purpose of making payments under section 7706 of this title, there are authorized to be appropriated $2,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.''

Subsec. (e). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(e)], substituted ''$10,052,000 for fiscal year 2000'' for ''$25,000,000 for fiscal year 1995'' and ''three'' for ''four''.

Subsec. (f). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(f)], substituted ''$5,000,000 for fiscal year 2000'' for ''$2,000,000 for fiscal year 1995'' and ''three'' for ''four''.

Subsec. (g). Pub. L. 106–398, § 1 [[div. A], title XVIII, § 1817(g)], amended heading and substituted ''$1,500,000

for fiscal year 2000 and such sums as may be necessary for each of the three succeeding fiscal years'' for ''such sums as are necessary beginning in fiscal year 1998 and for each succeeding fiscal year'' in text.

1997—Subsec. (g). Pub. L. 105–78 added subsec. (g).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, and effective with respect to appropriations for use under this subchapter for fiscal year 2002, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SUBCHAPTER IX—GENERAL PROVISIONS

CODIFICATION

Title IX of the Elementary and Secondary Education Act of 1965, comprising this subchapter, was originally enacted as part of Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, amended, and subsequently revised, restated, and amended by other public laws. Title IX is shown, herein, as having been added by Pub. L. 107–110, title IX, §901, Jan. 8, 2002, 115 Stat. 1956, without reference to earlier amendments because of the extensive revision of the title's provisions by Pub. L. 107–110. See Codification note preceding section 6301 of this title.

PART A—DEFINITIONS

§ 7801. Definitions

Except as otherwise provided, in this chapter:

(1) Average daily attendance

(A) In general

Except as provided otherwise by State law or this paragraph, the term ''average daily attendance'' means—

(i) the aggregate number of days of attendance of all students during a school year; divided by

(ii) the number of days school is in session during that year.

(B) Conversion

The Secretary shall permit the conversion of average daily membership (or other similar data) to average daily attendance for local educational agencies in States that provide State aid to local educational agencies on the basis of average daily membership (or other similar data).

(C) Special rule

If the local educational agency in which a child resides makes a tuition or other payment for the free public education of the child in a school located in another school district, the Secretary shall, for the purpose of this chapter—

(i) consider the child to be in attendance at a school of the agency making the payment; and

(ii) not consider the child to be in attendance at a school of the agency receiving the payment.

(D) Children with disabilities

If a local educational agency makes a tuition payment to a private school or to a public school of another local educational agency for a child with a disability, as defined in section 1401 of this title, the Secretary shall, for the purpose of this chapter, consider the child to be in attendance at a school of the agency making the payment.

(2) Average per-pupil expenditure

The term ''average per-pupil expenditure'' means, in the case of a State or of the United States—

(A) without regard to the source of funds—

(i) the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the determination is made (or, if satisfactory data for that year are not available, during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State or, in the case of the United States, for all States (which, for the purpose of this paragraph, means the 50 States and the District of Columbia); plus

(ii) any direct current expenditures by the State for the operation of those agencies; divided by

(B) the aggregate number of children in average daily attendance to whom those agencies provided free public education during that preceding year.

(3) Beginning teacher

The term ''beginning teacher'' means a teacher in a public school who has been teaching less than a total of three complete school years.

(4) Child

The term ''child'' means any person within the age limits for which the State provides free public education.

(5) Child with a disability

The term ''child with a disability'' has the same meaning given that term in section 1401 of this title.

(6) Community-based organization

The term ''community-based organization'' means a public or private nonprofit organization of demonstrated effectiveness that—

(A) is representative of a community or significant segments of a community; and

(B) provides educational or related services to individuals in the community.

(7) Consolidated local application

The term ''consolidated local application'' means an application submitted by a local educational agency pursuant to section 7845 of this title.

(8) Consolidated local plan

The term ''consolidated local plan'' means a plan submitted by a local educational agency pursuant to section 7845 of this title.

(9) Consolidated State application

The term ''consolidated State application'' means an application submitted by a State educational agency pursuant to section 7842 of this title.

(10) Consolidated State plan

The term ''consolidated State plan'' means a plan submitted by a State educational agency pursuant to section 7842 of this title.

(11) Core academic subjects

The term ''core academic subjects'' means English, reading or language arts, mathe-

matics, science, foreign languages, civics and government, economics, arts, history, and geography.

(12) County

The term ''county'' means one of the divisions of a State used by the Secretary of Commerce in compiling and reporting data regarding counties.

(13) Covered program

The term ''covered program'' means each of the programs authorized by—

(A) part A of subchapter I of this chapter;

(B) subpart 3 of part B of subchapter I of this chapter;

(C) part C of subchapter I of this chapter;

(D) part D of subchapter I of this chapter;

(E) part F of subchapter I of this chapter;

(F) part A of subchapter II of this chapter;

(G) part D of subchapter II of this chapter;

(H) part A of subchapter III of this chapter;

(I) part A of subchapter IV of this chapter;

(J) part B of subchapter IV of this chapter;

(K) part A of subchapter V of this chapter; and

(L) subpart 2 of part B of subchapter VI of this chapter.

(14) Current expenditures

The term ''current expenditures'' means expenditures for free public education—

(A) including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities; but

(B) not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds received under subchapter I of this chapter and part A of subchapter V of this chapter.

(15) Department

The term ''Department'' means the Department of Education.

(16) Distance learning

The term ''distance learning'' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.

(17) Educational service agency

The term ''educational service agency'' means a regional public multiservice agency authorized by State statute to develop, manage, and provide services or programs to local educational agencies.

(18) Elementary school

The term ''elementary school'' means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

(19) Exemplary teacher

The term ''exemplary teacher'' means a teacher who—

(A) is a highly qualified teacher such as a master teacher;

(B) has been teaching for at least 5 years in a public or private school or institution of higher education;

(C) is recommended to be an exemplary teacher by administrators and other teachers who are knowledgeable about the individual's performance;

(D) is currently teaching and based in a public school; and

(E) assists other teachers in improving instructional strategies, improves the skills of other teachers, performs teacher mentoring, develops curricula, and offers other professional development.

(20) Family literacy services

The term ''family literacy services'' means services provided to participants on a voluntary basis that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency.

(D) An age-appropriate education to prepare children for success in school and life experiences.

(21) Free public education

The term ''free public education'' means education that is provided—

(A) at public expense, under public supervision and direction, and without tuition charge; and

(B) as elementary school or secondary school education as determined under applicable State law, except that the term does not include any education provided beyond grade 12.

(22) Gifted and talented

The term ''gifted and talented'', when used with respect to students, children, or youth, means students, children, or youth who give evidence of high achievement capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who need services or activities not ordinarily provided by the school in order to fully develop those capabilities.

(23) Highly qualified

The term ''highly qualified''—

(A) when used with respect to any public elementary school or secondary school teacher teaching in a State, means that—

(i) the teacher has obtained full State certification as a teacher (including certification obtained through alternative routes to certification) or passed the State teacher licensing examination, and holds a license to teach in such State, except that when used with respect to any teacher teaching in a public charter school, the term means that the teacher meets the requirements set forth in the State's public charter school law; and

(ii) the teacher has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis;

(B) when used with respect to—

(i) an elementary school teacher who is new to the profession, means that the teacher—

(I) holds at least a bachelor's degree; and

(II) has demonstrated, by passing a rigorous State test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum (which may consist of passing a State-required certification or licensing test or tests in reading, writing, mathematics, and other areas of the basic elementary school curriculum); or

(ii) a middle or secondary school teacher who is new to the profession, means that the teacher holds at least a bachelor's degree and has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by—

(I) passing a rigorous State academic subject test in each of the academic subjects in which the teacher teaches (which may consist of a passing level of performance on a State-required certification or licensing test or tests in each of the academic subjects in which the teacher teaches); or

(II) successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing; and

(C) when used with respect to an elementary, middle, or secondary school teacher who is not new to the profession, means that the teacher holds at least a bachelor's degree and—

(i) has met the applicable standard in clause (i) or (ii) of subparagraph (B), which includes an option for a test; or

(ii) demonstrates competence in all the academic subjects in which the teacher teaches based on a high objective uniform State standard of evaluation that—

(I) is set by the State for both grade appropriate academic subject matter knowledge and teaching skills;

(II) is aligned with challenging State academic content and student academic achievement standards and developed in consultation with core content specialists, teachers, principals, and school administrators;

(III) provides objective, coherent information about the teacher's attainment of core content knowledge in the academic subjects in which a teacher teaches;

(IV) is applied uniformly to all teachers in the same academic subject and the same grade level throughout the State;

(V) takes into consideration, but not be based primarily on, the time the teacher has been teaching in the academic subject;

(VI) is made available to the public upon request; and

(VII) may involve multiple, objective measures of teacher competency.

(24) Institution of higher education

The term ''institution of higher education'' has the meaning given that term in section 1001(a) of this title.

(25) Limited English proficient

The term ''limited English proficient'', when used with respect to an individual, means an individual—

(A) who is aged 3 through 21;

(B) who is enrolled or preparing to enroll in an elementary school or secondary school;

(C)(i) who was not born in the United States or whose native language is a language other than English;

(ii)(I) who is a Native American or Alaska Native, or a native resident of the outlying areas; and

(II) who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(D) whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) the ability to meet the State's proficient level of achievement on State assessments described in section 6311(b)(3) of this title;

(ii) the ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) the opportunity to participate fully in society.

(26) Local educational agency

(A) In general

The term ''local educational agency'' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(B) Administrative control and direction

The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(C) BIA schools

The term includes an elementary school or secondary school funded by the Bureau of In-

dian Affairs but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this chapter with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

(D) Educational service agencies

The term includes educational service agencies and consortia of those agencies.

(E) State educational agency

The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

(27) Mentoring

The term ''mentoring'', except when used to refer to teacher mentoring, means a process by which a responsible adult, postsecondary student, or secondary school student works with a child to provide a positive role model for the child, to establish a supportive relationship with the child, and to provide the child with academic assistance and exposure to new experiences and examples of opportunity that enhance the ability of the child to become a responsible adult.

(28) Native American and Native American language

The terms ''Native American'' and ''Native American language'' have the same meaning given those terms in section 2902 of title 25.[1]

(29) Other staff

The term ''other staff'' means pupil services personnel, librarians, career guidance and counseling personnel, education aides, and other instructional and administrative personnel.

(30) Outlying area

The term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and for the purpose of section 6331(b) of this title and any other discretionary grant program under this chapter, includes the freely associated states of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau until an agreement for the extension of United States education assistance under the Compact of Free Association for each of the freely associated states becomes effective after January 8, 2002.

(31) Parent

The term ''parent'' includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare).

[1] See References in Text note below.

(32) Parental involvement

The term ''parental involvement'' means the participation of parents in regular, two-way, and meaningful communication involving student academic learning and other school activities, including ensuring—

(A) that parents play an integral role in assisting their child's learning;

(B) that parents are encouraged to be actively involved in their child's education at school;

(C) that parents are full partners in their child's education and are included, as appropriate, in decisionmaking and on advisory committees to assist in the education of their child;

(D) the carrying out of other activities, such as those described in section 6318 of this title.

(33) Poverty line

The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved.

(34) Professional development

The term ''professional development''—

(A) includes activities that—

(i) improve and increase teachers' knowledge of the academic subjects the teachers teach, and enable teachers to become highly qualified;

(ii) are an integral part of broad schoolwide and districtwide educational improvement plans;

(iii) give teachers, principals, and administrators the knowledge and skills to provide students with the opportunity to meet challenging State academic content standards and student academic achievement standards;

(iv) improve classroom management skills;

(v)(I) are high quality, sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction and the teacher's performance in the classroom; and

(II) are not 1-day or short-term workshops or conferences;

(vi) support the recruiting, hiring, and training of highly qualified teachers, including teachers who became highly qualified through State and local alternative routes to certification;

(vii) advance teacher understanding of effective instructional strategies that are—

(I) based on scientifically based research (except that this subclause shall not apply to activities carried out under part D of subchapter II of this chapter); and

(II) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers; and

(viii) are aligned with and directly related to—

(I) State academic content standards, student academic achievement standards, and assessments; and

(II) the curricula and programs tied to the standards described in subclause (I) except that this subclause shall not apply to activities described in clauses (ii) and (iii) of section 6623(3)(B)[2] of this title;

(ix) are developed with extensive participation of teachers, principals, parents, and administrators of schools to be served under this chapter;

(x) are designed to give teachers of limited English proficient children, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

(xi) to the extent appropriate, provide training for teachers and principals in the use of technology so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and core academic subjects in which the teachers teach;

(xii) as a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of professional development;

(xiii) provide instruction in methods of teaching children with special needs;

(xiv) include instruction in the use of data and assessments to inform and instruct classroom practice; and

(xv) include instruction in ways that teachers, principals, pupil services personnel, and school administrators may work more effectively with parents; and

(B) may include activities that—

(i) involve the forming of partnerships with institutions of higher education to establish school-based teacher training programs that provide prospective teachers and beginning teachers with an opportunity to work under the guidance of experienced teachers and college faculty;

(ii) create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under part A of subchapter I of this chapter) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers; and

(iii) provide follow-up training to teachers who have participated in activities described in subparagraph (A) or another clause of this subparagraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom.

[2] So in original. Probably should be section ''6623(a)(3)(B)''.

(35) Public telecommunications entity

The term ''public telecommunications entity'' has the meaning given that term in section 397(12) of title 47.

(36) Pupil services personnel; pupil services

(A) Pupil services personnel

The term ''pupil services personnel'' means school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as that term is defined in section 1401 of this title) as part of a comprehensive program to meet student needs.

(B) Pupil services

The term ''pupil services'' means the services provided by pupil services personnel.

(37) Scientifically based research

The term ''scientifically based research''—

(A) means research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and programs; and

(B) includes research that—

(i) employs systematic, empirical methods that draw on observation or experiment;

(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) relies on measurements or observational methods that provide reliable and valid data across evaluators and observers, across multiple measurements and observations, and across studies by the same or different investigators;

(iv) is evaluated using experimental or quasi-experimental designs in which individuals, entities, programs, or activities are assigned to different conditions and with appropriate controls to evaluate the effects of the condition of interest, with a preference for random-assignment experiments, or other designs to the extent that those designs contain within-condition or across-condition controls;

(v) ensures that experimental studies are presented in sufficient detail and clarity to allow for replication or, at a minimum, offer the opportunity to build systematically on their findings; and

(vi) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

(38) Secondary school

The term ''secondary school'' means a nonprofit institutional day or residential school, including a public secondary charter school, that provides secondary education, as determined under State law, except that the term does not include any education beyond grade 12.

(39) Secretary

The term ''Secretary'' means the Secretary of Education.

State[3]

The term ''State'' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.

(41) State educational agency

The term ''State educational agency'' means the agency primarily responsible for the State supervision of public elementary schools and secondary schools.

(42) Teacher mentoring

The term ''teacher mentoring'' means activities that—

(A) consist of structured guidance and regular and ongoing support for teachers, especially beginning teachers, that—

(i) are designed to help the teachers continue to improve their practice of teaching and to develop their instructional skills; and

part[4] of an ongoing developmental induction process—

(I) involve the assistance of an exemplary teacher and other appropriate individuals from a school, local educational agency, or institution of higher education; and

(II) may include coaching, classroom observation, team teaching, and reduced teaching loads; and

(B) may include the establishment of a partnership by a local educational agency with an institution of higher education, another local educational agency, a teacher organization, or another organization.

(43) Technology

The term ''technology'' means state-of-the-art technology products and services.

(Pub. L. 89–10, title IX, § 9101, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1956.)

REFERENCES IN TEXT

Section 2902 of title 25, referred to in par. (28), was in the original ''section 103 of the Native American Languages Act of 1990'', which was translated as meaning section 103 of the Native American Languages Act, Pub. L. 101–477, to reflect the probable intent of Congress.

REFERENCES TO PART A OF SUBCHAPTER III CONSIDERED TO BE REFERENCES TO PART B OF SUBCHAPTER III

References to part A of subchapter III of this chapter are considered to be references to part B of subchapter III of this chapter in certain fiscal years. See section 6801(c) of this title.

PRIOR PROVISIONS

A prior section 7801, Pub. L. 89–10, title IX, § 9101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3773, set forth findings regarding Indian education, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7802. Applicability of subchapter

Parts B, C, D, and E of this subchapter do not apply to subchapter VIII of this chapter.

[3] So in original. Probably should be preceded by paragraph designation ''(40)''.

[4] So in original. Probably should be preceded by ''(ii) as''.

(Pub. L. 89–10, title IX, § 9102, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1966.)

PRIOR PROVISIONS

A prior section 7802, Pub. L. 89–10, title IX, § 9102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3774, set out purpose of provisions relating to Indian education, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7402 of this title.

§ 7803. Applicability to Bureau of Indian Affairs operated schools

For the purpose of any competitive program under this chapter—

(1) a consortium of schools operated by the Bureau of Indian Affairs;

(2) a school operated under a contract or grant with the Bureau of Indian Affairs in consortium with another contract or grant school or a tribal or community organization; or

(3) a Bureau of Indian Affairs school in consortium with an institution of higher education, a contract or grant school, or a tribal or community organization,

shall be given the same consideration as a local educational agency.

(Pub. L. 89–10, title IX, § 9103, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1966.)

PRIOR PROVISIONS

Prior sections 7811 to 7818 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7811, Pub. L. 89–10, title IX, § 9111, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3774, set forth purpose of provisions relating to formula grants to local educational agencies. See section 7421 of this title.

Section 7812, Pub. L. 89–10, title IX, § 9112, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3774; amended Pub. L. 104–5, § 1, Mar. 23, 1995, 109 Stat. 72, related to grants to local educational agencies. See section 7422 of this title.

Section 7813, Pub. L. 89–10, title IX, § 9113, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3775, related to amount of grants. See section 7423 of this title.

Section 7814, Pub. L. 89–10, title IX, § 9114, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3776, related to applications for grants. See section 7424 of this title.

Section 7815, Pub. L. 89–10, title IX, § 9115, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3778; amended Pub. L. 105–332, § 3(c)(2), Oct. 31, 1998, 112 Stat. 3125, related to authorized services and activities. See section 7425 of this title.

Section 7816, Pub. L. 89–10, title IX, § 9116, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3779, related to student eligibility forms. See section 7427 of this title.

Section 7817, Pub. L. 89–10, title IX, § 9117, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3781, related to payments. See section 7428 of this title.

Section 7818, Pub. L. 89–10, title IX, § 9118, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3782, related to State educational agency review. See section 7429 of this title.

PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

§ 7821. Consolidation of State administrative funds for elementary and secondary education programs

(a) Consolidation of administrative funds

(1) In general

A State educational agency may consolidate the amounts specifically made available to it for State administration under one or more of the programs under paragraph (2) if the State educational agency can demonstrate that the majority of its resources are derived from non-Federal sources.

(2) Applicability

This section applies to any program under this chapter under which funds are authorized to be used for administration, and such other programs as the Secretary may designate.

(b) Use of funds

(1) In general

A State educational agency shall use the amount available under this section for the administration of the programs included in the consolidation under subsection (a) of this section.

(2) Additional uses

A State educational agency may also use funds available under this section for administrative activities designed to enhance the effective and coordinated use of funds under programs included in the consolidation under subsection (a) of this section, such as—

(A) the coordination of those programs with other Federal and non-Federal programs;

(B) the establishment and operation of peer-review mechanisms under this chapter;

(C) the administration of this subchapter;

(D) the dissemination of information regarding model programs and practices;

(E) technical assistance under any program under this chapter;

(F) State-level activities designed to carry out this subchapter;

(G) training personnel engaged in audit and other monitoring activities; and

(H) implementation of the Cooperative Audit Resolution and Oversight Initiative of the Department.

(c) Records

A State educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of programs included in the consolidation under subsection (a) of this section.

(d) Review

To determine the effectiveness of State administration under this section, the Secretary may periodically review the performance of State educational agencies in using consolidated administrative funds under this section and take such steps as the Secretary finds appropriate to ensure the effectiveness of that administration.

(e) Unused administrative funds

If a State educational agency does not use all of the funds available to the agency under this section for administration, the agency may use those funds during the applicable period of availability as funds available under one or more programs included in the consolidation under subsection (a) of this section.

(f) Consolidation of funds for standards and assessment development

In order to develop challenging State academic standards and assessments, a State educational agency may consolidate the amounts described in subsection (a) of this section for those purposes under subchapter I of this chapter.

(Pub. L. 89–10, title IX, § 9201, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1966.)

PRIOR PROVISIONS

A prior section 9201 of Pub. L. 89–10 was classified to section 7901 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7822. Single local educational agency States

A State educational agency that also serves as a local educational agency shall, in its applications or plans under this chapter, describe how the agency will eliminate duplication in conducting administrative functions.

(Pub. L. 89–10, title IX, § 9202, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1967.)

PRIOR PROVISIONS

A prior section 9202 of Pub. L. 89–10 was classified to section 7902 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7823. Consolidation of funds for local administration.

(a) General authority

In accordance with regulations of the Secretary and for any fiscal year, a local educational agency, with the approval of its State educational agency, may consolidate and use for the administration of one or more programs under this chapter (or such other programs as the Secretary shall designate) not more than the percentage, established in each program, of the total available for the local educational agency under those programs.

(b) State procedures

Within 1 year after January 8, 2002, a State educational agency shall, in collaboration with local educational agencies in the State, establish procedures for responding to requests from local educational agencies to consolidate administrative funds under subsection (a) of this section and for establishing limitations on the amount of funds under those programs that may be used for administration on a consolidated basis.

(c) Conditions

A local educational agency that consolidates administrative funds under this section for any

fiscal year shall not use any other funds under the programs included in the consolidation for administration for that fiscal year.

(d) Uses of administrative funds

A local educational agency that consolidates administrative funds under this section may use the consolidated funds for the administration of the programs and for uses, at the school district and school levels, comparable to those described in section 7821(b)(2) of this title.

(e) Records

A local educational agency that consolidates administrative funds under this section shall not be required to keep separate records, by individual program, to account for costs relating to the administration of the programs included in the consolidation.

(Pub. L. 89–10, title IX, § 9203, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1967.)

PRIOR PROVISIONS

A prior section 9203 of Pub. L. 89–10 was classified to section 7903 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7824. Consolidated set-aside for Department of the Interior funds

(a) General authority

(1) Transfer

The Secretary shall transfer to the Department of the Interior, as a consolidated amount for covered programs, the Indian education programs under part A of subchapter VII of this chapter, and the education for homeless children and youth program under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act [42 U.S.C. 11431 et seq.], the amounts allotted to the Department of the Interior under those programs.

(2) Agreement

(A) In general

The Secretary and the Secretary of the Interior shall enter into an agreement, consistent with the requirements of the programs specified in paragraph (1), for the distribution and use of those program funds under terms that the Secretary determines best meet the purposes of those programs.

(B) Contents

The agreement shall—

(i) set forth the plans of the Secretary of the Interior for the use of the amount transferred and the achievement measures to assess program effectiveness, including measurable goals and objectives; and

(ii) be developed in consultation with Indian tribes.

(b) Administration

The Department of the Interior may use not more than 1.5 percent of the funds consolidated under this section for its costs related to the administration of the funds transferred under this section.

(Pub. L. 89–10, title IX, § 9204, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1968.)

REFERENCES IN TEXT

The McKinney-Vento Homeless Assistance Act, referred to in subsec. (a)(1), is Pub. L. 100–77, July 22, 1987, 101 Stat. 482, as amended. Subtitle B of title VII of the Act is classified generally to part B (§ 11431 et seq.) of subchapter VI of chapter 119 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 9204 of Pub. L. 89–10 was classified to section 7904 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

Prior sections 7831 to 7835 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7831, Pub. L. 89–10, title IX, § 9121, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3782, related to improvement of educational opportunities for Indian children. See section 7441 of this title.

Section 7832, Pub. L. 89–10, title IX, § 9122, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3784, related to professional development. See section 7442 of this title.

Section 7833, Pub. L. 89–10, title IX, § 9123, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3786, authorized fellowships for Indian students. See section 7453 of this title.

Section 7834, Pub. L. 89–10, title IX, § 9124, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3787; amended Pub. L. 105–244, title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1828, related to gifted and talented Indian students. See section 7454 of this title.

Section 7835, Pub. L. 89–10, title IX, § 9125, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3789, related to grants to tribes for education administrative planning and development. See section 7455 of this title.

PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

§ 7841. Purposes

The purposes of this part are—

(1) to improve teaching and learning by encouraging greater cross-program coordination, planning, and service delivery;

(2) to provide greater flexibility to State and local authorities through consolidated plans, applications, and reporting; and

(3) to enhance the integration of programs under this chapter with State and local programs.

(Pub. L. 89–10, title IX, § 9301, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1968.)

PRIOR PROVISIONS

A prior section 9301 of Pub. L. 89–10 was classified to section 7931 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7842. Optional consolidated State plans or applications

(a) General authority

(1) Simplification

In order to simplify application requirements and reduce the burden for State educational agencies under this chapter, the Secretary, in accordance with subsection (b) of this section, shall establish procedures and criteria under which, after consultation with the Governor, a State educational agency may submit a consolidated State plan or a consolidated State application meeting the requirements of this section for—

(A) each of the covered programs in which the State participates; and

(B) such other programs as the Secretary may designate.

(2) Consolidated applications and plans

After consultation with the Governor, a State educational agency that submits a consolidated State plan or a consolidated State application under this section shall not be required to submit separate State plans or applications under any of the programs to which the consolidated State plan or consolidated State application under this section applies.

(b) Collaboration

(1) In general

In establishing criteria and procedures under this section, the Secretary shall collaborate with State educational agencies and, as appropriate, with other State agencies, local educational agencies, public and private nonprofit agencies, organizations, and institutions, private schools, and representatives of parents, students, and teachers.

(2) Contents

Through the collaborative process described in paragraph (1), the Secretary shall establish, for each program under this chapter to which this section applies, the descriptions, information, assurances, and other material required to be included in a consolidated State plan or consolidated State application.

(3) Necessary materials

The Secretary shall require only descriptions, information, assurances (including assurances of compliance with applicable provisions regarding participation by private school children and teachers), and other materials that are absolutely necessary for the consideration of the consolidated State plan or consolidated State application.

(Pub. L. 89–10, title IX, § 9302, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1968.)

PRIOR PROVISIONS

A prior section 9302 of Pub. L. 89–10 was classified to section 7932 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7843. Consolidated reporting

(a) In general

In order to simplify reporting requirements and reduce reporting burdens, the Secretary shall establish procedures and criteria under which a State educational agency, in consultation with the Governor of the State, may submit a consolidated State annual report.

(b) Contents

The report shall contain information about the programs included in the report, including the performance of the State under those programs, and other matters as the Secretary determines are necessary, such as monitoring activities.

(c) Replacement

The report shall replace separate individual annual reports for the programs included in the consolidated State annual report.

(Pub. L. 89–10, title IX, § 9303, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1969.)

PRIOR PROVISIONS

A prior section 9303 of Pub. L. 89–10 was classified to section 7933 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7844. General applicability of State educational agency assurances

(a) Assurances

A State educational agency, in consultation with the Governor of the State, that submits a consolidated State plan or consolidated State application under this chapter, whether separately or under section 7842 of this title, shall have on file with the Secretary a single set of assurances, applicable to each program for which the plan or application is submitted, that provides that—

(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency, a nonprofit private agency, institution, or organization, or an Indian tribe, if the law authorizing the program provides for assistance to those entities; and

(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer those funds and property to the extent required by the authorizing law;

(3) the State will adopt and use proper methods of administering each such program, including—

(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program;

(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation; and

(C) the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of the programs;

(4) the State will cooperate in carrying out any evaluation of each such program conducted by or for the Secretary or other Federal officials;

(5) the State will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each such program;

(6) the State will—

(A) make reports to the Secretary as may be necessary to enable the Secretary to perform the Secretary's duties under each such program; and

(B) maintain such records, provide such information to the Secretary, and afford such access to the records as the Secretary may find necessary to carry out the Secretary's duties; and

(7) before the plan or application was submitted to the Secretary, the State afforded a reasonable opportunity for public comment on

the plan or application and considered such comment.

(b) GEPA provision

Section 441 of the General Education Provisions Act [20 U.S.C. 1232d] shall not apply to programs under this chapter.

(Pub. L. 89–10, title IX, § 9304, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1969.)

PRIOR PROVISIONS

A prior section 9304 of Pub. L. 89–10 was classified to section 7934 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7845. Consolidated local plans or applications

(a) General authority

(1) Consolidated plan

A local educational agency receiving funds under more than one covered program may submit plans or applications to the State educational agency under those programs on a consolidated basis.

(2) Availability to Governor

The State educational agency shall make any consolidated local plans and applications available to the Governor.

(b) Required consolidated plans or applications

A State educational agency that has an approved consolidated State plan or application under section 7842 of this title may require local educational agencies in the State receiving funds under more than one program included in the consolidated State plan or consolidated State application to submit consolidated local plans or applications under those programs, but may not require those agencies to submit separate plans.

(c) Collaboration

A State educational agency, in consultation with the Governor, shall collaborate with local educational agencies in the State in establishing procedures for the submission of the consolidated State plans or consolidated State applications under this section.

(d) Necessary materials

The State educational agency shall require only descriptions, information, assurances, and other material that are absolutely necessary for the consideration of the local educational agency plan or application.

(Pub. L. 89–10, title IX, § 9305, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1970.)

PRIOR PROVISIONS

A prior section 9305 of Pub. L. 89–10 was classified to section 7935 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7846. Other general assurances

(a) Assurances

Any applicant, other than a State educational agency that submits a plan or application under this chapter, whether separately or pursuant to section 7845 of this title, shall have on file with the State educational agency a single set of assurances, applicable to each program for which a plan or application is submitted, that provides that—

(1) each such program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

(2)(A) the control of funds provided under each such program and title to property acquired with program funds will be in a public agency or in a nonprofit private agency, institution, organization, or Indian tribe, if the law authorizing the program provides for assistance to those entities; and

(B) the public agency, nonprofit private agency, institution, or organization, or Indian tribe will administer the funds and property to the extent required by the authorizing statutes;

(3) the applicant will adopt and use proper methods of administering each such program, including—

(A) the enforcement of any obligations imposed by law on agencies, institutions, organizations, and other recipients responsible for carrying out each program; and

(B) the correction of deficiencies in program operations that are identified through audits, monitoring, or evaluation;

(4) the applicant will cooperate in carrying out any evaluation of each such program conducted by or for the State educational agency, the Secretary, or other Federal officials;

(5) the applicant will use such fiscal control and fund accounting procedures as will ensure proper disbursement of, and accounting for, Federal funds paid to the applicant under each such program;

(6) the applicant will—

(A) submit such reports to the State educational agency (which shall make the reports available to the Governor) and the Secretary as the State educational agency and Secretary may require to enable the State educational agency and the Secretary to perform their duties under each such program; and

(B) maintain such records, provide such information, and afford such access to the records as the State educational agency (after consultation with the Governor) or the Secretary may reasonably require to carry out the State educational agency's or the Secretary's duties; and

(7) before the application was submitted, the applicant afforded a reasonable opportunity for public comment on the application and considered such comment.

(b) GEPA provision

Section 442 of the General Education Provisions Act [20 U.S.C. 1232e] shall not apply to programs under this chapter.

(Pub. L. 89–10, title IX, § 9306, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1971.)

PRIOR PROVISIONS

A prior section 9306 of Pub. L. 89–10 was classified to section 7936 of this title, prior to the general amendment of this subchapter by Pub. L. 107–110.

A prior section 7851, Pub. L. 89–10, title IX, § 9131, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3790, which related to improvement of educational op-

portunities for adult Indians, was omitted in the general amendment of this subchapter by Pub. L. 107–110. See section 7456 of this title.

PART D—WAIVERS

§ 7861. Waivers of statutory and regulatory requirements

(a) In general

Except as provided in subsection (c) of this section, the Secretary may waive any statutory or regulatory requirement of this chapter for a State educational agency, local educational agency, Indian tribe, or school through a local educational agency, that—

(1) receives funds under a program authorized by this chapter; and

(2) requests a waiver under subsection (b) of this section.

(b) Request for waiver

(1) In general

A State educational agency, local educational agency, or Indian tribe that desires a waiver shall submit a waiver request to the Secretary that—

(A) identifies the Federal programs affected by the requested waiver;

(B) describes which Federal statutory or regulatory requirements are to be waived and how the waiving of those requirements will—

(i) increase the quality of instruction for students; and

(ii) improve the academic achievement of students;

(C) describes, for each school year, specific, measurable educational goals, in accordance with section 6311(b) of this title, for the State educational agency and for each local educational agency, Indian tribe, or school that would be affected by the waiver and the methods to be used to measure annually such progress for meeting such goals and outcomes;

(D) explains how the waiver will assist the State educational agency and each affected local educational agency, Indian tribe, or school in reaching those goals; and

(E) describes how schools will continue to provide assistance to the same populations served by programs for which waivers are requested.

(2) Additional information

Such requests—

(A) may provide for waivers of requirements applicable to State educational agencies, local educational agencies, Indian tribes, and schools; and

(B) shall be developed and submitted—

(i)(I) by local educational agencies (on behalf of those agencies and schools) to State educational agencies; and

(II) by State educational agencies (on behalf of, and based on the requests of, local educational agencies) to the Secretary; or

(ii) by Indian tribes (on behalf of schools operated by the tribes) to the Secretary.

(3) General requirements

(A) State educational agencies

In the case of a waiver request submitted by a State educational agency acting on its own behalf, the State educational agency shall—

(i) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

(ii) submit the comments to the Secretary; and

(iii) provide notice and information to the public regarding the waiver request in the manner in which the applying agency customarily provides similar notices and information to the public.

(B) Local educational agencies

In the case of a waiver request submitted by a local educational agency that receives funds under this chapter—

(i) the request shall be reviewed by the State educational agency and be accompanied by the comments, if any, of the State educational agency; and

(ii) notice and information regarding the waiver request shall be provided to the public by the agency requesting the waiver in the manner in which that agency customarily provides similar notices and information to the public.

(c) Restrictions

The Secretary shall not waive under this section any statutory or regulatory requirements relating to—

(1) the allocation or distribution of funds to States, local educational agencies, or other recipients of funds under this chapter;

(2) maintenance of effort;

(3) comparability of services;

(4) use of Federal funds to supplement, not supplant, non-Federal funds;

(5) equitable participation of private school students and teachers;

(6) parental participation and involvement;

(7) applicable civil rights requirements;

(8) the requirement for a charter school under subpart 1 of part B of subchapter V of this chapter;

(9) the prohibitions regarding—

(A) State aid in section 7902 of this title;

(B) use of funds for religious worship or instruction in section 7885 of this title; and

(C) activities in section 7906 of this title; or

(10) the selection of a school attendance area or school under subsections (a) and (b) of section 6313 of this title, except that the Secretary may grant a waiver to allow a school attendance area or school to participate in activities under part A of subchapter I of this chapter if the percentage of children from low-income families in the school attendance area or who attend the school is not more than 10 percentage points below the lowest percentage of those children for any school attendance area or school of the local educational agency that meets the requirements of subsections (a) and (b) of section 6313 of this title.

(d) Duration and extension of waiver

(1) In general

Except as provided in paragraph (2), a waiver approved by the Secretary under this section may be for a period not to exceed 4 years.

(2) Extension

The Secretary may extend the period described in paragraph (1) if the Secretary determines that—

(A) the waiver has been effective in enabling the State or affected recipient to carry out the activities for which the waiver was requested and the waiver has contributed to improved student achievement; and

(B) the extension is in the public interest.

(e) Reports

(1) Local waiver

A local educational agency that receives a waiver under this section shall, at the end of the second year for which a waiver is received under this section and each subsequent year, submit a report to the State educational agency that—

(A) describes the uses of the waiver by the agency or by schools;

(B) describes how schools continued to provide assistance to the same populations served by the programs for which waivers were granted; and

(C) evaluates the progress of the agency and of schools in improving the quality of instruction or the academic achievement of students.

(2) State waiver

A State educational agency that receives reports required under paragraph (1) shall annually submit a report to the Secretary that is based on those reports and contains such information as the Secretary may require.

(3) Indian tribe waiver

An Indian tribe that receives a waiver under this section shall annually submit a report to the Secretary that—

(A) describes the uses of the waiver by schools operated by the tribe; and

(B) evaluates the progress of those schools in improving the quality of instruction or the academic achievement of students.

(4) Report to Congress

Beginning in fiscal year 2002 and for each subsequent year, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

(A) summarizing the uses of waivers by State educational agencies, local educational agencies, Indian tribes, and schools; and

(B) describing whether the waivers—

(i) increased the quality of instruction to students; or

(ii) improved the academic achievement of students.

(f) Termination of waivers

The Secretary shall terminate a waiver under this section if the Secretary determines, after notice and an opportunity for a hearing, that the performance of the State or other recipient affected by the waiver has been inadequate to justify a continuation of the waiver or if the waiver is no longer necessary to achieve its original purposes.

(g) Publication

A notice of the Secretary's decision to grant each waiver under subsection (a) of this section shall be published in the Federal Register and the Secretary shall provide for the dissemination of the notice to State educational agencies, interested parties, including educators, parents, students, advocacy and civil rights organizations, and the public.

(Pub. L. 89–10, title IX, § 9401, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1972.)

PRIOR PROVISIONS

A prior section 7861, Pub. L. 89–10, title IX, § 9141, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3792, related to national activities, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7451 of this title.

Prior sections 7871 to 7874 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7871, Pub. L. 89–10, title IX, § 9151, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3792, established National Advisory Council on Indian Education. See section 7471 of this title.

Section 7872, Pub. L. 89–10, title IX, § 9152, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793, related to peer review of applications. See section 7472 of this title.

Section 7873, Pub. L. 89–10, title IX, § 9153, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793, related to preference for Indian applicants for grants. See section 7473 of this title.

Section 7874, Pub. L. 89–10, title IX, § 9154, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793, related to minimum grant criteria. See section 7474 of this title.

PART E—UNIFORM PROVISIONS

SUBPART 1—PRIVATE SCHOOLS

§ 7881. Participation by private school children and teachers

(a) Private school participation

(1) In general

Except as otherwise provided in this chapter, to the extent consistent with the number of eligible children in areas served by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or another entity receiving financial assistance under a program specified in subsection (b) of this section, who are enrolled in private elementary schools and secondary schools in areas served by such agency, consortium, or entity, the agency, consortium, or entity shall, after timely and meaningful consultation with appropriate private school officials provide to those children and their teachers or other educational personnel, on an equitable basis, special educational services or other benefits that address their needs under the program.

(2) Secular, neutral, and nonideological services or benefits

Educational services or other benefits, including materials and equipment, provided under this section, shall be secular, neutral, and nonideological.

(3) Special rule

Educational services and other benefits provided under this section for private school

children, teachers, and other educational personnel shall be equitable in comparison to services and other benefits for public school children, teachers, and other educational personnel participating in the program and shall be provided in a timely manner.

(4) Expenditures

Expenditures for educational services and other benefits provided under this section for eligible private school children, their teachers, and other educational personnel serving those children shall be equal, taking into account the number and educational needs of the children to be served, to the expenditures for participating public school children.

(5) Provision of services

An agency, consortium, or entity described in subsection (a)(1) of this section may provide those services directly or through contracts with public and private agencies, organizations, and institutions.

(b) Applicability

(1) In general

This section applies to programs under—

(A) subparts 1 and 3 of part B of subchapter I of this chapter;

(B) part C of subchapter I of this chapter;

(C) part A of subchapter II of this chapter, to the extent provided in paragraph (3);

(D) part B of subchapter II of this chapter;

(E) part D of subchapter II of this chapter;

(F) part A of subchapter III of this chapter;

(G) part A of subchapter IV of this chapter; and

(H) part B of subchapter IV of this chapter.

(2) Definition

For the purpose of this section, the term ''eligible children'' means children eligible for services under a program described in paragraph (1).

(3) Application

(A) Except as provided in subparagraph (B), this subpart, including subsection (a)(4) of this section, applies to funds awarded to a local educational agency under part A of subchapter II of this chapter only to the extent that the local educational agency uses funds under that part to provide professional development to teachers and others.

(B) Subject to subparagraph (A), the share of the local educational agency's subgrant under part A of subchapter II of this chapter that is used for professional development and subject to a determination of equitable expenditures under subsection (a)(4) of this section shall not be less than the aggregate share of that agency's awards that were used for professional development for fiscal year 2001 under section 2203(1)(B) (as such section was in effect on the day preceding January 8, 2002) and section 306 of the Department of Education Appropriations Act, 2001.

(c) Consultation

(1) In general

To ensure timely and meaningful consultation, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity shall consult with appropriate private school officials during the design and development of the programs under this chapter, on issues such as—

(A) how the children's needs will be identified;

(B) what services will be offered;

(C) how, where, and by whom the services will be provided;

(D) how the services will be assessed and how the results of the assessment will be used to improve those services;

(E) the size and scope of the equitable services to be provided to the eligible private school children, teachers, and other educational personnel and the amount of funds available for those services; and

(F) how and when the agency, consortium, or entity will make decisions about the delivery of services, including a thorough consideration and analysis of the views of the private school officials on the provision of contract services through potential third-party providers.

(2) Disagreement

If the agency, consortium, or entity disagrees with the views of the private school officials on the provision of services through a contract, the agency, consortium, or entity shall provide to the private school officials a written explanation of the reasons why the local educational agency has chosen not to use a contractor.

(3) Timing

The consultation required by paragraph (1) shall occur before the agency, consortium, or entity makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate in programs under this chapter, and shall continue throughout the implementation and assessment of activities under this section.

(4) Discussion required

The consultation required by paragraph (1) shall include a discussion of service delivery mechanisms that the agency, consortium, or entity could use to provide equitable services to eligible private school children, teachers, administrators, and other staff.

(d) Public control of funds

(1) In general

The control of funds used to provide services under this section, and title to materials, equipment, and property purchased with those funds, shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer the funds and property.

(2) Provision of services

(A) In general

The provision of services under this section shall be provided—

(i) by employees of a public agency; or

(ii) through contract by the public agency with an individual, association, agency, organization, or other entity.

(B) Independence; public agency

In the provision of those services, the employee, person, association, agency, organization, or other entity shall be independent of the private school and of any religious organization, and the employment or contract shall be under the control and supervision of the public agency.

(C) Commingling of funds prohibited

Funds used to provide services under this section shall not be commingled with non-Federal funds.

(Pub. L. 89–10, title IX, § 9501, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1975.)

REFERENCES IN TEXT

Section 2203(1)(B) (as such section was in effect on the day preceding January 8, 2002), referred to in subsec. (b)(3)(B), means section 2203(1)(B) of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3621, which was classified to section 6643(1)(B) of this title prior to the general amendment of subchapter II of this chapter by Pub. L. 107–110, title II, § 201, Jan. 8, 2002, 115 Stat. 1620.

Section 306 of the Department of Education Appropriations Act, 2001, referred to in subsec. (b)(3)(B), is section 1(a)(1) [title III, § 306] of Pub. L. 106–554, Dec. 21, 2000, 114 Stat. 2763, 2763A–41, which is not classified to the Code.

REFERENCES TO PART A OF SUBCHAPTER III CONSIDERED TO BE REFERENCES TO PART B OF SUBCHAPTER III

References to part A of subchapter III of this chapter are considered to be references to part B of subchapter III of this chapter in certain fiscal years. See section 6801(c) of this title.

PRIOR PROVISIONS

A prior section 7881, Pub. L. 89–10, title IX, § 9161, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3793; amended Pub. L. 105–220, title II, § 251(b)(2)(E), Aug. 7, 1998, 112 Stat. 1080, defined terms, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7491 of this title.

§ 7882. Standards for by-pass

(a) In general

If, by reason of any provision of law, a State educational agency, local educational agency, educational service agency, consortium of those agencies, or other entity is prohibited from providing for the participation in programs of children enrolled in, or teachers or other educational personnel from, private elementary schools and secondary schools, on an equitable basis, or if the Secretary determines that the agency, consortium, or entity has substantially failed or is unwilling to provide for that participation, as required by section 7881 of this title, the Secretary shall—

(1) waive the requirements of that section for the agency, consortium, or entity; and

(2) arrange for the provision of equitable services to those children, teachers, or other educational personnel through arrangements that shall be subject to the requirements of this section and of sections 7881, 7883, and 7884 of this title.

(b) Determination

In making the determination under subsection (a) of this section, the Secretary shall consider one or more factors, including the quality, size, scope, and location of the program, and the opportunity of private school children, teachers, and other educational personnel to participate in the program.

(Pub. L. 89–10, title IX, § 9502, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1977.)

PRIOR PROVISIONS

A prior section 7882, Pub. L. 89–10, title IX, § 9162, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794, authorized appropriations, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7492 of this title.

§ 7883. Complaint process for participation of private school children

(a) Procedures for complaints

The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other individuals and organizations concerning violations of section 7881 of this title by a State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity. The individual or organization shall submit the complaint to the State educational agency for a written resolution by the State educational agency within a reasonable period of time.

(b) Appeals to Secretary

The resolution may be appealed by an interested party to the Secretary not later than 30 days after the State educational agency resolves the complaint or fails to resolve the complaint within a reasonable period of time. The appeal shall be accompanied by a copy of the State educational agency's resolution, and a complete statement of the reasons supporting the appeal. The Secretary shall investigate and resolve the appeal not later than 120 days after receipt of the appeal.

(Pub. L. 89–10, title IX, § 9503, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1977.)

§ 7884. By-pass determination process

(a) Review

(1) In general

(A) Written objections

The Secretary shall not take any final action under section 7882 of this title until the State educational agency, local educational agency, educational service agency, consortium of those agencies, or entity affected by the action has had an opportunity, for not less than 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary to show cause why that action should not be taken.

(B) Prior to reduction

Pending final resolution of any investigation or complaint that could result in a determination under this section, the Secretary may withhold from the allocation of the affected State educational agency or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

(2) Petition for review

(A) Petition

If the affected agency, consortium, or entity is dissatisfied with the Secretary's final action after a proceeding under paragraph (1), the agency, consortium, or entity may, within 60 days after notice of that action, file with the United States court of appeals for the circuit in which the State is located a petition for review of that action.

(B) Transmission

A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary.

(C) Filing

The Secretary, upon receipt of the copy of the petition, shall file in the court the record of the proceedings on which the Secretary based the action, as provided in section 2112 of title 28.

(3) Findings of fact

(A) In general

The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may then make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings.

(B) New or modified findings

Any new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(4) Jurisdiction

(A) In general

Upon the filing of a petition, the court shall have jurisdiction to affirm the action of the Secretary or to set the action aside, in whole or in part.

(B) Judgment

The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(b) Determination

Any determination by the Secretary under this section shall continue in effect until the Secretary determines, in consultation with that agency, consortium, or entity and representatives of the affected private school children, teachers, or other educational personnel, that there will no longer be any failure or inability on the part of the agency, consortium, or entity to meet the applicable requirements of section 7881 of this title or any other provision of this chapter.

(c) Payment from State allotment

When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of those services, including the administrative costs of arranging for those services, from the appropriate allocation or allocations under this chapter.

(d) Prior determination

Any by-pass determination by the Secretary under this chapter as in effect on the day preceding January 8, 2002, shall remain in effect to the extent the Secretary determines that that determination is consistent with the purpose of this section.

(Pub. L. 89–10, title IX, § 9504, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1978.)

§ 7885. Prohibition against funds for religious worship or instruction

Nothing contained in this chapter shall be construed to authorize the making of any payment under this chapter for religious worship or instruction.

(Pub. L. 89–10, title IX, § 9505, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1979.)

§ 7886. Private, religious, and home schools

(a) Applicability to nonrecipient private schools

Nothing in this chapter shall be construed to affect any private school that does not receive funds or services under this chapter, nor shall any student who attends a private school that does not receive funds or services under this chapter be required to participate in any assessment referenced in this chapter.

(b) Applicability to home schools

Nothing in this chapter shall be construed to affect a home school, whether or not a home school is treated as a home school or a private school under State law, nor shall any student schooled at home be required to participate in any assessment referenced in this chapter.

(c) Rule of construction on prohibition of Federal control over nonpublic schools

Nothing in this chapter shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to bar private, religious, or home schools from participation in programs or services under this chapter.

(d) Rule of construction on State and local educational agency mandates

Nothing in this chapter shall be construed to require any State educational agency or local educational agency that receives funds under this chapter to mandate, direct, or control the curriculum of a private or home school, regardless or[1] whether or not a home school is treated as a private school under state[2] law, nor shall any funds under this chapter be used for this purpose.

(Pub. L. 89–10, title IX, § 9506, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1979.)

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[1] So in original. Probably should be ''of''.

[2] So in original. Probably should be capitalized.

SUBPART 2—OTHER PROVISIONS

§ 7901. Maintenance of effort

(a) In general

A local educational agency may receive funds under a covered program for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of the agency and the State with respect to the provision of free public education by the agency for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

(b) Reduction in case of failure to meet

(1) In general

The State educational agency shall reduce the amount of the allocation of funds under a covered program in any fiscal year in the exact proportion by which a local educational agency fails to meet the requirement of subsection (a) of this section by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to the local agency).

(2) Special rule

No such lesser amount shall be used for computing the effort required under subsection (a) of this section for subsequent years.

(c) Waiver

The Secretary may waive the requirements of this section if the Secretary determines that a waiver would be equitable due to—

(1) exceptional or uncontrollable circumstances, such as a natural disaster; or

(2) a precipitous decline in the financial resources of the local educational agency.

(Pub. L. 89–10, title IX, § 9521, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1980.)

PRIOR PROVISIONS

A prior section 7901, Pub. L. 89–10, title IX, § 9201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794, set forth short title of the Native Hawaiian Education Act, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7511 of this title.

§ 7902. Prohibition regarding State aid

A State shall not take into consideration payments under this chapter (other than under subchapter VIII) in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

(Pub. L. 89–10, title IX, § 9522, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1980.)

PRIOR PROVISIONS

A prior section 7902, Pub. L. 89–10, title IX, § 9202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3794, set forth findings, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7512 of this title.

§ 7903. Privacy of assessment results

Any results from an individual assessment referred to in this chapter of a student that become part of the education records of the student shall have the protections provided in section 1232g of this title.

(Pub. L. 89–10, title IX, § 9523, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1980.)

PRIOR PROVISIONS

A prior section 7903, Pub. L. 89–10, title IX, § 9203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3798, set forth purpose of provisions relating to Native Hawaiian educational programs. See section 7513 of this title.

§ 7904. School prayer

(a) Guidance

The Secretary shall provide and revise guidance, not later than September 1, 2002, and of every second year thereafter, to State educational agencies, local educational agencies, and the public on constitutionally protected prayer in public elementary schools and secondary schools, including making the guidance available on the Internet. The guidance shall be reviewed, prior to distribution, by the Office of Legal Counsel of the Department of Justice for verification that the guidance represents the current state of the law concerning constitutionally protected prayer in public elementary schools and secondary schools.

(b) Certification

As a condition of receiving funds under this chapter, a local educational agency shall certify in writing to the State educational agency involved that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools, as detailed in the guidance required under subsection (a) of this section. The certification shall be provided by October 1 of each year. The State educational agency shall report to the Secretary by November 1 of each year a list of those local educational agencies that have not filed the certification or against which complaints have been made to the State educational agency that the local educational agencies are not in compliance with this section.

(c) Enforcement

The Secretary is authorized and directed to effectuate subsection (b) of this section by issuing, and securing compliance with, rules or orders with respect to a local educational agency that fails to certify, or is found to have certified in bad faith, that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools.

(Pub. L. 89–10, title IX, § 9524, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1980.)

PRIOR PROVISIONS

A prior section 7904, Pub. L. 89–10, title IX, § 9204, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3798, established the Native Hawaiian Education Council and island councils, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7514 of this title.

§ 7905. Equal access to public school facilities

(a) Short title

This section may be cited as the ''Boy Scouts of America Equal Access Act''.

(b) In general

(1) Equal access

Notwithstanding any other provision of law, no public elementary school, public secondary school, local educational agency, or State educational agency that has a designated open forum or a limited public forum and that receives funds made available through the Department shall deny equal access or a fair opportunity to meet to, or discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 (as a patriotic society), that wishes to conduct a meeting within that designated open forum or limited public forum, including denying such access or opportunity or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed in title 36 (as a patriotic society).

(2) Voluntary sponsorship

Nothing in this section shall be construed to require any school, agency, or a school served by an agency to sponsor any group officially affiliated with the Boy Scouts of America, or any other youth group listed in title 36 (as a patriotic society).

(c) Termination of assistance and other action

(1) Departmental action

The Secretary is authorized and directed to effectuate subsection (b) of this section by issuing and securing compliance with rules or orders with respect to a public elementary school, public secondary school, local educational agency, or State educational agency that receives funds made available through the Department and that denies equal access, or a fair opportunity to meet, or discriminates, as described in subsection (b) of this section.

(2) Procedure

The Secretary shall issue and secure compliance with the rules or orders, under paragraph (1), through the Office for Civil Rights and in a manner consistent with the procedure used by a Federal department or agency under section 2000d–1 of title 42. If the public school or agency does not comply with the rules or orders, then notwithstanding any other provision of law, no funds made available through the Department shall be provided to a school that fails to comply with such rules or orders or to any agency or school served by an agency that fails to comply with such rules or orders.

(3) Judicial review

Any action taken by the Secretary under paragraph (1) shall be subject to the judicial review described in section 2000d–2 of title 42. Any person aggrieved by the action may obtain that judicial review in the manner, and to the extent, provided in section 2000d–2 of title 42.

(d) Definition and rule

(1) Definition

In this section, the term ''youth group'' means any group or organization intended to serve young people under the age of 21.

(2) Rule

For the purpose of this section, an elementary school or secondary school has a limited public forum whenever the school involved grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.

(Pub. L. 89–10, title IX, § 9525, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1981.)

PRIOR PROVISIONS

A prior section 7905, Pub. L. 89–10, title IX, § 9205, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3800, related to Native Hawaiian Family-Based Education Centers, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7906. General prohibitions

(a) Prohibition

None of the funds authorized under this chapter shall be used—

(1) to develop or distribute materials, or operate programs or courses of instruction directed at youth, that are designed to promote or encourage sexual activity, whether homosexual or heterosexual;

(2) to distribute or to aid in the distribution by any organization of legally obscene materials to minors on school grounds;

(3) to provide sex education or HIV-prevention education in schools unless that instruction is age appropriate and includes the health benefits of abstinence; or

(4) to operate a program of contraceptive distribution in schools.

(b) Local control

Nothing in this section shall be construed to—

(1) authorize an officer or employee of the Federal Government to mandate, direct, review, or control a State, local educational agency, or school's instructional content, curriculum, and related activities;

(2) limit the application of the General Education Provisions Act [20 U.S.C. 1221 et seq.];

(3) require the distribution of scientifically or medically false or inaccurate materials or to prohibit the distribution of scientifically or medically true or accurate materials; or

(4) create any legally enforceable right.

(Pub. L. 89–10, title IX, § 9526, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1982.)

REFERENCES IN TEXT

The General Education Provisions Act, referred to in subsec. (b)(2), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

PRIOR PROVISIONS

A prior section 7906, Pub. L. 89–10, title IX, § 9206, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3800, authorized grants for a Native Hawaiian higher education program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7907. Prohibitions on Federal Government and use of Federal funds

(a) General prohibition

Nothing in this chapter shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State, local educational agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this chapter.

(b) Prohibition on endorsement of curriculum

Notwithstanding any other prohibition of Federal law, no funds provided to the Department under this chapter may be used by the Department to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

(c) Prohibition on requiring Federal approval or certification of standards

(1) In general

Notwithstanding any other provision of Federal law, no State shall be required to have academic content or student academic achievement standards approved or certified by the Federal Government, in order to receive assistance under this chapter.

(2) Rule of construction

Nothing in this subsection shall be construed to affect requirements under subchapter I of this chapter or part A of subchapter VI of this chapter.

(d) Rule of construction on building standards

Nothing in this chapter shall be construed to mandate national school building standards for a State, local educational agency, or school.

(Pub. L. 89–10, title IX, § 9527, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1983.)

PRIOR PROVISIONS

A prior section 7907, Pub. L. 89–10, title IX, § 9207, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3801, related to Native Hawaiian gifted and talented program, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7908. Armed Forces recruiter access to students and student recruiting information

(a) Policy

(1) Access to student recruiting information

Notwithstanding section 1232g(a)(5)(B) of this title and except as provided in paragraph (2), each local educational agency receiving assistance under this chapter shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school students names, addresses, and telephone listings.

(2) Consent

A secondary school student or the parent of the student may request that the student's name, address, and telephone listing described in paragraph (1) not be released without prior written parental consent, and the local educational agency or private school shall notify parents of the option to make a request and shall comply with any request.

(3) Same access to students

Each local educational agency receiving assistance under this chapter shall provide military recruiters the same access to secondary school students as is provided generally to post secondary educational institutions or to prospective employers of those students.

(b) Notification

The Secretary, in consultation with the Secretary of Defense, shall, not later than 120 days after January 8, 2002, notify principals, school administrators, and other educators about the requirements of this section.

(c) Exception

The requirements of this section do not apply to a private secondary school that maintains a religious objection to service in the Armed Forces if the objection is verifiable through the corporate or other organizational documents or materials of that school.

(d) Special rule

A local educational agency prohibited by Connecticut State law (either explicitly by statute or through statutory interpretation by the State Supreme Court or State Attorney General) from providing military recruiters with information or access as required by this section shall have until May 31, 2002, to comply with that requirement.

(Pub. L. 89–10, title IX, § 9528, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1983.)

PRIOR PROVISIONS

A prior section 7908, Pub. L. 89–10, title IX, § 9208, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3802, related to Native Hawaiian special education programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7909. Prohibition on federally sponsored testing

(a) General prohibition

Notwithstanding any other provision of Federal law and except as provided in subsection (b) of this section, no funds provided under this chapter to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

(b) Exceptions

Subsection (a) of this section shall not apply to international comparative assessments developed under the authority of section 9543(a)(5) of this title and administered to only a representative sample of pupils in the United States and in foreign nations.

(Pub. L. 89–10, title IX, § 9529, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1984; amended Pub. L. 107–279, title IV, § 404(d)(9), Nov. 5, 2002, 116 Stat. 1986.)

PRIOR PROVISIONS

A prior section 7909, Pub. L. 89–10, title IX, § 9209, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3803, related to Native Hawaiian curriculum development and teacher training and recruitment programs, prior to the general amendment of this subchapter by Pub. L. 107–110.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107–279 substituted ''section 9543(a)(5) of this title'' for ''section 9003(a)(6) of this title''.

§ 7910. Limitations on national testing or certification for teachers

(a) Mandatory national testing or certification of teachers

Notwithstanding any other provision of this chapter or any other provision of law, no funds available to the Department or otherwise available under this chapter may be used for any purpose relating to a mandatory nationwide test or certification of teachers or education paraprofessionals, including any planning, development, implementation, or administration of such test or certification.

(b) Prohibition on withholding funds

The Secretary is prohibited from withholding funds from any State educational agency or local educational agency if the State educational agency or local educational agency fails to adopt a specific method of teacher or paraprofessional certification.

(Pub. L. 89–10, title IX, § 9530, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1984.)

PRIOR PROVISIONS

A prior section 7910, Pub. L. 89–10, title IX, § 9210, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3804, related to Native Hawaiian community-based education learning centers, prior to the general amendment of this subchapter by Pub. L. 107–110.

§ 7911. Prohibition on nationwide database

Nothing in this chapter (other than section 6398(b) of this title) shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this chapter.

(Pub. L. 89–10, title IX, § 9531, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1984.)

PRIOR PROVISIONS

A prior section 7911, Pub. L. 89–10, title IX, § 9211, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3804, set out administrative provisions, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7516 of this title.

§ 7912. Unsafe school choice option

(a) Unsafe school choice policy

Each State receiving funds under this chapter shall establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary school or secondary school, as determined by the State in consultation with a representative sample of local educational agencies, or who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary school or secondary school within the local educational agency, including a public charter school.

(b) Certification

As a condition of receiving funds under this chapter, a State shall certify in writing to the Secretary that the State is in compliance with this section.

(Pub. L. 89–10, title IX, § 9532, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1984.)

PRIOR PROVISIONS

A prior section 7912, Pub. L. 89–10, title IX, § 9212, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3805, defined terms, prior to the general amendment of this subchapter by Pub. L. 107–110. See section 7517 of this title.

§ 7913. Prohibition on discrimination

Nothing in this chapter shall be construed to require, authorize, or permit, the Secretary, or a State educational agency, local educational agency, or school to grant to a student, or deny or impose upon a student, any financial or educational benefit or burden, in violation of the fifth or 14th amendments to the Constitution or other law relating to discrimination in the provision of federally funded programs or activities.

(Pub. L. 89–10, title IX, § 9533, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985.)

§ 7914. Civil rights

(a) In general

Nothing in this chapter shall be construed to permit discrimination on the basis of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.]), national origin, or disability in any program funded under this chapter.

(b) Rule of construction

Nothing in this chapter shall be construed to require the disruption of services to a child or the displacement of a child enrolled in or participating in a program administered by an eligible entity, as defined in section 6316 of this title and part B of subchapter V of this chapter, at the commencement of the entity's participation in a grant under section 6316 of this title or part B of subchapter V of this chapter.

(Pub. L. 89–10, title IX, § 9534, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985.)

REFERENCES IN TEXT

The Education Amendments of 1972, referred to in subsec. (a), is Pub. L. 92–318, June 23, 1972, 86 Stat. 235, as amended. Title IX of the Act, known as the Patsy Takemoto Mink Equal Opportunity in Education Act, is classified principally to chapter 38 (§ 1681 et seq.) of this title. For complete classification of title IX to the Code, see Short Title note set out under section 1681 of this title and Tables.

§ 7915. Rulemaking

The Secretary shall issue regulations under this chapter only to the extent that such regula-

tions are necessary to ensure that there is compliance with the specific requirements and assurances required by this chapter.

(Pub. L. 89–10, title IX, § 9535, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985.)

§ 7916. Severability

If any provision of this chapter is held invalid, the remainder of this chapter shall be unaffected thereby.

(Pub. L. 89–10, title IX, § 9536, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985.)

PRIOR PROVISIONS

Sections 7931 to 7938 were omitted in the general amendment of this subchapter by Pub. L. 107–110.

Section 7931, Pub. L. 89–10, title IX, § 9301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3805, set forth short title of the Alaska Native Educational Equity, Support and Assistance Act. See section 7541 of this title.

Section 7932, Pub. L. 89–10, title IX, § 9302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3805, set forth findings. See section 7542 of this title.

Section 7933, Pub. L. 89–10, title IX, § 9303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3806, stated purpose of former part C of this subchapter. See section 7543 of this title.

Section 7934, Pub. L. 89–10, title IX, § 9304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3806, related to Alaska Native educational planning, curriculum development, and teacher training and recruitment programs. See section 7544 of this title.

Section 7935, Pub. L. 89–10, title IX, § 9305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3807, related to Alaska Native home based education for preschool children.

Section 7936, Pub. L. 89–10, title IX, § 9306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3808, related to Alaska Native student enrichment programs.

Section 7937, Pub. L. 89–10, title IX, § 9307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3809, set forth administrative provisions. See section 7545 of this title.

Section 7938, Pub. L. 89–10, title IX, § 9308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3809, defined terms. See section 7546 of this title.

PART F—EVALUATIONS

§ 7941. Evaluations

(a) Reservation of funds

Except as provided in subsections (b) and (c) of this section, the Secretary may reserve not more than 0.5 percent of the amount appropriated to carry out each categorical program and demonstration project authorized under this chapter—

(1) to conduct—

(A) comprehensive evaluations of the program or project; and

(B) studies of the effectiveness of the program or project and its administrative impact on schools and local educational agencies;

(2) to evaluate the aggregate short- and long-term effects and cost efficiencies across Federal programs assisted or authorized under this chapter and related Federal preschool, elementary, and secondary programs under any other Federal law; and

(3) to increase the usefulness of evaluations of grant recipients in order to ensure the continuous progress of the program or project by improving the quality, timeliness, efficiency, and use of information relating to performance under the program or project.

(b) Subchapters I and III excluded

The Secretary may not reserve under subsection (a) of this section funds appropriated to carry out any program authorized under subchapter I or subchapter III of this chapter.

(c) Evaluation activities authorized elsewhere

If, under any other provision of this chapter (other than subchapter I), funds are authorized to be reserved or used for evaluation activities with respect to a program or project, the Secretary may not reserve additional funds under this section for the evaluation of that program or project.

(Pub. L. 89–10, title IX, § 9601, as added Pub. L. 107–110, title IX, § 901, Jan. 8, 2002, 115 Stat. 1985.)

SUBCHAPTER X—PROGRAMS OF NATIONAL SIGNIFICANCE

PART A—FUND FOR THE IMPROVEMENT OF EDUCATION

§§ 8001 to 8007. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8001, Pub. L. 89–10, title X, § 10101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3809; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(b)(4)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, related to fund for the improvement of education. See section 7243 of this title.

Section 8002, Pub. L. 89–10, title X, § 10102, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3812, related to elementary school counseling demonstration.

Section 8003, Pub. L. 89–10, title X, § 10103, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3815, related to partnerships in character education pilot project.

Section 8004, Pub. L. 89–10, title X, § 10104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3818; amended Pub. L. 105–332, § 2, Oct. 31, 1998, 112 Stat. 3125, related to promotion of scholar-athlete competitions.

Section 8005, Pub. L. 89–10, title X, § 10105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3818, related to development and implementation of smaller learning communities.

Section 8006, Pub. L. 89–10, title X, § 10106, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3820, related to national student and parent mock election.

Section 8007, Pub. L. 89–10, title X, § 10107, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3820, related to model projects of outreach activities for at-risk children.

PART B—GIFTED AND TALENTED CHILDREN

§§ 8031 to 8037. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8031, Pub. L. 89–10, title X, § 10201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3820, set forth short title of the Jacob K. Javits Gifted and Talented Students Education Act of 1994. See section 7253 of this title.

Section 8032, Pub. L. 89–10, title X, § 10202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3820, set forth findings and purposes. See section 7253a of this title.

Section 8033, Pub. L. 89–10, title X, § 10203, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3822,

related to construction of provisions. See section 7253b of this title.

Section 8034, Pub. L. 89–10, title X, §10204, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3822, related to authorized programs. See section 7253c of this title.

Section 8035, Pub. L. 89–10, title X, §10205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3823, set forth program priorities. See section 7253d of this title.

Section 8036, Pub. L. 89–10, title X, §10206, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3824, set forth general provisions. See section 7253e of this title.

Section 8037, Pub. L. 89–10, title X, §10207, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3824, authorized appropriations.

PART C—PUBLIC CHARTER SCHOOLS

SUBPART 1—BASIC CHARTER SCHOOL GRANT PROGRAM

§§ 8061 to 8067. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8061, Pub. L. 89–10, title X, §10301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3824; amended Pub. L. 105–278, §3(a), Oct. 22, 1998, 112 Stat. 2682; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, set forth findings and purpose. See section 7221 of this title.

Section 8062, Pub. L. 89–10, title X, §10302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3825; amended Pub. L. 105–278, §3(b), Oct. 22, 1998, 112 Stat. 2682; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, authorized charter school grant program. See section 7221a of this title.

Section 8063, Pub. L. 89–10, title X, §10303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3826; amended Pub. L. 105–278, §3(c), Oct. 22, 1998, 112 Stat. 2684; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, related to applications. See section 7221b of this title.

Section 8064, Pub. L. 89–10, title X, §10304, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3827; amended Pub. L. 105–78, title III, §315, Nov. 13, 1997, 111 Stat. 1508; Pub. L. 105–278, §3(d), (k), Oct. 22, 1998, 112 Stat. 2685, 2689; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, related to administration. See section 7221c of this title.

Section 8065, Pub. L. 89–10, title X, §10305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3829; amended Pub. L. 105–278, §3(f), Oct. 22, 1998, 112 Stat. 2686; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, related to national activities. See section 7221d of this title.

Section 8065a, Pub. L. 89–10, title X, §10306, as added Pub. L. 105–278, §3(g)(2), Oct. 22, 1998, 112 Stat. 2687, related to Federal formula allocation during first year and for successive enrollment expansions. See section 7221e of this title.

Section 8065b, Pub. L. 89–10, title X, §10307, as added Pub. L. 105–278, §3(g)(2), Oct. 22, 1998, 112 Stat. 2688; amended Pub. L. 106–554, §1(a)(1) [title III, §322(b)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, related to solicitation of input from charter school operators. See section 7221f of this title.

Section 8065c, Pub. L. 89–10, title X, §10308, as added Pub. L. 105–278, §3(g)(2), Oct. 22, 1998, 112 Stat. 2688, related to records transfer. See section 7221g of this title.

Section 8065d, Pub. L. 89–10, title X, §10309, as added Pub. L. 105–278, §3(g)(2), Oct. 22, 1998, 112 Stat. 2688; amended Pub. L. 106–554, §1(a)(1) [title III, §322(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, related to paperwork reduction. See section 7221h of this title.

Section 8066, Pub. L. 89–10, title X, §10310, formerly §10306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3829; renumbered §10310 and amended, Pub. L. 105–278, §3(g)(1), (h), Oct. 22, 1998, 112 Stat. 2687, 2688; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, defined terms. See section 7221i of this title.

Section 8067, Pub. L. 89–10, title X, §10311, formerly §10307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3830; renumbered §10311 and amended, Pub. L. 105–278, §3(g)(1), (i), Oct. 22, 1998, 112 Stat. 2687, 2688; Pub. L. 106–554, §1(a)(1) [title III, §322(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, authorized appropriations. See section 7221j of this title.

SUBPART 2—CREDIT ENHANCEMENT INITIATIVES TO ASSIST CHARTER SCHOOL FACILITY ACQUISITION, CONSTRUCTION, AND RENOVATION

§§ 8071 to 8071j. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8071, Pub. L. 89–10, title X, §10321, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–57, set forth purpose. See section 7223 of this title.

Section 8071a, Pub. L. 89–10, title X, §10322, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–57, related to grants to eligible entities. See section 7223a of this title.

Section 8071b, Pub. L. 89–10, title X, §10323, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–58, related to applications. See section 7223b of this title.

Section 8071c, Pub. L. 89–10, title X, §10324, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–59, set forth charter school objectives. See section 7223c of this title.

Section 8071d, Pub. L. 89–10, title X, §10325, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–59, related to reserve account. See section 7223d of this title.

Section 8071e, Pub. L. 89–10, title X, §10326, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–59, related to limitation on administrative costs. See section 7223e of this title.

Section 8071f, Pub. L. 89–10, title X, §10327, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–59, related to audits and reports. See section 7223f of this title.

Section 8071g, Pub. L. 89–10, title X, §10328, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–60, related to full faith and credit for grantee obligations. See section 7223g of this title.

Section 8071h, Pub. L. 89–10, title X, §10329, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–60, related to recovery of funds. See section 7223h of this title.

Section 8071i, Pub. L. 89–10, title X, §10330, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, defined terms. See section 7223i of this title.

Section 8071j, Pub. L. 89–10, title X, §10331, as added Pub. L. 106–554, §1(a)(1) [title III, §322(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A–61, authorized appropriations. See section 7223j of this title.

PART D—ARTS IN EDUCATION

SUBPART 1—ARTS EDUCATION

§ 8091. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 89–10, title X, §10401, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3830; amended Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(b)(3)(A)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, related to support for arts education. See section 7271 of this title.

SUBPART 2—CULTURAL PARTNERSHIPS FOR AT-RISK CHILDREN AND YOUTH

§§ 8101 to 8105. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8101, Pub. L. 89–10, title X, §10411, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3832, set forth findings and purpose of subpart.

Section 8102, Pub. L. 89–10, title X, §10412, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3833; amended Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(b)(3)(B)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, authorized program.

Section 8103, Pub. L. 89–10, title X, §10413, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3835, related to authorized activities.

Section 8104, Pub. L. 89–10, title X, §10414, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3836; amended Pub. L. 104–208, div. A, title I, §101(e) [title VII, §709(b)(3)(C)], Sept. 30, 1996, 110 Stat. 3009–233, 3009–313, related to payments, amounts of award, cost share, and limitations.

Section 8105, Pub. L. 89–10, title X, §10415, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3837, authorized appropriations.

PART E—INEXPENSIVE BOOK DISTRIBUTION PROGRAM

§ 8131. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 89–10, title X, §10501, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3837, related to inexpensive book distribution program for reading motivation. See section 7251 of this title.

PART F—CIVIC EDUCATION

§§ 8141 to 8143. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8141, Pub. L. 89–10, title X, §10601, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3838, related to instruction on history and principles of democracy in the United States. See section 6714 of this title.

Section 8142, Pub. L. 89–10, title X, §10602, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3839, related to instruction in civics, government, and the law. See section 6714 of this title.

Section 8143, Pub. L. 89–10, title X, §10603, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3840, related to report and authorization of appropriations. See section 6716 of this title.

PART G—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

§ 8161. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 89–10, title X, §10701, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3841, set forth findings.

SUBPART 1—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL STUDENTS

§§ 8171, 8172. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8171, Pub. L. 89–10, title X, §10711, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3841, authorized grants for fellowships.

Section 8172, Pub. L. 89–10, title X, §10712, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3841, related to applications.

SUBPART 2—PROGRAM FOR MIDDLE AND SECONDARY SCHOOL TEACHERS

§§ 8181, 8182. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8181, Pub. L. 89–10, title X, §10721, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3842, authorized grants for fellowships.

Section 8182, Pub. L. 89–10, title X, §10722, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3842, related to applications.

SUBPART 3—PROGRAMS FOR RECENT IMMIGRANTS, STUDENTS OF MIGRANT PARENTS AND OLDER AMERICANS

§§ 8191, 8192. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8191, Pub. L. 89–10, title X, §10731, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3842, authorized grants for fellowships.

Section 8192, Pub. L. 89–10, title X, §10732, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3843, related to applications.

SUBPART 4—GENERAL PROVISIONS

§§ 8201, 8202. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8201, Pub. L. 89–10, title X, §10741, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3843, set forth administrative provisions.

Section 8202, Pub. L. 89–10, title X, §10742, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3843, authorized appropriations.

PART H—DE LUGO TERRITORIAL EDUCATION IMPROVEMENT PROGRAM

§§ 8221 to 8224. Repealed. Pub. L. 105–277, div. A, § 101(f) [title VIII, § 301(c)(2)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410

Section 8221, Pub. L. 89–10, title X, §10801, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3844, related to findings and purposes.

Section 8222, Pub. L. 89–10, title X, §10802, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3844, related to grant authorization.

Section 8223, Pub. L. 89–10, title X, §10803, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3844, prohibited use of grant funds for construction.

Section 8224, Pub. L. 89–10, title X, §10804, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3844, related to authorization of appropriations.

PART I—21ST CENTURY COMMUNITY LEARNING CENTERS

§§ 8241 to 8247. Repealed. Pub. L. 107–110, title X, § 1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8241, Pub. L. 89–10, title X, §10901, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3844, set forth short title of the 21st Century Community Learning Centers Act.

Section 8242, Pub. L. 89–10, title X, §10902, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3844, set forth findings.

Section 8243, Pub. L. 89–10, title X, §10903, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3845, authorized program. See sections 7172 and 7174 of this title.

Section 8244, Pub. L. 89–10, title X, §10904, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3845, required application. See sections 7173 and 7174 of this title.

Section 8245, Pub. L. 89–10, title X, §10905, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3846, related to uses of funds. See sections 7172 and 7175 of this title.

Section 8246, Pub. L. 89–10, title X, §10906, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3846, defined ''Community learning center''. See section 7171 of this title.

Section 8247, Pub. L. 89–10, title X, §10907, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3846, authorized appropriations. See section 7176 of this title.

PART J—URBAN AND RURAL EDUCATION ASSISTANCE

§§ 8271, 8272. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8271, Pub. L. 89–10, title X, §10951, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3847, authorized appropriations.

Section 8272, Pub. L. 89–10, title X, §10952, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3847, defined terms.

SUBPART 1—URBAN EDUCATION DEMONSTRATION GRANTS

§§ 8281 to 8284. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8281, Pub. L. 89–10, title X, §10961, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3848, set forth findings.

Section 8282, Pub. L. 89–10, title X, §10962, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3849, set forth purpose of subpart.

Section 8283, Pub. L. 89–10, title X, §10963, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3849, authorized urban school grants.

Section 8284, Pub. L. 89–10, title X, §10964, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3852, set forth special rules.

SUBPART 2—RURAL EDUCATION INITIATIVE

§§ 8291 to 8297. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8291, Pub. L. 89–10, title X, §10972, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89, set out purpose of this subpart. See section 7341a of this title.

A prior section 8291, Pub. L. 89–10, title X, §10971, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3852, set out findings, prior to the general amendment of this subpart by Pub. L. 106–554.

Section 8292, Pub. L. 89–10, title X, §10973, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89, authorized appropriations. See section 7355c of this title.

A prior section 8292, Pub. L. 89–10, title X, §10972, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3853, related to the purpose of this subpart, prior to the general amendment of this subpart by Pub. L. 106–554.

Section 8293, Pub. L. 89–10, title X, §10974, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–89, authorized formula grant program. See sections 7345a and 7351 of this title.

A prior section 8293, Pub. L. 89–10, title X, §10973, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3854, authorized rural school grants, prior to the general amendment of this subpart by Pub. L. 106–554.

Section 8294, Pub. L. 89–10, title X, §10975, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–90, authorized competitive grant program. See sections 7345a and 7351 of this title.

A prior section 8294, Pub. L. 89–10, title X, §10974, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3854, related to fund usage, prior to the general amendment of this subpart by Pub. L. 106–554.

Section 8295, Pub. L. 89–10, title X, §10976, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–91, related to accountability. See sections 7345b and 7351c of this title.

A prior section 8295, Pub. L. 89–10, title X, §10975, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3857, related to higher education grants, prior to the general amendment of this subpart by Pub. L. 106–554.

Section 8296, Pub. L. 89–10, title X, §10977, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–92, related to ratable reductions in case of insufficient appropriations.

Section 8297, Pub. L. 89–10, title X, §10978, as added Pub. L. 106–554, §1(a)(1) [title IX, §901], Dec. 21, 2000, 114 Stat. 2763, 2763A–92, related to applicability of former sections 8271 and 8272 of this title.

SUBPART 3—WHITE HOUSE CONFERENCES

§§ 8311, 8312. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8311, Pub. L. 89–10, title X, §10981, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3857, related to White House Conference on Urban Education.

Section 8312, Pub. L. 89–10, title X, §10982, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3858, related to White House Conference on Rural Education.

PART K—NATIONAL WRITING PROJECT

§§ 8331, 8332. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8331, Pub. L. 89–10, title X, §10991, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3859, set forth findings.

Section 8332, Pub. L. 89–10, title X, §10992, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3861, related to National Writing Project. See section 6702 of this title.

PART L—PHYSICAL EDUCATION FOR PROGRESS

§§ 8351 to 8361. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8351, Pub. L. 89–10, title X, §10999B, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–76, set forth purpose of part. See section 7261a of this title.

A prior section 8351, Pub. L. 89–10, title X, §10993, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3863, related to extended time for learning and longer school year, prior to repeal by Pub. L. 105–277, div. A, §101(f) [title VIII, §301(c)(3)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410.

Section 8352, Pub. L. 89–10, title X, §10999C, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–77, set forth findings.

Section 8353, Pub. L. 89–10, title X, §10999D, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–77, authorized program. See section 7261b of this title.

Section 8354, Pub. L. 89–10, title X, §10999E, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78, related to applications and program elements. See section 7261c of this title.

Section 8355, Pub. L. 89–10, title X, §10999F, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78, related to proportionality. See section 7261e of this title.

Section 8356, Pub. L. 89–10, title X, §10999G, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78, related to participation of private school students and home-schooled students. See section 7261c of this title.

Section 8357, Pub. L. 89–10, title X, §10999H, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78, required report for continued funding. See section 7261d of this title.

Section 8358, Pub. L. 89–10, title X, §10999I, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–78, required report to Congress. See section 7261e of this title.

Section 8359, Pub. L. 89–10, title X, §10999J, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–79, related to administrative costs. See section 7261d of this title.

Section 8360, Pub. L. 89–10, title X, §10999K, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–79, related to Federal share and supplementing, not supplanting, funds. See sections 7261e and 7261f of this title.

Section 8361, Pub. L. 89–10, title X, §10999L, as added Pub. L. 106–554, §1(a)(1) [title VII, §701], Dec. 21, 2000, 114 Stat. 2763, 2763A–79, authorized appropriations.

PART M—TERRITORIAL ASSISTANCE

§8371. Repealed. Pub. L. 105–277, div. A, §101(f) [title VIII, §301(c)(4)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–410

Section, Pub. L. 89–10, title X, §10995, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3867, related to general assistance to improve public education in the Virgin Islands.

SUBCHAPTER XI—COORDINATED SERVICES

§§8401 to 8407. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8401, Pub. L. 89–10, title XI, §11001, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3867, set forth findings and purpose.

Section 8402, Pub. L. 89–10, title XI, §11002, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3868, defined terms.

Section 8403, Pub. L. 89–10, title XI, §11003, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3868, related to authority to use funds.

Section 8404, Pub. L. 89–10, title XI, §11004, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3868, related to project development and implementation.

Section 8405, Pub. L. 89–10, title XI, §11005, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3869, related to uses of funds.

Section 8406, Pub. L. 89–10, title XI, §11006, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3870, related to continuing authority to use funds.

Section 8407, Pub. L. 89–10, title XI, §11007, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3870, related to identification of barriers to service coordination.

SUBCHAPTER XII—SCHOOL FACILITIES INFRASTRUCTURE IMPROVEMENT

§§8501 to 8513. Repealed. Pub. L. 107–110, title X, §1011(5)(A), Jan. 8, 2002, 115 Stat. 1986

Section 8501, Pub. L. 89–10, title XII, §12001, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3870, set out short title of the Education Infrastructure Act of 1994.

Section 8502, Pub. L. 89–10, title XII, §12002, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3870, set forth findings.

Section 8503, Pub. L. 89–10, title XII, §12003, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3871, set forth purpose.

Section 8504, Pub. L. 89–10, title XII, §12004, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3871, authorized program for improvement of public elementary and secondary education facilities.

Section 8505, Pub. L. 89–10, title XII, §12005, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3871, related to award of grants.

Section 8506, Pub. L. 89–10, title XII, §12006, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3872, related to applications.

Section 8507, Pub. L. 89–10, title XII, §12007, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3872, related to authorized activities.

Section 8508, Pub. L. 89–10, title XII, §12008, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3873, related to budget and accounting, use of funds, powers of Secretary, contracts for supplies or services, and applicability of provisions of title 31.

Section 8509, Pub. L. 89–10, title XII, §12009, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3874, related to payment of fair wages.

Section 8510, Pub. L. 89–10, title XII, §12010, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3874, set forth special rules and general limitations.

Section 8511, Pub. L. 89–10, title XII, §12011, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3875, related to Federal assessment.

Section 8512, Pub. L. 89–10, title XII, §12012, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3875, defined terms.

Section 8513, Pub. L. 89–10, title XII, §12013, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3875, authorized appropriations.

SUBCHAPTER XIII—SUPPORT AND ASSISTANCE PROGRAMS TO IMPROVE EDUCATION

§§8601, 8602. Repealed. Pub. L. 107–110, title X, §1011(5)(B), Jan. 8, 2002, 115 Stat. 1986

Section 8601, Pub. L. 89–10, title XIII, §13001, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3876, set forth findings.

Section 8602, Pub. L. 89–10, title XIII, §13002, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3876, set forth purpose of subchapter.

PART A—COMPREHENSIVE REGIONAL ASSISTANCE CENTERS

CODIFICATION

Part A of title XIII of Pub. L. 89–10, comprising this part, was renumbered part K of title IX of Pub. L. 103–227, the Educational Research, Development, Dissemination, and Improvement Act of 1994, by Pub. L. 107–110, title X, §1021(a), Jan. 8, 2002, 115 Stat. 1987, transferred to part G (§6053 et seq.) of subchapter IX of chapter 68 of this title, and subsequently repealed.

§§8621 to 8625. Transferred

CODIFICATION

Section 8621, Pub. L. 89–10, title XIII, §13101, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3877, which authorized grant program for comprehensive regional assistance centers, was renumbered section 1001 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053 of this title, and subsequently repealed.

Section 8622, Pub. L. 89–10, title XIII, §13102, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3878, which set forth requirements of comprehensive regional assistance centers, was renumbered section 1002 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053a of this title, and subsequently repealed.

Section 8623, Pub. L. 89–10, title XIII, §13103, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3879, which related to maintenance of service and application requirements, was renumbered section 1003 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, §1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053b of this title, and subsequently repealed.

Section 8624, Pub. L. 89–10, title XIII, § 13104, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880, which related to transition and phase in, was renumbered section 1004 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053c of this title, and subsequently repealed.

Section 8625, Pub. L. 89–10, title XIII, § 13105, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880, which authorized appropriations, was renumbered section 1005 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1021(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6053d of this title, and subsequently repealed.

PART B—NATIONAL DIFFUSION NETWORK

CODIFICATION

Part B of title XIII of Pub. L. 89–10, comprising this part, was renumbered part L of title IX of Pub. L. 103–227, the Educational Research, Development, Dissemination, and Improvement Act of 1994, by Pub. L. 107–110, title X, § 1022(a), Jan. 8, 2002, 115 Stat. 1987, transferred to part H (§ 6054 et seq.) of subchapter IX of chapter 68 of this title, and subsequently repealed.

§§ 8651, 8652. Transferred

CODIFICATION

Section 8651, Pub. L. 89–10, title XIII, § 13201, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3880, which authorized National Diffusion Network program, was renumbered section 1011 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1022(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6054 of this title, and subsequently repealed.

Section 8652, Pub. L. 89–10, title XIII, § 13202, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3882, which authorized appropriations, was renumbered section 1012 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1022(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6054a of this title, and subsequently repealed.

PART C—EISENHOWER REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIA

CODIFICATION

Part C of title XIII of Pub. L. 89–10, comprising this part, was renumbered part M of title IX of Pub. L. 103–227, the Educational Research, Development, Dissemination, and Improvement Act of 1994, by Pub. L. 107–110, title X, § 1023(a), Jan. 8, 2002, 115 Stat. 1987, transferred to part I (§ 6055 et seq.) of subchapter IX of chapter 68 of this title, and subsequently repealed.

§§ 8671 to 8678. Transferred

CODIFICATION

Section 8671, Pub. L. 89–10, title XIII, § 13301, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3882, which established regional mathematics and science education consortia program, was renumbered section 1021 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055 of this title, and subsequently repealed.

Section 8672, Pub. L. 89–10, title XIII, § 13302, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3883, which related to use of funds, was renumbered section 1022 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055a of this title, and subsequently repealed.

Section 8673, Pub. L. 89–10, title XIII, § 13303, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3884, which related to application and review, was renumbered section 1023 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055b of this title, and subsequently repealed.

Section 8674, Pub. L. 89–10, title XIII, § 13304, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885, which directed the establishment of regional boards, was renumbered section 1024 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055c of this title, and subsequently repealed.

Section 8675, Pub. L. 89–10, title XIII, § 13305, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885, which authorized payments and described Federal and non-Federal shares, was renumbered section 1025 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055d of this title, and subsequently repealed.

Section 8676, Pub. L. 89–10, title XIII, § 13306, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3885, which required evaluation of regional consortia, was renumbered section 1026 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055e of this title, and subsequently repealed.

Section 8677, Pub. L. 89–10, title XIII, § 13307, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886, which defined terms, was renumbered section 1027 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055f of this title, and subsequently repealed.

Section 8678, Pub. L. 89–10, title XIII, § 13308, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886, which authorized appropriations, was renumbered section 1028 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1023(a), (b), Jan. 8, 2002, 115 Stat. 1987, transferred to section 6055g of this title, and subsequently repealed.

PART D—TECHNOLOGY-BASED TECHNICAL ASSISTANCE

CODIFICATION

Part D of title XIII of Pub. L. 89–10, comprising this part, was renumbered part N of title IX of Pub. L. 103–227, the Educational Research, Development, Dissemination, and Improvement Act of 1994, by Pub. L. 107–110, title X, § 1024(a), Jan. 8, 2002, 115 Stat. 1987, transferred to part J (§ 6056 et seq.) of subchapter IX of chapter 68 of this title, and subsequently repealed.

§ 8701. Transferred

CODIFICATION

Section, Pub. L. 89–10, title XIII, § 13401, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3886, which authorized technology-based technical assistance, was renumbered section 1031 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 by Pub. L. 107–110, title X, § 1024(a), (b), Jan. 8, 2002, 115 Stat. 1987, 1988, transferred to section 6056 of this title, and subsequently repealed.

SUBCHAPTER XIV—GENERAL PROVISIONS

PART A—DEFINITIONS

§§ 8801 to 8803. Repealed. Pub. L. 107–110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8801, Pub. L. 89–10, title XIV, § 14101, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3887;

amended Pub. L. 105–244, title I, §102(a)(6)(K), Oct. 7, 1998, 112 Stat. 1619; Pub. L. 105–277, div. A, §101(f) [title VIII, §101(b)(5)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407; Pub. L. 105–278, §3(j), Oct. 22, 1998, 112 Stat. 2688; Pub. L. 106–554, §1(a)(4) [div. B, title XVI, §1606(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–334, defined terms. See section 7801 of this title.

Section 8802, Pub. L. 89–10, title XIV, §14102, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3890, related to applicability of subchapter. See section 7802 of this title.

Section 8803, Pub. L. 89–10, title XIV, §14103, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3890, related to applicability of chapter to Bureau of Indian Affairs operated schools. See section 7803 of this title.

PART B—FLEXIBILITY IN THE USE OF ADMINISTRATIVE AND OTHER FUNDS

§§ 8821 to 8826. Repealed. Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8821, Pub. L. 89–10, title XIV, §14201, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3890, related to consolidation of State administrative funds for elementary and secondary education programs. See section 7821 of this title.

Section 8822, Pub. L. 89–10, title XIV, §14202, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3891, related to single local educational agency States. See section 7822 of this title.

Section 8823, Pub. L. 89–10, title XIV, §14203, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3892, related to consolidation of funds for local administration. See section 7823 of this title.

Section 8824, Pub. L. 89–10, title XIV, §14204, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3892, related to administrative funds studies.

Section 8825, Pub. L. 89–10, title XIV, §14205, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3893; amended Pub. L. 106–400, §2, Oct. 30, 2000, 114 Stat. 1675, related to consolidated set-aside for Department of the Interior funds. See section 7824 of this title.

Section 8826, Pub. L. 89–10, title XIV, §14206, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3894, related to availability of unneeded program funds.

PART C—COORDINATION OF PROGRAMS; CONSOLIDATED STATE AND LOCAL PLANS AND APPLICATIONS

§§ 8851 to 8857. Repealed. Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8851, Pub. L. 89–10, title XIV, §14301, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3894, set forth purpose of part. See section 7841 of this title.

Section 8852, Pub. L. 89–10, title XIV, §14302, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3894; amended Pub. L. 105–332, §3(c)(3), Oct. 31, 1998, 112 Stat. 3125, related to optional consolidated State plans or applications. See section 7842 of this title.

Section 8853, Pub. L. 89–10, title XIV, §14303, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3895, related to general applicability of State educational agency assurances. See section 7844 of this title.

Section 8854, Pub. L. 89–10, title XIV, §14304, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3896, required report on additional coordination.

Section 8855, Pub. L. 89–10, title XIV, §14305, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3896, related to consolidated local plans or applications. See section 7845 of this title.

Section 8856, Pub. L. 89–10, title XIV, §14306, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3897, related to other general assurances. See section 7846 of this title.

Section 8857, Pub. L. 89–10, title XIV, §14307, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3898; amended Pub. L. 105–332, §3(c)(4), Oct. 31, 1998, 112 Stat. 3126, related to relationship of State and local plans to plans under Goals 2000: Educate America Act.

PART D—WAIVERS

§ 8881. Repealed. Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 89–10, title XIV, §14401, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3899, related to waivers of statutory and regulatory requirements. See section 7861 of this title.

PART E—UNIFORM PROVISIONS

§§ 8891 to 8904. Repealed. Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8891, Pub. L. 89–10, title XIV, §14501, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3901, related to maintenance of effort. See section 7901 of this title.

Section 8892, Pub. L. 89–10, title XIV, §14502, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3902, related to prohibition regarding State aid. See section 7902 of this title.

Section 8893, Pub. L. 89–10, title XIV, §14503, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3902; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §101(b)(6)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–407, related to participation by private school children and teachers. See section 7881 of this title.

Section 8894, Pub. L. 89–10, title XIV, §14504, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3903, set forth standards for by-pass of requirements. See section 7882 of this title.

Section 8895, Pub. L. 89–10, title XIV, §14505, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3904, related to complaint process for participation of private school children. See section 7883 of this title.

Section 8896, Pub. L. 89–10, title XIV, §14506, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3904, related to by-pass determination process. See section 7884 of this title.

Section 8897, Pub. L. 89–10, title XIV, §14507, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3905, prohibited payments for religious worship or instruction. See section 7885 of this title.

Section 8898, Pub. L. 89–10, title XIV, §14508, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3905, related to applicability of chapter to home schools. See section 7886 of this title.

Section 8899, Pub. L. 89–10, title XIV, §14509, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3905, related to construction of provisions prohibiting Federal control of nonrecipient nonpublic schools. See section 7886 of this title.

Section 8900, Pub. L. 89–10, title XIV, §14510, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3906, related to school prayer. See section 7904 of this title.

Section 8901, Pub. L. 89–10, title XIV, §14511, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3906, set forth general prohibitions. See section 7906 of this title.

Section 8902, Pub. L. 89–10, title XIV, §14512, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3906, contained prohibition on Federal mandates, direction, and control. See section 7907 of this title.

Section 8903, Pub. L. 89–10, title XIV, §14513, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3906, required report on changes made by the Improving America's Schools Act of 1994.

Section 8904, Pub. L. 89–10, title XIV, §14514, as added Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3907, related to participation in Goals 2000: Educate America Act programs.

PART F—GUN POSSESSION

§§ 8921 to 8923. Repealed. Pub. L. 107–110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8921, Pub. L. 89–10, title XIV, § 14601, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3907, known as the Gun-Free Schools Act of 1994, related to gun-free requirements. See section 7151 of this title.

Section 8922, Pub. L. 89–10, title XIV, § 14602, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3908, related to policy regarding criminal justice system referral. See section 7151 of this title.

Section 8923, Pub. L. 89–10, title XIV, § 14603, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3908, related to data and policy dissemination under the Individuals with Disabilities Education Act.

PART G—EVALUATIONS

§ 8941. Repealed. Pub. L. 107–110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section, Pub. L. 89–10, title XIV, § 14701, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3908; amended Pub. L. 104–134, title I, § 101(d) [title VII, § 703(b)(5)], Apr. 26, 1996, 110 Stat. 1321–211, 1321–255; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327, related to evaluations. See section 7941 of this title.

PART H—SENSE OF CONGRESS

§§ 8961, 8962. Repealed. Pub. L. 107–110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986

Section 8961, Pub. L. 89–10, title XIV, § 14801, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3911, expressed sense of Congress to increase total share of Federal spending on education.

Section 8962, Pub. L. 89–10, title XIV, § 14802, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3912, expressed sense of Congress regarding purchase of American-made equipment and products.

CHAPTER 71—NATIONAL EDUCATION STATISTICS

Sec.
9001 to 9012. Repealed or Transferred.

§§ 9001 to 9009. Repealed. Pub. L. 107–279, title IV, § 403(1), Nov. 5, 2002, 116 Stat. 1985

Section 9001, Pub. L. 103–382, title IV, § 402, Oct. 20, 1994, 108 Stat. 4029; Pub. L. 105–244, title I, § 102(a)(6)(L), Oct. 7, 1998, 112 Stat. 1619; Pub. L. 107–110, title X, § 1076(r), Jan. 8, 2002, 115 Stat. 2092, set forth findings and purpose and defined terms.

Section 9002, Pub. L. 103–382, title IV, § 403, Oct. 20, 1994, 108 Stat. 4030, established National Center for Education Statistics, to be headed by Commissioner of Education Statistics. See sections 9541 and 9542 of this title.

Section 9003, Pub. L. 103–382, title IV, § 404, Oct. 20, 1994, 108 Stat. 4031, set forth duties of Center. See section 9543 of this title.

Section 9004, Pub. L. 103–382, title IV, § 405, Oct. 20, 1994, 108 Stat. 4032, related to performance of duties. See section 9544 of this title.

Section 9005, Pub. L. 103–382, title IV, § 406, Oct. 20, 1994, 108 Stat. 4033, related to reports. See section 9545 of this title.

Section 9006, Pub. L. 103–382, title IV, § 407, Oct. 20, 1994, 108 Stat. 4033, established Advisory Council on Education Statistics.

Section 9007, Pub. L. 103–382, title IV, § 408, Oct. 20, 1994, 108 Stat. 4034; Pub. L. 107–56, title V, § 508, Oct. 26, 2001, 115 Stat. 368; Pub. L. 107–279, title IV, § 401(a), Nov. 5, 2002, 116 Stat. 1982, related to confidentiality of persons in collection, reporting, and publication of data. See section 9573 of this title.

Section 9008, Pub. L. 103–382, title IV, § 409, Oct. 20, 1994, 108 Stat. 4035, related to dissemination of statistical records and making of statistical compilations and surveys. See section 9546 of this title.

Section 9009, Pub. L. 103–382, title IV, § 410, Oct. 20, 1994, 108 Stat. 4036, authorized establishment of national cooperative education statistics systems. See section 9547 of this title.

SHORT TITLE

Pub. L. 103–382, title IV, § 401, Oct. 20, 1994, 108 Stat. 4029, which provided that title IV of Pub. L. 103–382, enacting this chapter, could be cited as the ''National Education Statistics Act of 1994'', was repealed by Pub. L. 107–279, title IV, § 403(1), Nov. 5, 2002, 116 Stat. 1985.

§§ 9010, 9011. Transferred

CODIFICATION

Section 9010, Pub. L. 103–382, title IV, § 411, Oct. 20, 1994, 108 Stat. 4036; Pub. L. 107–110, title VI, § 602(a), Jan. 8, 2002, 115 Stat. 1898; Pub. L. 107–279, title IV, § 401(d)(1)–(7), Nov. 5, 2002, 116 Stat. 1984, was renumbered Pub. L. 107–279, title III, § 303, by Pub. L. 107–279, title IV, § 401(d)(8), Nov. 5, 2002, 116 Stat. 1984, and transferred to section 9622 of this title.

Section 9011, Pub. L. 103–382, title IV, § 412, Oct. 20, 1994, 108 Stat. 4039; Pub. L. 106–554, § 1(a)(1) [title III, § 307], Dec. 21, 2000, 114 Stat. 2763, 2763A–44; Pub. L. 107–110, title VI, § 602(b), Jan. 8, 2002, 115 Stat. 1904; Pub. L. 107–279, title IV, § 401(c)(1)–(5), Nov. 5, 2002, 116 Stat. 1983, was renumbered Pub. L. 107–279, title III, § 302, by Pub. L. 107–279, title IV, § 401(c)(6), Nov. 5, 2002, 116 Stat. 1984, and transferred to section 9621 of this title.

§ 9012. Repealed. Pub. L. 107–279, title IV, § 403(1), Nov. 5, 2002, 116 Stat. 1985

Section, Pub. L. 103–382, title IV, § 413, Oct. 20, 1994, 108 Stat. 4041, authorized appropriations.

CHAPTER 72—MUSEUM AND LIBRARY SERVICES

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9104. Deputy Directors.
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CODIFICATION

Title II of Pub. L. 94–462, comprising this chapter, was originally enacted as Pub. L. 94–462, title II, Oct. 8, 1976, 90 Stat. 1975; Pub. L. 96–496, title II, § 201, Dec. 4, 1980, 94 Stat. 2591; Pub. L. 98–306, §§ 8–11, May 31, 1984, 98 Stat. 225; Pub. L. 99–194, title II, Dec. 20, 1985, 99 Stat. 1344; Pub. L. 101–512, title III, § 318 [title II, §§ 201, 202(a)(1), (b), 203–205], Nov. 5, 1990, 104 Stat. 1960, 1974, 1975, known as the Museum Services Act, and classified to section 961 et seq. of this title. Title II is shown, herein, however, as having been added by Pub. L. 104–208 without reference to such intervening amendments because of the extensive amendments to the provisions of title II by Pub. L. 104–208.

SUBCHAPTER I—GENERAL PROVISIONS

§ 9101. General definitions

As used in this chapter:

(1) Determined to be obscene

The term ''determined to be obscene'' means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.

(2) Director

The term ''Director'' means the Director of the Institute appointed under section 9103 of this title.

(3) Final judgment

The term ''final judgment'' means a judgment that is—

(A) not reviewed by any other court that has authority to review such judgment; or

(B) not reviewable by any other court.

(4) Indian tribe

The term ''Indian tribe'' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(5) Institute

The term ''Institute'' means the Institute of Museum and Library Services established under section 9102 of this title.

(6) Museum and Library Services Board

The term ''Museum and Library Services Board'' means the National Museum and Library Services Board established under section 9105a of this title.

(7) Obscene

The term ''obscene'' means, with respect to a project, that—

(A) the average person, applying contemporary community standards, would find that such project, when taken as a whole, appeals to the prurient interest;

(B) such project depicts or describes sexual conduct in a patently offensive way; and

(C) such project, when taken as a whole, lacks serious literary, artistic, political, or scientific value.

(Pub. L. 94–462, title II, § 202, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–294; amended Pub. L. 108–81, title I, § 101, Sept. 25, 2003, 117 Stat. 992.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act, referred to in par. (4), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688,

as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

PRIOR PROVISIONS

A prior section 202 of Pub. L. 94–462 was classified to section 961 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

AMENDMENTS

2003—Par. (1). Pub. L. 108–81, § 101(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''The term 'Commission' means the National Commission on Libraries and Information Science established under section 1502 of this title.''

Pars. (3) to (5). Pub. L. 108–81, § 101(2)–(4), added pars. (3) and (4), redesignated former par. (3) as (5), and struck out heading and text of former par. (4). Text read as follows: ''The term 'Museum Board' means the National Museum Services Board established under section 9175 of this title.''

Pars. (6), (7). Pub. L. 108–81, § 101(5), added pars. (6) and (7).

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–81, title V, § 506, Sept. 25, 2003, 117 Stat. 1005, provided that: ''The amendments made by this Act [enacting sections 9105a and 9107 to 9109 of this title, amending this section, sections 956a, 974, 1503 to 1505, 9102, 9103, 9106, 9121 to 9123, 9131, 9134, 9141, 9162, 9171 to 9173, and 9176 of this title, and section 170 of Title 26, Internal Revenue Code, repealing sections 9174 and 9175 of this title, enacting provisions set out as a note under this section, and repealing provisions set out as notes under sections 9102, 9103, and 9105 of this title] shall take effect on the date of enactment of this Act [Sept. 25, 2003], except that the amendments made by sections 203, 204, and 305 of this Act [amending sections 9123, 9131, and 9176 of this title] shall take effect on October 1, 2003.''

SHORT TITLE OF 2003 AMENDMENT

Pub. L. 108–81, § 1, Sept. 25, 2003, 117 Stat. 991, provided that: ''This Act [enacting sections 9105a and 9107 to 9109 of this title, amending this section, sections 956a, 974, 1503 to 1505, 9102, 9103, 9106, 9121 to 9123, 9131, 9134, 9141, 9162, 9171 to 9173, and 9176 of this title, and section 170 of Title 26, Internal Revenue Code, repealing sections 9174 and 9175 of this title, enacting provisions set out as notes under this section and section 956a of this title, and repealing provisions set out as notes under sections 9102, 9103, and 9105 of this title] may be cited as the 'Museum and Library Services Act of 2003'.''

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–128, § 1, Dec. 1, 1997, 111 Stat. 2548, provided that: ''This Act [amending sections 9105, 9122, 9131, 9133, 9161, and 9162 of this title] may be cited as the 'Museum and Library Services Technical and Conforming Amendments of 1997'.''

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 701], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293, provided that: ''This title [enacting this chapter, amending sections 1069b, 1504, 1505, 3441, 3473, 3489, 6621, 6645, 6648, 6649, 6813, 8091, 8102, and 8104 of this title, section 5315 of Title 5, Government Organization and Employees, section 276d–3 of former Title 40, Public Buildings, Property, and Works, section 214 of former Title 40, Appendix, section 3338 of Title 42, The Public Health and Welfare, section 254 of Title 47, Telegraphs, Telephones, and Radiotelegraphs, and section 1666 of Title 48, Territories and Insular Possessions, repealing sections 351 to 386g, 1021 to 1047, 1221i, and 7001 to 7005 of this title, enacting provisions set out under this section and sections 9102, 9103, and 9105 of this title, and repealing provisions set out as notes under sections 351 and 1029 of this title] may be cited as the 'Museum and Library Services Act of 1996'.''

SHORT TITLE

Pub. L. 94–462, title II, § 201, as added by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–293, provided that: ''This title [enacting this chapter] may be cited as the 'Museum and Library Services Act'.''

Pub. L. 94–462, title II, § 211, as added by Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295, provided that: ''This subtitle [subtitle B (§§ 211–263) of title II of Pub. L. 94–462, enacting subchapter II of this chapter] may be cited as the 'Library Services and Technology Act'.''

Pub. L. 94–462, title II, § 271, as added by Pub. L. 108–81, title III, § 306(2), Sept. 25, 2003, 117 Stat. 1002, provided that: ''This subtitle [subtitle C (§§ 271–276) of title II of Pub. L. 94–462, enacting subchapter III of this chapter] may be cited as the 'Museum Services Act'.''

§ 9102. Institute of Museum and Library Services

(a) Establishment

There is established, within the National Foundation on the Arts and the Humanities, an Institute of Museum and Library Services.

(b) Offices

The Institute shall consist of an Office of Museum Services and an Office of Library Services.

(c) Museum and Library Services Board

There shall be a National Museum and Library Services Board within the Institute, as provided under section 9105a of this title.

(Pub. L. 94–462, title II, § 203, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–294; amended Pub. L. 108–81, title I, § 102, Sept. 25, 2003, 117 Stat. 992.)

PRIOR PROVISIONS

A prior section 203 of Pub. L. 94–462 was classified to section 962 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

AMENDMENTS

2003—Subsec. (b). Pub. L. 108–81, § 102(1), struck out at end ''There shall be a National Museum Services Board in the Office of Museum Services.''

Subsec. (c). Pub. L. 108–81, § 102(2), added subsec. (c).

TRANSFER OF FUNCTIONS FROM INSTITUTE OF MUSEUM SERVICES

Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 704], Sept. 30, 1996, 110 Stat. 3009–233, 3009–307, provided for transfer of functions from the Institute of Museum Services and the Library Program Office to Director of Institute of Museum and Library Services, prior to repeal by Pub. L. 108–81, title V, § 505(b), Sept. 25, 2003, 117 Stat. 1004.

TRANSITION AND TRANSFER OF FUNDS

Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 707], Sept. 30, 1996, 110 Stat. 3009–233, 3009–311, required Director of the Office of Management and Budget to take appropriate measures to ensure orderly transition from activities previously administered by Director of Library Programs in the Office of Educational Research and Improvement in the Department of Education to the activities administered by the Institute for Museum and Library Services, prior to repeal by Pub. L. 108–81, title V, § 505(b), Sept. 25, 2003, 117 Stat. 1004.

§ 9103. Director of Institute

(a) Appointment

(1) In general

The Institute shall be headed by a Director, appointed by the President, by and with the advice and consent of the Senate.

(2) Term

The Director shall serve for a term of 4 years.

(3) Qualifications

Beginning with the first individual appointed to the position of Director after September 30, 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to library and information services. Beginning with the second individual appointed to the position of Director after September 30, 1996, every second individual so appointed shall be appointed from among individuals who have special competence with regard to museum services.

(b) Compensation

The Director may be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5.

(c) Duties and powers

The Director shall perform such duties and exercise such powers as may be prescribed by law, including awarding financial assistance for activities described in this chapter.

(d) Nondelegation

The Director shall not delegate any of the functions of the Director to any person who is not an officer or employee of the Institute.

(e) Coordination

The Director shall ensure coordination of the policies and activities of the Institute with the policies and activities of other agencies and offices of the Federal Government having interest in and responsibilities for the improvement of museums and libraries and information services. Where appropriate, the Director shall ensure that activities under subchapter II of this chapter are coordinated with activities under section 6383 of this title.

(f) Regulatory authority

The Director may promulgate such rules and regulations as are necessary and appropriate to implement the provisions of this chapter.

(g) Application procedures

(1) In general

In order to be eligible to receive financial assistance under this chapter, a person or agency shall submit an application in accordance with procedures established by the Director by regulation.

(2) Review and evaluation

The Director shall establish procedures for reviewing and evaluating applications submitted under this chapter. Actions of the Institute and the Director in the establishment, modification, and revocation of such procedures under this chapter are vested in the discretion of the Institute and the Director. In establishing such procedures, the Director shall ensure that the criteria by which applications are evaluated are consistent with the purposes of this chapter, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public.

(3) Treatment of projects determined to be obscene

(A) In general

The procedures described in paragraph (2) shall include provisions that clearly specify that obscenity is without serious literary, artistic, political, or scientific merit, and is not protected speech.

(B) Prohibition

No financial assistance may be provided under this chapter with respect to any project that is determined to be obscene.

(C) Treatment of application disapproval

The disapproval of an application by the Director shall not be construed to mean, and shall not be considered as evidence that, the project for which the applicant requested financial assistance is or is not obscene.

(Pub. L. 94–462, title II, § 204, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–294; amended Pub. L. 108–81, title I, § 103, Sept. 25, 2003, 117 Stat. 992.)

REFERENCES IN TEXT

This chapter, the second place it appears in subsec. (g)(2), was in the original ''this Act'' and was translated as reading ''this title'', meaning title II of Pub. L. 94–462, known as the Museum and Library Services Act, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 204 of Pub. L. 94–462 was classified to section 963 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

AMENDMENTS

2003—Subsec. (e). Pub. L. 108–81, § 103(1), inserted at end ''Where appropriate, the Director shall ensure that activities under subchapter II of this chapter are coordinated with activities under section 6383 of this title.''

Subsecs. (f), (g). Pub. L. 108–81, § 103(2), added subsecs. (f) and (g).

SERVICE OF INDIVIDUALS SERVING ON SEPTEMBER 30, 1996

Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 705], Sept. 30, 1996, 110 Stat. 3009–233, 3009–311, which provided that the individual who was appointed to the position of Director of the Institute of Museum Services and was serving in such position on the day before Sept. 30, 1996, would serve, at the pleasure of the President, as the first Director of the Institute of Museum and Library Services, was repealed by Pub. L. 108–81, title V, § 505(b), Sept. 25, 2003, 117 Stat. 1004.

§ 9104. Deputy Directors

The Office of Library Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have a graduate degree in library science and expertise

in library and information services. The Office of Museum Services shall be headed by a Deputy Director, who shall be appointed by the Director from among individuals who have expertise in museum services.

(Pub. L. 94–462, title II, § 205, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295.)

PRIOR PROVISIONS

A prior section 205 of Pub. L. 94–462 was classified to section 964 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

§ 9105. Personnel

(a) In general

The Director may, in accordance with applicable provisions of title 5, appoint and determine the compensation of such employees as the Director determines to be necessary to carry out the duties of the Institute.

(b) Appointment and compensation of technical and professional employees

(1) In general

Subject to paragraph (2), the Director may appoint without regard to the provisions of title 5 governing the appointment in the competitive service and may compensate without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title (relating to the classification and General Schedule pay rates), such technical and professional employees as the Director determines to be necessary to carry out the duties of the Institute.

(2) Number and compensation

The number of employees appointed and compensated under paragraph (1) shall not exceed ⅕ of the number of full-time regular or professional employees of the Institute. The rate of basic compensation for the employees appointed and compensated under paragraph (1) may not exceed the rate prescribed for level GS–15 of the General Schedule under section 5332 of title 5.

(c) Voluntary services

The Director may accept and utilize the voluntary services of individuals and reimburse the individuals for travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent as authorized under section 5703 of title 5 for persons employed intermittently in Federal Government service.

(Pub. L. 94–462, title II, § 206, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295; amended Pub. L. 105–128, § 2, Dec. 1, 1997, 111 Stat. 2548.)

REFERENCES IN TEXT

The provisions of title 5 governing appointment in the competitive service, referred to in subsec. (b), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 206 of Pub. L. 94–462 was classified to section 965 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

AMENDMENTS

1997—Subsecs. (b), (c). Pub. L. 105–128 added subsec. (b) and redesignated former subsec. (b) as (c).

CONSIDERATION GIVEN TO INDIVIDUALS WITH EXPERIENCE

Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 706], Sept. 30, 1996, 110 Stat. 3009–233, 3009–311, required Director of the Institute of Museum and Library Services to give strong consideration to individuals with experience in administering State-based and national library and information services programs when appointing employees of the Office of Library Services, prior to repeal by Pub. L. 108–81, title V, § 505(b), Sept. 25, 2003, 117 Stat. 1004.

§ 9105a. National Museum and Library Services Board

(a) Establishment

There is established within the Institute a board to be known as the ''National Museum and Library Services Board''.

(b) Membership

(1) Number and appointment

The Museum and Library Services Board shall be composed of the following:

(A) The Director.

(B) The Deputy Director for the Office of Library Services.

(C) The Deputy Director for the Office of Museum Services.

(D) The Chairman of the National Commission on Libraries and Information Science.

(E) Ten members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified by virtue of their education, training, or experience in the area of library services, or their commitment to libraries.

(F) Ten members appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States and who are specially qualified by virtue of their education, training, or experience in the area of museum services, or their commitment to museums.

(2) Special qualifications

(A) Library members

Of the members of the Museum and Library Services Board appointed under paragraph (1)(E)—

(i) five shall be professional librarians or information specialists, of whom—

(I) not less than one shall be knowledgeable about electronic information and technical aspects of library and information services and sciences; and

(II) not less than one other shall be knowledgeable about the library and information service needs of underserved communities; and

(ii) the remainder shall have special competence in, or knowledge of, the needs for library and information services in the United States.

(B) Museum members

Of the members of the Museum and Library Services Board appointed under paragraph (1)(F)—

(i) five shall be museum professionals who are or have been affiliated with—

(I) resources that, collectively, are broadly representative of the curatorial, conservation, educational, and cultural resources of the United States; or

(II) museums that, collectively, are broadly representative of various types of museums, including museums relating to science, history, technology, art, zoos, botanical gardens, and museums designed for children; and

(ii) the remainder shall be individuals recognized for their broad knowledge, expertise, or experience in museums or commitment to museums.

(3) Geographic and other representation

Members of the Museum and Library Services Board shall be appointed to reflect persons from various geographic regions of the United States. The Museum and Library Services Board may not include, at any time, more than three appointive members from a single State. In making such appointments, the President shall give due regard to equitable representation of women, minorities, and persons with disabilities who are involved with museums and libraries.

(4) Voting

The Director, the Deputy Director of the Office of Library Services, the Deputy Director of the Office of Museum Services, and the Chairman of the National Commission on Library and Information Science shall be nonvoting members of the Museum and Library Services Board.

(c) Terms

(1) In general

Except as otherwise provided in this subsection, each member of the Museum and Library Services Board appointed under subparagraph (E) or (F) of subsection (b)(1) of this section shall serve for a term of 5 years.

(2) Initial Board appointments

(A) Treatment of members serving on effective date

Notwithstanding subsection (b) of this section, each individual who is a member of the National Museum Services Board on September 25, 2003, may, at the individual's election, complete the balance of the individual's term as a member of the Museum and Library Services Board.

(B) First appointments

Notwithstanding subsection (b) of this section, any appointive vacancy in the initial membership of the Museum and Library Services Board existing after the application of subparagraph (A), and any vacancy in such membership subsequently created by reason of the expiration of the term of an individual described in subparagraph (A), shall be filled by the appointment of a member described in subsection (b)(1)(E) of this section. When the Museum and Library Services Board consists of an equal number of individuals who are specially qualified in the area of library services and individuals who are specially qualified in the area of museum services, this subparagraph shall cease to be effective and the board shall be appointed in accordance with subsection (b) of this section.

(C) Authority to adjust terms

The terms of the first members appointed to the Museum and Library Service Board shall be adjusted by the President as necessary to ensure that the terms of not more than four members expire in the same year. Such adjustments shall be carried out through designation of the adjusted term at the time of appointment.

(3) Vacancies

Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed.

(4) Reappointment

No appointive member of the Museum and Library Services Board who has been a member for more than 7 consecutive years shall be eligible for reappointment.

(5) Service until successor takes office

Notwithstanding any other provision of this subsection, an appointive member of the Museum and Library Services Board shall serve after the expiration of the term of the member until the successor to the member takes office.

(d) Duties and powers

(1) In general

The Museum and Library Services Board shall advise the Director on general policies with respect to the duties, powers, and authority of the Institute relating to museum and library services, including financial assistance awarded under this chapter.

(2) National awards

The Museum and Library Services Board shall advise the Director in making awards under section 9107 of this title.

(e) Chairperson

The Director shall serve as Chairperson of the Museum and Library Services Board.

(f) Meetings

(1) In general

The Museum and Library Services Board shall meet not less than 2 times each year and at the call of the Director.

(2) Vote

All decisions by the Museum and Library Services Board with respect to the exercise of its duties and powers shall be made by a majority vote of the members of the Board who are present and authorized to vote.

(g) Quorum

A majority of the voting members of the Museum and Library Services Board shall constitute a quorum for the conduct of business at official meetings, but a lesser number of members may hold hearings.

(h) Compensation and travel expenses

(1) Compensation

Each member of the Museum and Library Services Board who is not an officer or employee of the Federal Government may be compensated at a rate to be fixed by the President, but not to exceed the daily equivalent of the maximum annual rate of pay authorized for a position above grade GS–15 of the General Schedule under section 5108 of title 5, for each day (including travel time) during which such member is engaged in the performance of the duties of the Museum and Library Services Board. Members of the Museum and Libraries Services Board who are full-time officers or employees of the Federal Government may not receive additional pay, allowances, or benefits by reason of their service on the Museum and Library Services Board.

(2) Travel expenses

Each member of the Museum and Library Services Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5.

(i) Coordination

The Director, with the advice of the Museum and Library Services Board, shall take steps to ensure that the policies and activities of the Institute are coordinated with other activities of the Federal Government.

(Pub. L. 94–462, title II, §207, as added Pub. L. 108–81, title I, §104(2), Sept. 25, 2003, 117 Stat. 993.)

PRIOR PROVISIONS

A prior section 207 of Pub. L. 94–462 was renumbered section 208 and is classified to section 9106 of this title.

Another prior section 207 of Pub. L. 94–462 was classified to section 966 of this title prior to the general amendment of title II of Pub. L. 94–462 by Pub. L. 104–208.

§ 9106. Contributions

The Institute is authorized to solicit, accept, receive, and invest in the name of the United States, gifts, bequests, or devises of money and other property or services and to use such property or services in furtherance of the functions of the Institute. Any proceeds from such gifts, bequests, or devises, after acceptance by the Institute, shall be paid by the donor or the representative of the donor to the Director. The Director shall enter the proceeds in a special-interest bearing account to the credit of the Institute for the purposes specified in each case.

(Pub. L. 94–462, title II, §208, formerly §207, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–295; renumbered §208 and amended Pub. L. 108–81, title I, §104(1), title V, §504(e), Sept. 25, 2003, 117 Stat. 993, 1004.)

AMENDMENTS

2003—Pub. L. 108–81, §504(e), which directed substitution of ''property or services'' for ''property of services'', could not be executed because the words ''property or services'' did not appear in text.

§ 9107. Awards

The Director, with the advice of the Museum and Library Services Board, may annually award National Awards for Library Service and National Awards for Museum Service to outstanding libraries and outstanding museums, respectively, that have made significant contributions in service to their communities.

(Pub. L. 94–462, title II, §209, as added Pub. L. 108–81, title I, §105, Sept. 25, 2003, 117 Stat. 996.)

§ 9108. Analysis of impact of museum and library services

From amounts described in sections 9123(c) and 9176(b) of this title, the Director shall carry out and publish analyses of the impact of museum and library services. Such analyses—

(1) shall be conducted in ongoing consultation with—

(A) State library administrative agencies;

(B) State, regional, and national library and museum organizations; and

(C) other relevant agencies and organizations;

(2) shall identify national needs for, and trends of, museum and library services provided with funds made available under subchapters II and III of this chapter;

(3) shall report on the impact and effectiveness of programs conducted with funds made available by the Institute in addressing such needs; and

(4) shall identify, and disseminate information on, the best practices of such programs to the agencies and entities described in paragraph (1).

(Pub. L. 94–462, title II, §210, as added Pub. L. 108–81, title I, §105, Sept. 25, 2003, 117 Stat. 996.)

§ 9109. Prohibition on use of funds for construction

No funds appropriated to carry out this chapter, subchapter II of this chapter, or subchapter III of this chapter may be used for construction expenses.

(Pub. L. 94–462, title II, §210A, as added Pub. L. 108–81, title I, §105, Sept. 25, 2003, 117 Stat. 997.)

SUBCHAPTER II—LIBRARY SERVICES AND TECHNOLOGY

§ 9121. Purpose

It is the purpose of this subchapter—

(1) to consolidate Federal library service programs;

(2) to promote improvement in library services in all types of libraries in order to better serve the people of the United States;

(3) to facilitate access to resources in all types of libraries for the purpose of cultivating an educated and informed citizenry; and

(4) to encourage resource sharing among all types of libraries for the purpose of achieving economical and efficient delivery of library services to the public.

(Pub. L. 94–462, title II, §212, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702],

Sept. 30, 1996, 110 Stat. 3009–233, 3009–295; amended Pub. L. 108–81, title II, § 201, Sept. 25, 2003, 117 Stat. 997.)

AMENDMENTS

2003—Pars. (2) to (5). Pub. L. 108–81 added pars. (2) to (4) and struck out former pars. (2) to (5) which read as follows:

''(2) to stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages;

''(3) to promote library services that provide all users access to information through State, regional, national and international electronic networks;

''(4) to provide linkages among and between libraries; and

''(5) to promote targeted library services to people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills.''

§ 9122. Definitions

As used in this subchapter:

(1) Library

The term ''library'' includes—

(A) a public library;

(B) a public elementary school or secondary school library;

(C) an academic library;

(D) a research library, which for the purposes of this subchapter means a library that—

(i) makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

(ii) is not an integral part of an institution of higher education; and

(E) a private library or other special library, but only if the State in which such private or special library is located determines that the library should be considered a library for purposes of this subchapter.

(2) Library consortium

The term ''library consortium'' means any local, statewide, regional, interstate, or international cooperative association of library entities which provides for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers, for improved services for the clientele of such library entities.

(3) State

The term ''State'', unless otherwise specified, includes each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(4) State library administrative agency

The term ''State library administrative agency'' means the official agency of a State charged by the law of the State with the extension and development of public library services throughout the State.

(5) State plan

The term ''State plan'' means the document which gives assurances that the officially designated State library administrative agency has the fiscal and legal authority and capability to administer all aspects of this subchapter, provides assurances for establishing the State's policies, priorities, criteria, and procedures necessary to the implementation of all programs under this subchapter, submits copies for approval as required by regulations promulgated by the Director, identifies a State's library needs, and sets forth the activities to be taken toward meeting the identified needs supported with the assistance of Federal funds made available under this subchapter.

(Pub. L. 94–462, title II, § 213, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–296; amended Pub. L. 105–128, § 3, Dec. 1, 1997, 111 Stat. 2548; Pub. L. 108–81, title II, § 202, Sept. 25, 2003, 117 Stat. 997.)

AMENDMENTS

2003—Pars. (1) to (6). Pub. L. 108–81 redesignated pars. (2) to (6) as (1) to (5), respectively, and struck out heading and text of former par. (1). Text read as follows: ''The term 'Indian tribe' means any tribe, band, nation, or other organized group or community, including any Alaska native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.''

1997—Par. (2)(E). Pub. L. 105–128 inserted ''or other special library'' after ''a private library'' and ''or special'' after ''such private''.

§ 9123. Authorization of appropriations

(a) In general

There are authorized to be appropriated to carry out this subchapter $232,000,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009.

(b) Forward funding

(1) In general

To the end of affording the responsible Federal, State, and local officers adequate notice of available Federal financial assistance for carrying out ongoing library activities and projects, appropriations for grants, contracts, or other payments under any program under this subchapter are authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year during which such activities and projects shall be carried out.

(2) Additional authorization of appropriations

In order to effect a transition to the timing of appropriation action authorized by subsection (a) of this section, the application of this section may result in the enactment, in a fiscal year, of separate appropriations for a program under this subchapter (whether in the same appropriations Act or otherwise) for two consecutive fiscal years.

(c) Administration

Not more than 3.5 percent of the funds appropriated under this section for a fiscal year may be used to pay for the Federal administrative costs of carrying out this subchapter.

(Pub. L. 94–462, title II, § 214, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–296; amended Pub. L. 108–81, title II, § 203, Sept. 25, 2003, 117 Stat. 997.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–81, § 203(1), added subsec. (a) and struck out heading and text of former subsec. (a). Text read as follows:

''(1) IN GENERAL.—There are authorized to be appropriated $150,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2002 to carry out this subchapter.

''(2) TRANSFER.—The Secretary of Education shall—

''(A) transfer promptly to the Director any funds appropriated under the authority of paragraph (1), to enable the Director to carry out this subchapter; and

''(B) not exercise any authority concerning the administration of this chapter other than the transfer described in subparagraph (A).''

Subsec. (c). Pub. L. 108–81, § 203(2), substituted ''3.5 percent'' for ''3 percent''.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–81 effective Oct. 1, 2003, see section 506 of Pub. L. 108–81, set out as a note under section 9101 of this title.

PART 1—BASIC PROGRAM REQUIREMENTS

§ 9131. Reservations and allotments

(a) Reservations

(1) In general

From the amount appropriated under the authority of section 9123 of this title for any fiscal year, the Director—

(A) shall reserve 1.75 percent to award grants in accordance with section 9161 of this title; and

(B) shall reserve 3.75 percent to award national leadership grants or contracts in accordance with section 9162 of this title.

(2) Special rule

If the funds reserved pursuant to paragraph (1)(B) for a fiscal year have not been obligated by the end of such fiscal year, then such funds shall be allotted in accordance with subsection (b) of this section for the fiscal year succeeding the fiscal year for which the funds were so reserved.

(b) Allotments

(1) In general

From the sums appropriated under the authority of section 9123 of this title and not reserved under subsection (a) of this section for any fiscal year, the Director shall award grants from minimum allotments, as determined under paragraph (3), to each State. Any sums remaining after minimum allotments are made for such year shall be allotted in the manner set forth in paragraph (2).

(2) Remainder

From the remainder of any sums appropriated under the authority of section 9123 of this title that are not reserved under subsection (a) of this section and not allotted under paragraph (1) for any fiscal year, the Director shall award grants to each State in an amount that bears the same relation to such remainder as the population of the State bears to the population of all States.

(3) Minimum allotments

(A) In general

For purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(B) Ratable reductions

Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 9123 of this title and not reserved under subsection (a) of this section for any fiscal year is insufficient to fully satisfy the requirement of subparagraph (A), each of the minimum allotments under such subparagraph shall be reduced ratably.

(C) Exception

(i) In general

Notwithstanding subparagraph (A), if the sum appropriated under the authority of section 9123 of this title and not reserved under subsection (a) of this section for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2003—

(I) the minimum allotment for each State otherwise receiving a minimum allotment of $340,000 under subparagraph (A) shall be increased to $680,000; and

(II) the minimum allotment for each State otherwise receiving a minimum allotment of $40,000 under subparagraph (A) shall be increased to $60,000.

(ii) Insufficient funds to award alternative minimum

If the sum appropriated under the authority of section 9123 of this title and not reserved under subsection (a) of this section for any fiscal year exceeds the aggregate of the allotments for all States under this subsection for fiscal year 2003 yet is insufficient to fully satisfy the requirement of clause (i), such excess amount shall first be allotted among the States described in clause (i)(I) so as to increase equally the minimum allotment for each such State above $340,000. After the requirement of clause (i)(I) is fully satisfied for any fiscal year, any remainder of such excess amount shall be allotted among the States described in clause (i)(II) so as to increase equally the minimum allotment for each such State above $40,000.

(D) Special rule

(i) In general

Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to

the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subchapter in accordance with the provisions of this subchapter that the Director determines are not inconsistent with this subparagraph.

(ii) Award basis

The Director shall award grants pursuant to clause (i) on a competitive basis and after taking into consideration available recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(iii) Administrative costs

The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.

(4) Data

The population of each State and of all the States shall be determined by the Director on the basis of the most recent data available from the Bureau of the Census.

(Pub. L. 94–462, title II, § 221, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–297; amended Pub. L. 105–128, § 4, Dec. 1, 1997, 111 Stat. 2548; Pub. L. 108–81, title II, § 204, Sept. 25, 2003, 117 Stat. 997.)

AMENDMENTS

2003—Subsec. (b)(3). Pub. L. 108–81 amended heading and text of par. (3) generally. Prior to amendment, text read as follows:

''(A) IN GENERAL.—For the purposes of this subsection, the minimum allotment for each State shall be $340,000, except that the minimum allotment shall be $40,000 in the case of the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

''(B) RATABLE REDUCTIONS.—If the sum appropriated under the authority of section 9123 of this title and not reserved under subsection (a) of this section for any fiscal year is insufficient to fully satisfy the aggregate of the minimum allotments for all States for that purpose for such year, each of such minimum allotments shall be reduced ratably.

''(C) SPECIAL RULE.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection and using funds allotted for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau under this subsection, the Director shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this subchapter in accordance with the provisions of this subchapter that the Director determines are not inconsistent with this subparagraph.

''(ii) AWARD BASIS.—The Director shall award grants pursuant to clause (i) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

''(iii) TERMINATION OF ELIGIBILITY.—Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this subchapter for any fiscal year that begins after September 30, 2001.

''(iv) ADMINISTRATIVE COSTS.—The Director may provide not more than 5 percent of the funds made available for grants under this subparagraph to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subparagraph.''

1997—Subsec. (a)(1)(A). Pub. L. 105–128, § 4(1), substituted ''1.75 percent'' for ''1½ percent''.

Subsec. (a)(1)(B). Pub. L. 105–128, § 4(2), substituted ''3.75 percent'' for ''4 percent''.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–81 effective Oct. 1, 2003, see section 506 of Pub. L. 108–81, set out as a note under section 9101 of this title.

§ 9132. Administration

(a) In general

Not more than 4 percent of the total amount of funds received under this subchapter for any fiscal year by a State may be used for administrative costs.

(b) Construction

Nothing in this section shall be construed to limit spending for evaluation costs under section 9134(c) of this title from sources other than this subchapter.

(Pub. L. 94–462, title II, § 222, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–298.)

§ 9133. Payments; Federal share; and maintenance of effort requirements

(a) Payments

Subject to appropriations provided pursuant to section 9123 of this title, the Director shall pay to each State library administrative agency having a State plan approved under section 9134 of this title the Federal share of the cost of the activities described in the State plan.

(b) Federal share

(1) In general

The Federal share shall be 66 percent.

(2) Non-Federal share

The non-Federal share of payments shall be provided from non-Federal, State, or local sources.

(c) Maintenance of effort

(1) State expenditures

(A) Requirement

(i) In general

The amount otherwise payable to a State for a fiscal year pursuant to an allotment under this part shall be reduced if the level of State expenditures, as described in paragraph (2), for the previous fiscal year is less than the average of the total of such expenditures for the 3 fiscal years preceding that previous fiscal year. The amount of the reduction in the allotment for any fiscal year shall be equal to the allotment multiplied by a fraction—

(I) the numerator of which is the result obtained by subtracting the level of such State expenditures for the fiscal year for which the determination is made, from the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made; and

(II) the denominator of which is the average of the total level of such State expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.

(ii) Calculation

Any decrease in State expenditures resulting from the application of subparagraph (B) shall be excluded from the calculation of the average level of State expenditures for any 3-year period described in clause (i).

(B) Decrease in Federal support

If the amount made available under this subchapter for a fiscal year is less than the amount made available under this subchapter for the preceding fiscal year, then the expenditures required by subparagraph (A) for such preceding fiscal year shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(2) Level of State expenditures

The level of State expenditures for the purposes of paragraph (1) shall include all State dollars expended by the State library administrative agency for library programs that are consistent with the purposes of this subchapter. All funds included in the maintenance of effort calculation under this subsection shall be expended during the fiscal year for which the determination is made, and shall not include capital expenditures, special one-time project costs, or similar windfalls.

(3) Waiver

The Director may waive the requirements of paragraph (1) if the Director determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(Pub. L. 94–462, title II, §223, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–299; amended Pub. L. 105–128, §5, Dec. 1, 1997, 111 Stat. 2549.)

AMENDMENTS

1997—Subsec. (c)(1)(A)(i). Pub. L. 105–128 amended second sentence generally. Prior to amendment, second sentence read as follows: ''The amount of the reduction in allotment for any fiscal year shall be equal to the amount by which the level of such State expenditures for the fiscal year for which the determination is made is less than the average of the total of such expenditures for the 3 fiscal years preceding the fiscal year for which the determination is made.''

§ 9134. State plans

(a) State plan required

(1) In general

In order to be eligible to receive a grant under this subchapter, a State library administrative agency shall submit a State plan to the Director once every 5 years, as determined by the Director.

(2) Duration

The State plan shall cover a period of 5 fiscal years.

(3) Revisions

If a State library administrative agency makes a substantive revision to its State plan, then the State library administrative agency shall submit to the Director an amendment to the State plan containing such revision not later than April 1 of the fiscal year preceding the fiscal year for which the amendment will be effective.

(b) Contents

The State plan shall—

(1) establish goals, and specify priorities, for the State consistent with the purposes of this subchapter;

(2) describe activities that are consistent with the goals and priorities established under paragraph (1), the purposes of this subchapter, and section 9141 of this title, that the State library administrative agency will carry out during such year using such grant;

(3) describe the procedures that such agency will use to carry out the activities described in paragraph (2);

(4) describe the methodology that such agency will use to evaluate the success of the activities established under paragraph (2) in achieving the goals and meeting the priorities described in paragraph (1);

(5) describe the procedures that such agency will use to involve libraries and library users throughout the State in policy decisions regarding implementation of this subchapter;

(6) provide assurances that the State will comply with subsection (f) of this section; and

(7) provide assurances satisfactory to the Director that such agency will make such reports, in such form and containing such information, as the Director may reasonably require to carry out this subchapter and to determine the extent to which funds provided under this subchapter have been effective in carrying out the purposes of this subchapter.

(c) Evaluation and report

Each State library administrative agency receiving a grant under this subchapter shall independently evaluate, and report to the Director regarding, the activities assisted under this subchapter, prior to the end of the 5-year plan.

(d) Information

Each library receiving assistance under this subchapter shall submit to the State library administrative agency such information as such agency may require to meet the requirements of subsection (c) of this section.

(e) Approval

(1) In general

The Director shall approve any State plan under this subchapter that meets the requirements of this subchapter and provides satisfactory assurances that the provisions of such plan will be carried out.

(2) Public availability

Each State library administrative agency receiving a grant under this subchapter shall make the State plan available to the public.

(3) Administration

If the Director determines that the State plan does not meet the requirements of this section, the Director shall—

(A) immediately notify the State library administrative agency of such determination and the reasons for such determination;

(B) offer the State library administrative agency the opportunity to revise its State plan;

(C) provide technical assistance in order to assist the State library administrative agency in meeting the requirements of this section; and

(D) provide the State library administrative agency the opportunity for a hearing.

(f) Internet safety

(1) In general

No funds made available under this subchapter for a library described in section 9122(1)(A) or (B) of this title that does not receive services at discount rates under section 254(h)(6) of title 47 may be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet, for such library unless—

(A) such library—

(i) has in place a policy of Internet safety for minors that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(I) obscene;

(II) child pornography; or

(III) harmful to minors; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers by minors; and

(B) such library—

(i) has in place a policy of Internet safety that includes the operation of a technology protection measure with respect to any of its computers with Internet access that protects against access through such computers to visual depictions that are—

(I) obscene; or

(II) child pornography; and

(ii) is enforcing the operation of such technology protection measure during any use of such computers.

(2) Access to other materials

Nothing in this subsection shall be construed to prohibit a library from limiting Internet access to or otherwise protecting against materials other than those referred to in subclauses (I), (II), and (III) of paragraph (1)(A)(i).

(3) Disabling during certain use

An administrator, supervisor, or other authority may disable a technology protection measure under paragraph (1) to enable access for bona fide research or other lawful purposes.

(4) Timing and applicability of implementation

(A) In general

A library covered by paragraph (1) shall certify the compliance of such library with the requirements of paragraph (1) as part of the application process for the next program funding year under this subchapter following the effective date of this subsection, and for each subsequent program funding year thereafter.

(B) Process

(i) Libraries with Internet safety policies and technology protection measures in place

A library covered by paragraph (1) that has in place an Internet safety policy meeting the requirements of paragraph (1) shall certify its compliance with paragraph (1) during each annual program application cycle under this subchapter.

(ii) Libraries without Internet safety policies and technology protection measures in place

A library covered by paragraph (1) that does not have in place an Internet safety policy meeting the requirements of paragraph (1)—

(I) for the first program year after the effective date of this subsection in which the library applies for funds under this subchapter, shall certify that it is undertaking such actions, including any necessary procurement procedures, to put in place an Internet safety policy that meets such requirements; and

(II) for the second program year after the effective date of this subsection in which the library applies for funds under this subchapter, shall certify that such library is in compliance with such requirements.

Any library covered by paragraph (1) that is unable to certify compliance with such requirements in such second program year shall be ineligible for all funding under this subchapter for such second program year and all subsequent program years until such time as such library comes into compliance with such requirements.

(iii) Waivers

Any library subject to a certification under clause (ii)(II) that cannot make the certification otherwise required by that clause may seek a waiver of that clause if State or local procurement rules or regulations or competitive bidding requirements prevent the making of the certification

otherwise required by that clause. The library shall notify the Director of the Institute of Museum and Library Services of the applicability of that clause to the library. Such notice shall certify that the library will comply with the requirements in paragraph (1) before the start of the third program year after the effective date of this subsection for which the library is applying for funds under this subchapter.

(5) Noncompliance

(A) Use of General Education Provisions Act remedies

Whenever the Director of the Institute of Museum and Library Services has reason to believe that any recipient of funds this[1] subchapter is failing to comply substantially with the requirements of this subsection, the Director may—

(i) withhold further payments to the recipient under this subchapter,

(ii) issue a complaint to compel compliance of the recipient through a cease and desist order, or

(iii) enter into a compliance agreement with a recipient to bring it into compliance with such requirements.

(B) Recovery of funds prohibited

The actions authorized by subparagraph (A) are the exclusive remedies available with respect to the failure of a library to comply substantially with a provision of this subsection, and the Director shall not seek a recovery of funds from the recipient for such failure.

(C) Recommencement of payments

Whenever the Director determines (whether by certification or other appropriate evidence) that a recipient of funds who is subject to the withholding of payments under subparagraph (A)(i) has cured the failure providing the basis for the withholding of payments, the Director shall cease the withholding of payments to the recipient under that subparagraph.

(6) Separability

If any provision of this subsection is held invalid, the remainder of this subsection shall not be affected thereby.

(7) Definitions

In this subsection:

(A) Child pornography

The term ''child pornography'' has the meaning given such term in section 2256 of title 18.

(B) Harmful to minors

The term ''harmful to minors'' means any picture, image, graphic image file, or other visual depiction that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(C) Minor

The term ''minor'' means an individual who has not attained the age of 17.

(D) Obscene

The term ''obscene'' has the meaning applicable to such term in section 1460 of title 18.

(E) Sexual act; sexual contact

The terms ''sexual act'' and ''sexual contact'' have the meanings given such terms in section 2246 of title 18.

(Pub. L. 94–462, title II, § 224, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–300; amended Pub. L. 106–554, § 1(a)(4) [div. B, title XVII, § 1712(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–340; Pub. L. 108–81, title II, § 205, title V, § 504(f), Sept. 25, 2003, 117 Stat. 999, 1004.)

REFERENCES IN TEXT

For the effective date of this subsection, referred to in subsec. (f)(4), as 120 days after Dec. 21, 2000, see § 1(a)(4) [div. B, title XVII, § 1712(b)] of Pub. L. 106–554, set out as an Effective Date of 2000 Amendment note below.

The General Education Provisions Act, referred to in subsec. (f)(5)(A), is title IV of Pub. L. 90–247, Jan. 2, 1968, 81 Stat. 814, as amended, which is classified generally to chapter 31 (§ 1221 et seq.) of this title. For complete classification of this Act to the Code, see section 1221 of this title and Tables.

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108–81, § 205(1), substituted ''once every 5 years, as determined by the Director.'' for ''not later than April 1, 1997.''

Subsec. (b)(5). Pub. L. 108–81, § 504(f), struck out ''and'' at end.

Subsec. (f). Pub. L. 108–81, § 205(2)(A), substituted ''this subchapter'' for ''this chapter'' wherever appearing.

Subsec. (f)(1). Pub. L. 108–81, § 205(2)(B), substituted ''section 9122(1)(A) or (B)'' for ''9122(2)(A) or (B)'' and made technical amendment to reference in original act which appears in text as reference to section 254(h)(6) of title 47.

Subsec. (f)(7). Pub. L. 108–81, § 205(2)(C)(i), substituted ''subsection:'' for ''section:'' in introductory provisions.

Subsec. (f)(7)(D). Pub. L. 108–81, § 205(2)(C)(ii), substituted ''applicable to'' for ''given''.

2000—Subsec. (b)(6), (7). Pub. L. 106–554, § 1(a)(4) [div. B, title XVII, § 1712(a)(1)], added par. (6) and redesignated former par. (6) as (7).

Subsec. (f). Pub. L. 106–554, § 1(a)(4) [div. B, title XVII, § 1712(a)(2)], added subsec. (f).

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, § 1(a)(4) [div. B, title XVII, § 1712(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–343, provided that: ''The amendment made by this section [amending this section] shall take effect 120 days after the date of the enactment of this Act [Dec. 21, 2000].''

AVAILABILITY OF CERTAIN FUNDS FOR ACQUISITION OF TECHNOLOGY PROTECTION MEASURES

Pub. L. 106–554, § 1(a)(4) [div. B, title XVII, § 1721(g)], Dec. 21, 2000, 114 Stat. 2763, 2763A–350, provided that:

[1] So in original. Probably should be preceded by ''under''.

''(1) IN GENERAL.—Notwithstanding any other provision of law, funds available under section 3134 [former 20 U.S.C. 6844] or part A of title VI of the Elementary and Secondary Education Act of 1965 [former 20 U.S.C. 7311 et seq.], or under section 231 of the Library Services and Technology Act [20 U.S.C. 9141], may be used for the purchase or acquisition of technology protection measures that are necessary to meet the requirements of this title [see Short Title of 2000 Amendments note set out under section 6301 of this title] and the amendments made by this title. No other sources of funds for the purchase or acquisition of such measures are authorized by this title, or the amendments made by this title.

''(2) TECHNOLOGY PROTECTION MEASURE DEFINED.—In this section, the term 'technology protection measure' has the meaning given that term in section 1703 [set out as a note under section 902 of Title 47, Telegraphs, Telephones, and Radiotelegraphs].''

PART 2—LIBRARY PROGRAMS

§ 9141. Grants to States

(a) In general

Of the funds provided to a State library administrative agency under section 9123 of this title, such agency shall expend, either directly or through subgrants or cooperative agreements, at least 96 percent of such funds for—

(1) expanding services for learning and access to information and educational resources in a variety of formats, in all types of libraries, for individuals of all ages;

(2) developing library services that provide all users access to information through local, State, regional, national, and international electronic networks;

(3) providing electronic and other linkages among and between all types of libraries;

(4) developing public and private partnerships with other agencies and community-based organizations;

(5) targeting library services to individuals of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to individuals with limited functional literacy or information skills; and

(6) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved.

(b) Special rule

Each State library administrative agency receiving funds under this part may apportion the funds available for the purposes described in subsection (a) of this section among such purposes, as appropriate, to meet the needs of the individual State.

(Pub. L. 94–462, title II, § 231, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–301; amended Pub. L. 108–81, title II, § 206, Sept. 25, 2003, 117 Stat. 999.)

AMENDMENTS

2003—Subsec. (a)(1) to (6). Pub. L. 108–81, § 206(1), added pars. (1) to (6) and struck out former pars. (1) and (2) which read as follows:

''(1)(A) establishing or enhancing electronic linkages among or between libraries;

''(B) electronically linking libraries with educational, social, or information services;

''(C) assisting libraries in accessing information through electronic networks;

''(D) encouraging libraries in different areas, and encouraging different types of libraries, to establish consortia and share resources; or

''(E) paying costs for libraries to acquire or share computer systems and telecommunications technologies; and

''(2) targeting library and information services to persons having difficulty using a library and to underserved urban and rural communities, including children (from birth through age 17) from families with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved.''

Subsec. (b). Pub. L. 108–81, § 206(2), substituted ''among such purposes,'' for ''between the two purposes described in paragraphs (1) and (2) of such subsection,''.

PART 3—ADMINISTRATIVE PROVISIONS

SUBPART A—STATE REQUIREMENTS

§ 9151. State advisory councils

Each State desiring assistance under this subchapter may establish a State advisory council which is broadly representative of the library entities in the State, including public, school, academic, special, and institutional libraries, and libraries serving individuals with disabilities.

(Pub. L. 94–462, title II, § 251, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–301.)

SUBPART B—FEDERAL REQUIREMENTS

§ 9161. Services for Native Americans

From amounts reserved under section 9131(a)(1)(A) of this title for any fiscal year the Director shall award grants to Indian tribes and to organizations that primarily serve and represent Native Hawaiians (as the term is defined in section 7517 of this title) to enable such tribes and organizations to carry out the activities described in section 9141 of this title.

(Pub. L. 94–462, title II, § 261, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–302; amended Pub. L. 105–128, § 6, Dec. 1, 1997, 111 Stat. 2549; Pub. L. 107–110, title VII, § 702(d), Jan. 8, 2002, 115 Stat. 1947.)

AMENDMENTS

2002—Pub. L. 107–110 substituted ''7517'' for ''7912''.

1997—Pub. L. 105–128 substituted ''Native Americans'' for ''Indian tribes'' in section catchline and in text substituted ''to Indian tribes and to organizations that primarily serve and represent Native Hawaiians (as the term is defined in section 7912 of this title) to enable such tribes and organizations'' for ''to organizations primarily serving and representing Indian tribes to enable such organizations''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 9162. National leadership grants, contracts, or cooperative agreements

(a) In general

From the amounts reserved under section 9131(a)(1)(B) of this title for any fiscal year the Director shall establish and carry out a program of awarding grants or entering into contracts or cooperative agreements to enhance the quality of library services nationwide and to provide coordination between libraries and museums. Such grants, contracts, and cooperative agreements shall be used for activities that may include—

(1) education, recruitment, and training of persons in library and information science, particularly in areas of new technology and other critical needs, including graduate fellowships, traineeships, institutes, or other programs;

(2) research and demonstration projects related to the improvement of libraries, education in library and information science, enhancement of library services through effective and efficient use of new technologies, and dissemination of information derived from such projects;

(3) preserving or digitization of library materials and resources, giving priority to projects emphasizing coordination, avoidance of duplication, and access by researchers beyond the institution or library entity undertaking the project; and

(4) model programs demonstrating cooperative efforts between libraries and museums.

(b) Grants, contracts, or cooperative agreements

(1) In general

The Director may carry out the activities described in subsection (a) of this section by awarding grants to, or entering into contracts or cooperative agreements with, libraries, agencies, institutions of higher education, or museums, where appropriate.

(2) Competitive basis

Grants, contracts, and cooperative agreements under this section shall be awarded on a competitive basis.

(c) Special rule

The Director shall make every effort to ensure that activities assisted under this section are administered by appropriate library and museum professionals or experts.

(Pub. L. 94–462, title II, § 262, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–302; amended Pub. L. 105–128, §§ 7, 8, Dec. 1, 1997, 111 Stat. 2549, 2550; Pub. L. 108–81, title II, § 207, title V, § 504(g), Sept. 25, 2003, 117 Stat. 1000, 1004.)

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108–81, § 207, substituted ''education, recruitment, and training'' for ''education and training''.

Subsec. (b)(1). Pub. L. 108–81, § 504(g), substituted ''cooperative agreements with,'' for ''cooperative agreements, with,''.

1997—Pub. L. 105–128, § 7(1), substituted section catchline for former catchline which read as follows: ''National leadership grants or contracts''.

Subsec. (a). Pub. L. 105–128, § 7(2), in introductory provisions, substituted ''program of awarding grants or entering into contracts or cooperative agreements'' for ''program awarding national leadership grants or contracts'' and ''Such grants, contracts, and cooperative agreements'' for ''Such grants or contracts''.

Subsec. (a)(3). Pub. L. 105–128, § 8, substituted ''preserving or digitization'' for ''preservation of digitization''.

Subsec. (b). Pub. L. 105–128, § 7(3)(A), substituted heading for former heading which read as follows: ''Grants or contracts''.

Subsec. (b)(1). Pub. L. 105–128, § 7(3)(B), inserted ''or cooperative agreements,'' after ''contracts''.

Subsec. (b)(2). Pub. L. 105–128, § 7(3)(C), substituted ''Grants, contracts, and cooperative agreements'' for ''Grants and contracts''.

§ 9163. State and local initiatives

Nothing in this subchapter shall be construed to interfere with State and local initiatives and responsibility in the conduct of library services. The administration of libraries, the selection of personnel and library books and materials, and insofar as consistent with the purposes of this subchapter, the determination of the best uses of the funds provided under this subchapter, shall be reserved for the States and their local subdivisions.

(Pub. L. 94–462, title II, § 263, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–302.)

SUBCHAPTER III—MUSEUM SERVICES

§ 9171. Purpose

It is the purpose of this subchapter—

(1) to encourage and support museums in carrying out their public service role of connecting the whole of society to the cultural, artistic, historical, natural, and scientific understandings that constitute our heritage;

(2) to encourage and support museums in carrying out their educational role, as core providers of learning and in conjunction with schools, families, and communities;

(3) to encourage leadership, innovation, and applications of the most current technologies and practices to enhance museum services;

(4) to assist, encourage, and support museums in carrying out their stewardship responsibilities to achieve the highest standards in conservation and care of the cultural, historic, natural, and scientific heritage of the United States to benefit future generations;

(5) to assist, encourage, and support museums in achieving the highest standards of management and service to the public, and to ease the financial burden borne by museums as a result of their increasing use by the public; and

(6) to support resource sharing and partnerships among museums, libraries, schools, and other community organizations.

(Pub. L. 94–462, title II, § 272, formerly § 271, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–302; renumbered § 272 and amended Pub. L. 108–81, title III, §§ 301, 306(1), Sept. 25, 2003, 117 Stat. 1000, 1002.)

PRIOR PROVISIONS

A prior section 272 of Pub. L. 94–462 was renumbered section 273 and is classified to section 9172 of this title.

AMENDMENTS

2003—Pub. L. 108–81, § 301, amended section catchline and text generally. Prior to amendment, text read as follows: ''It is the purpose of this subchapter—

''(1) to encourage and assist museums in their educational role, in conjunction with formal systems of elementary, secondary, and postsecondary education and with programs of nonformal education for all age groups;

''(2) to assist museums in modernizing their methods and facilities so that the museums are better able to conserve the cultural, historic, and scientific heritage of the United States; and

''(3) to ease the financial burden borne by museums as a result of their increasing use by the public.''

§ 9172. Definitions

As used in this subchapter:

(1) Museum

The term ''museum'' means a public or private nonprofit agency or institution organized on a permanent basis for essentially educational or aesthetic purposes, that utilizes a professional staff, owns or utilizes tangible objects, cares for the tangible objects, and exhibits the tangible objects to the public on a regular basis. Such term includes aquariums, arboretums, botanical gardens, art museums, children's museums, general museums, historic houses and sites, history museums, nature centers, natural history and anthropology museums, planetariums, science and technology centers, specialized museums, and zoological parks.

(2) State

The term ''State'' means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(Pub. L. 94–462, title II, § 273, formerly § 272, as added Pub. L. 104–208, div. A, title I, § 101(e) [title VII, § 702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–303; renumbered § 273 and amended Pub. L. 108–81, title III, §§ 302, 306(1), Sept. 25, 2003, 117 Stat. 1000, 1002.)

PRIOR PROVISIONS

A prior section 273 of Pub. L. 94–462 was renumbered section 274 and is classified to section 9173 of this title.

AMENDMENTS

2003—Par. (1). Pub. L. 108–81, § 302, inserted at end: ''Such term includes aquariums, arboretums, botanical gardens, art museums, children's museums, general museums, historic houses and sites, history museums, nature centers, natural history and anthropology museums, planetariums, science and technology centers, specialized museums, and zoological parks.''

§ 9173. Museum services activities

(a) In general

The Director, subject to the policy advice of the Museum and Library Services Board, may enter into arrangements, including grants, contracts, cooperative agreements, and other forms of assistance, with museums and other entities as the Director considers appropriate, to pay the Federal share of the cost of—

(1) supporting museums in providing learning and access to collections, information, and educational resources in a variety of formats (including exhibitions, programs, publications, and websites) for individuals of all ages;

(2) supporting museums in building learning partnerships with the Nation's schools and developing museum resources and programs in support of State and local school curricula;

(3) supporting museums in assessing, conserving, researching, maintaining, and exhibiting their collections, and in providing educational programs to the public through the use of their collections;

(4) stimulating greater collaboration among museums, libraries, schools, and other community organizations in order to share resources and strengthen communities;

(5) encouraging the use of new technologies and broadcast media to enhance access to museum collections, programs, and services;

(6) supporting museums in providing services to people of diverse geographic, cultural, and socioeconomic backgrounds and to individuals with disabilities;

(7) supporting museums in developing and carrying out specialized programs for specific segments of the public, such as programs for urban neighborhoods, rural areas, Indian reservations, and State institutions;

(8) supporting professional development and technical assistance programs to enhance museum operations at all levels, in order to ensure the highest standards in all aspects of museum operations;

(9) supporting museums in research, program evaluation, and the collection and dissemination of information to museum professionals and the public; and

(10) encouraging, supporting, and disseminating model programs of museum and library collaboration.

(b) Federal share

(1) 50 percent

Except as provided in paragraph (2), the Federal share described in subsection (a) of this section shall be not more than 50 percent.

(2) Greater than 50 percent

The Director may use not more than 20 percent of the funds made available under this subchapter for a fiscal year to enter into arrangements under subsection (a) of this section for which the Federal share may be greater than 50 percent.

(3) Operational expenses

No funds for operational expenses may be provided under this section to any entity that is not a museum.

(c) Review and evaluation

(1) In general

The Director shall establish procedures for reviewing and evaluating arrangements described in subsection (a) of this section entered into under this subchapter.

(2) Applications for technical assistance

(A) In general

The Director may use not more than 10 percent of the funds appropriated to carry

out this subchapter for technical assistance awards.

(B) Individual museums

Individual museums may receive not more than 3 technical assistance awards under subparagraph (A), but subsequent awards for technical assistance shall be subject to review outside the Institute.

(d) Services for Native Americans

From amounts appropriated under section 9176 of this title, the Director shall reserve 1.75 percent to award grants to, or enter into contracts or cooperative agreements with, Indian tribes and organizations that primarily serve and represent Native Hawaiians (as defined in section 7517 of this title), to enable such tribes and organizations to carry out the activities described in subsection (a) of this section.

(Pub. L. 94–462, title II, §274, formerly §273, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–303; renumbered §274 and amended Pub. L. 108–81, title III, §§303, 306(1), Sept. 25, 2003, 117 Stat. 1000, 1002.)

PRIOR PROVISIONS

A prior section 274 of Pub. L. 94–462 was classified to section 9174 of this title, prior to repeal by Pub. L. 108–81.

AMENDMENTS

2003—Pub. L. 108–81, §303, amended section catchline and text generally. Prior to amendment, section contained provisions which in subsec. (a) authorized the Director to make grants to museums to pay for the Federal share of the cost of increasing and improving museum services, in subsec. (b) authorized the Director to enter into contracts and cooperative agreements with appropriate entities to pay for the Federal share of enabling the entities to undertake projects designed to strengthen museum services, in subsec. (c) established the Federal share, and in subsec. (d) required the Director to establish procedures for reviewing and evaluating grants, contracts, and cooperative agreements entered into under this subchapter.

§§ 9174, 9175. Repealed. Pub. L. 108–81, title III, § 304, Sept. 25, 2003, 117 Stat. 1002

Section 9174, Pub. L. 94–462, title II, §274, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–304, related to National Award for Museum Service.

Section 9175, Pub. L. 94–462, title II, §275, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–304, related to National Museum Services Board.

§ 9176. Authorization of appropriations

(a) Grants

For the purpose of carrying out this subchapter, there are authorized to be appropriated to the Director $38,600,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009.

(b) Administration

Not more than 10 percent of the funds appropriated under this section for a fiscal year may be used to pay for the administrative costs of carrying out this subchapter.

(c) Sums remaining available

Sums appropriated pursuant to subsection (a) of this section for any fiscal year shall remain available for obligation until expended.

(Pub. L. 94–462, title II, §275, formerly §276, as added Pub. L. 104–208, div. A, title I, §101(e) [title VII, §702], Sept. 30, 1996, 110 Stat. 3009–233, 3009–306; renumbered §275 and amended Pub. L. 108–81, title III, §305, Sept. 25, 2003, 117 Stat. 1002.)

PRIOR PROVISIONS

A prior section 275 of Pub. L. 94–462 was classified to section 9175 of this title, prior to repeal by Pub. L. 108–81.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–81, §305(1), substituted ''$38,600,000 for fiscal year 2004 and such sums as may be necessary for fiscal years 2005 through 2009.'' for ''$28,700,000 for the fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2002.''

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–81 effective Oct. 1, 2003, see section 506 of Pub. L. 108–81, set out as a note under section 9101 of this title.

CHAPTER 73—ADULT EDUCATION AND LITERACY

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SUBCHAPTER I—ADULT EDUCATION AND FAMILY LITERACY

§ 9201. Purpose

It is the purpose of this subchapter to create a partnership among the Federal Government, States, and localities to provide, on a voluntary basis, adult education and literacy services, in order to—

(1) assist adults to become literate and obtain the knowledge and skills necessary for employment and self-sufficiency;

(2) assist adults who are parents to obtain the educational skills necessary to become full partners in the educational development of their children; and

(3) assist adults in the completion of a secondary school education.

(Pub. L. 105–220, title II, § 202, Aug. 7, 1998, 112 Stat. 1059.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original ''this title'', meaning title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, known as the Adult Education and Family Literacy Act. For complete classification of title II to the Code, see Short Title note set out below and Tables.

EFFECTIVE DATE

Pub. L. 105–220, title V, § 507, Aug. 7, 1998, 112 Stat. 1247, provided that: ''Except as otherwise provided in this Act [see Tables for classification], this Act and the amendments made by this Act, shall take effect on the date of the enactment of this Act [Aug. 7, 1998].''

SHORT TITLE

Pub. L. 105–220, § 1(a), Aug. 7, 1998, 112 Stat. 936, provided that: ''This Act [see Tables for classification] may be cited as the 'Workforce Investment Act of 1998'.''

Pub. L. 105–220, title II, § 201, Aug. 7, 1998, 112 Stat. 1059, provided that: ''This title [enacting this subchapter, amending sections 6362, 6365, 6366, 6813, and 7881 of this title and section 3013 of Title 42, The Public Health and Welfare, and repealing sections 1201 to 1213d of this title and provisions set out as notes under sections 1201, 1213c, 2963, and 2966 of this title] may be cited as the 'Adult Education and Family Literacy Act'.''

§ 9202. Definitions

In this subchapter:

(1) Adult education

The term ''adult education'' means services or instruction below the postsecondary level for individuals—

(A) who have attained 16 years of age;

(B) who are not enrolled or required to be enrolled in secondary school under State law; and

(C) who—

(i) lack sufficient mastery of basic educational skills to enable the individuals to function effectively in society;

(ii) do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or

(iii) are unable to speak, read, or write the English language.

(2) Adult education and literacy activities

The term ''adult education and literacy activities'' means activities described in section 9241(b) of this title.

(3) Educational service agency

The term ''educational service agency'' means a regional public multiservice agency

authorized by State statute to develop and manage a service or program, and to provide the service or program to a local educational agency.

(4) Eligible agency

The term ''eligible agency'' means the sole entity or agency in a State or an outlying area responsible for administering or supervising policy for adult education and literacy in the State or outlying area, respectively, consistent with the law of the State or outlying area, respectively.

(5) Eligible provider

The term ''eligible provider'' means—

(A) a local educational agency;

(B) a community-based organization of demonstrated effectiveness;

(C) a volunteer literacy organization of demonstrated effectiveness;

(D) an institution of higher education;

(E) a public or private nonprofit agency;

(F) a library;

(G) a public housing authority;

(H) a nonprofit institution that is not described in any of subparagraphs (A) through (G) and has the ability to provide literacy services to adults and families; and

(I) a consortium of the agencies, organizations, institutions, libraries, or authorities described in any of subparagraphs (A) through (H).

(6) English literacy program

The term ''English literacy program'' means a program of instruction designed to help individuals of limited English proficiency achieve competence in the English language.

(7) Family literacy services

The term ''family literacy services'' means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency.

(D) An age-appropriate education to prepare children for success in school and life experiences.

(8) Governor

The term ''Governor'' means the chief executive officer of a State or outlying area.

(9) Individual with a disability

(A) In general

The term ''individual with a disability'' means an individual with any disability (as defined in section 12102 of title 42).

(B) Individuals with disabilities

The term ''individuals with disabilities'' means more than one individual with a disability.

(10) Individual of limited English proficiency

The term ''individual of limited English proficiency'' means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language, and—

(A) whose native language is a language other than English; or

(B) who lives in a family or community environment where a language other than English is the dominant language.

(11) Institution of higher education

The term ''institution of higher education'' has the meaning given the term in section 1001 of this title.

(12) Literacy

The term ''literacy'' means an individual's ability to read, write, and speak in English, compute, and solve problems, at levels of proficiency necessary to function on the job, in the family of the individual, and in society.

(13) Local educational agency

The term ''local educational agency'' has the meaning given the term in section 7801 of this title.

(14) Outlying area

The term ''outlying area'' has the meaning given the term in section 2801 of title 29.

(15) Postsecondary educational institution

The term ''postsecondary educational institution'' means—

(A) an institution of higher education that provides not less than a 2-year program of instruction that is acceptable for credit toward a bachelor's degree;

(B) a tribally controlled community college; or

(C) a nonprofit educational institution offering certificate or apprenticeship programs at the postsecondary level.

(16) Secretary

The term ''Secretary'' means the Secretary of Education.

(17) State

The term ''State'' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(18) Workplace literacy services

The term ''workplace literacy services'' means literacy services that are offered for the purpose of improving the productivity of the workforce through the improvement of literacy skills.

(Pub. L. 105–220, title II, § 203, Aug. 7, 1998, 112 Stat. 1060; Pub. L. 105–244, title I, § 102(d)(2), Oct. 7, 1998, 112 Stat. 1622; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 404(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–416; Pub. L. 107–110, title X, § 1076(s), Jan. 8, 2002, 115 Stat. 2092.)

AMENDMENTS

2002—Par. (13). Pub. L. 107–110 substituted ''section 7801'' for ''section 8801''.

1998—Pub. L. 105–277 made technical amendment to reference in original act which appears in text as reference to this subchapter.

Par. (11). Pub. L. 105–244 substituted ''section 1001'' for ''section 1141''.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of this title.

§ 9203. Home schools

Nothing in this subchapter shall be construed to affect home schools, or to compel a parent engaged in home schooling to participate in an English literacy program, family literacy services, or adult education.

(Pub. L. 105–220, title II, § 204, Aug. 7, 1998, 112 Stat. 1062; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 404(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–416.)

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment to reference in original act which appears in text as reference to this subchapter.

§ 9204. Authorization of appropriations

There is authorized to be appropriated to carry out this subchapter such sums as may be necessary for each of the fiscal years 1999 through 2003.

(Pub. L. 105–220, title II, § 205, Aug. 7, 1998, 112 Stat. 1062; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 404(a)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–416.)

AMENDMENTS

1998—Pub. L. 105–277 made technical amendment to reference in original act which appears in text as reference to this subchapter.

PART A—ADULT EDUCATION AND LITERACY PROGRAMS

CODIFICATION

This part was, in the original, designated subtitle A of title II of Pub. L. 105–220 and has been redesignated part A of this subchapter for purposes of codification. This subchapter does not contain a part B, because subtitle B (§ 251) of title II of Pub. L. 105–220 repealed numerous sections of the Code and has been executed to those sections, see Tables.

SUBPART 1—FEDERAL PROVISIONS

§ 9211. Reservation of funds; grants to eligible agencies; allotments

(a) Reservation of funds

From the sum appropriated under section 9204 of this title for a fiscal year, the Secretary—

(1) shall reserve 1.5 percent to carry out section 9252 of this title, except that the amount so reserved shall not exceed $8,000,000;

(2) shall reserve 1.5 percent to carry out section 9253 of this title, except that the amount so reserved shall not exceed $8,000,000; and

(3) shall make available, to the Secretary of Labor, 1.72 percent for incentive grants under section 9273 of this title.

(b) Grants to eligible agencies

(1) In general

From the sum appropriated under section 9204 of this title and not reserved under subsection (a) of this section for a fiscal year, the Secretary shall award a grant to each eligible agency having a State plan approved under section 9224 of this title in an amount equal to the sum of the initial allotment under subsection (c)(1) of this section and the additional allotment under subsection (c)(2) of this section for the eligible agency for the fiscal year, subject to subsections (f) and (g) of this section, to enable the eligible agency to carry out the activities assisted under this part.

(2) Purpose of grants

The Secretary may award a grant under paragraph (1) only if the eligible entity involved agrees to expend the grant for adult education and literacy activities in accordance with the provisions of this part.

(c) Allotments

(1) Initial allotments

From the sum appropriated under section 9204 of this title and not reserved under subsection (a) of this section for a fiscal year, the Secretary shall allot to each eligible agency having a State plan approved under section 9224(f) of this title—

(A) $100,000, in the case of an eligible agency serving an outlying area; and

(B) $250,000, in the case of any other eligible agency.

(2) Additional allotments

From the sum appropriated under section 9204 of this title, not reserved under subsection (a) of this section, and not allotted under paragraph (1), for a fiscal year, the Secretary shall allot to each eligible agency that receives an initial allotment under paragraph (1) an additional amount that bears the same relationship to such sum as the number of qualifying adults in the State or outlying area served by the eligible agency bears to the number of such adults in all States and outlying areas.

(d) Qualifying adult

For the purpose of subsection (c)(2) of this section, the term ''qualifying adult'' means an adult who—

(1) is at least 16 years of age;

(2) is beyond the age of compulsory school attendance under the law of the State or outlying area;

(3) does not have a secondary school diploma or its recognized equivalent; and

(4) is not enrolled in secondary school.

(e) Special rule

(1) In general

From amounts made available under subsection (c) of this section for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, the Secretary shall award grants to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Mar-

shall Islands, the Federated States of Micronesia, or the Republic of Palau to carry out activities described in this part in accordance with the provisions of this part that the Secretary determines are not inconsistent with this subsection.

(2) Award basis

The Secretary shall award grants pursuant to paragraph (1) on a competitive basis and pursuant to recommendations from the Pacific Region Educational Laboratory in Honolulu, Hawaii.

(3) Termination of eligibility

Notwithstanding any other provision of law, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau shall not receive any funds under this part for any fiscal year that begins after September 30, 2001.

(4) Administrative costs

The Secretary may provide not more than 5 percent of the funds made available for grants under this subsection to pay the administrative costs of the Pacific Region Educational Laboratory regarding activities assisted under this subsection.

(f) Hold-harmless

(1) In general

Notwithstanding subsection (c) of this section—

(A) for fiscal year 1999, no eligible agency shall receive an allotment under this part that is less than 90 percent of the payments made to the State or outlying area of the eligible agency for fiscal year 1998 for programs for which funds were authorized to be appropriated under section 313 of the Adult Education Act (as such Act was in effect on the day before August 7, 1998); and

(B) for fiscal year 2000 and each succeeding fiscal year, no eligible agency shall receive an allotment under this part that is less than 90 percent of the allotment the eligible agency received for the preceding fiscal year under this part.

(2) Ratable reduction

If for any fiscal year the amount available for allotment under this part is insufficient to satisfy the provisions of paragraph (1), the Secretary shall ratably reduce the payments to all eligible agencies, as necessary.

(g) Reallotment

The portion of any eligible agency's allotment under this part for a fiscal year that the Secretary determines will not be required for the period such allotment is available for carrying out activities under this part, shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other eligible agencies in proportion to the original allotments to such agencies under this part for such year.

(Pub. L. 105–220, title II, §211, Aug. 7, 1998, 112 Stat. 1062; Pub. L. 105–277, div. A, §101(f) [title VIII, §404(b)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–416.)

REFERENCES IN TEXT

Section 313 of the Adult Education Act (as such Act was in effect on the day before August 7, 1998), referred to in subsec. (f)(1)(A), means section 313 of Pub. L. 89–750, which was classified to section 1201b of this title, prior to repeal by Pub. L. 105–220, title II, §251(a)(1), Aug. 7, 1998, 112 Stat. 1079.

AMENDMENTS

1998—Subsec. (d)(1). Pub. L. 105–277 struck out '', but less than 61 years of age'' after ''16 years of age''.

§ 9212. Performance accountability system

(a) Purpose

The purpose of this section is to establish a comprehensive performance accountability system, comprised of the activities described in this section, to assess the effectiveness of eligible agencies in achieving continuous improvement of adult education and literacy activities funded under this part, in order to optimize the return on investment of Federal funds in adult education and literacy activities.

(b) Eligible agency performance measures

(1) In general

For each eligible agency, the eligible agency performance measures shall consist of—

(A)(i) the core indicators of performance described in paragraph (2)(A); and

(ii) additional indicators of performance (if any) identified by the eligible agency under paragraph (2)(B); and

(B) an eligible agency adjusted level of performance for each indicator described in subparagraph (A).

(2) Indicators of performance

(A) Core indicators of performance

The core indicators of performance shall include the following:

(i) Demonstrated improvements in literacy skill levels in reading, writing, and speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills.

(ii) Placement in, retention in, or completion of, postsecondary education, training, unsubsidized employment or career advancement.

(iii) Receipt of a secondary school diploma or its recognized equivalent.

(B) Additional indicators

An eligible agency may identify in the State plan additional indicators for adult education and literacy activities authorized under this part.

(3) Levels of performance

(A) Eligible agency adjusted levels of performance for core indicators

(i) In general

For each eligible agency submitting a State plan, there shall be established, in accordance with this subparagraph, levels of performance for each of the core indicators of performance described in paragraph (2)(A) for adult education and literacy activities authorized under this part. The levels of performance established under this subparagraph shall, at a minimum—

(I) be expressed in an objective, quantifiable, and measurable form; and

(II) show the progress of the eligible agency toward continuously improving in performance.

(ii) Identification in State plan

Each eligible agency shall identify, in the State plan submitted under section 9224 of this title, expected levels of performance for each of the core indicators of performance for the first 3 program years covered by the State plan.

(iii) Agreement on eligible agency adjusted levels of performance for first 3 years

In order to ensure an optimal return on the investment of Federal funds in adult education and literacy activities authorized under this part, the Secretary and each eligible agency shall reach agreement on levels of performance for each of the core indicators of performance, for the first 3 program years covered by the State plan, taking into account the levels identified in the State plan under clause (ii) and the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be incorporated into the State plan prior to the approval of such plan.

(iv) Factors

The agreement described in clause (iii) or (v) shall take into account—

(I) how the levels involved compare with the eligible agency adjusted levels of performance established for other eligible agencies, taking into account factors including the characteristics of participants when the participants entered the program, and the services or instruction to be provided; and

(II) the extent to which such levels involved promote continuous improvement in performance on the performance measures by such eligible agency and ensure optimal return on the investment of Federal funds.

(v) Agreement on eligible agency adjusted levels of performance for 4th and 5th years

Prior to the fourth program year covered by the State plan, the Secretary and each eligible agency shall reach agreement on levels of performance for each of the core indicators of performance for the fourth and fifth program years covered by the State plan, taking into account the factors described in clause (iv). The levels agreed to under this clause shall be considered to be the eligible agency adjusted levels of performance for the eligible agency for such years and shall be incorporated into the State plan.

(vi) Revisions

If unanticipated circumstances arise in a State resulting in a significant change in the factors described in clause (iv)(II), the eligible agency may request that the eligible agency adjusted levels of performance agreed to under clause (iii) or (v) be revised. The Secretary, after collaboration with the representatives described in section 2871(i)(1) of title 29, shall issue objective criteria and methods for making such revisions.

(B) Levels of performance for additional indicators

The eligible agency may identify, in the State plan, eligible agency levels of performance for each of the additional indicators described in paragraph (2)(B). Such levels shall be considered to be eligible agency adjusted levels of performance for purposes of this part.

(c) Report

(1) In general

Each eligible agency that receives a grant under section 9211(b) of this title shall annually prepare and submit to the Secretary a report on the progress of the eligible agency in achieving eligible agency performance measures, including information on the levels of performance achieved by the eligible agency with respect to the core indicators of performance.

(2) Information dissemination

The Secretary—

(A) shall make the information contained in such reports available to the general public through publication and other appropriate methods;

(B) shall disseminate State-by-State comparisons of the information; and

(C) shall provide the appropriate committees of Congress with copies of such reports.

(Pub. L. 105–220, title II, § 212, Aug. 7, 1998, 112 Stat. 1064; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 404(c)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–416.)

AMENDMENTS

1998—Subsec. (b)(3)(A)(vi). Pub. L. 105–277 substituted ''2871(i)(1) of title 29'' for ''2871(j) of title 29''.

SUBPART 2—STATE PROVISIONS

§ 9221. State administration

Each eligible agency shall be responsible for the State or outlying area administration of activities under this part, including—

(1) the development, submission, and implementation of the State plan;

(2) consultation with other appropriate agencies, groups, and individuals that are involved in, or interested in, the development and implementation of activities assisted under this part; and

(3) coordination and nonduplication with other Federal and State education, training, corrections, public housing, and social service programs.

(Pub. L. 105–220, title II, § 221, Aug. 7, 1998, 112 Stat. 1066.)

§ 9222. State distribution of funds; matching requirement

(a) State distribution of funds

Each eligible agency receiving a grant under this part for a fiscal year—

(1) shall use not less than 82.5 percent of the grant funds to award grants and contracts under section 9241 of this title and to carry out section 9225 of this title, of which not more than 10 percent of the 82.5 percent shall be available to carry out section 9225 of this title;

(2) shall use not more than 12.5 percent of the grant funds to carry out State leadership activities under section 9223 of this title; and

(3) shall use not more than 5 percent of the grant funds, or $65,000, whichever is greater, for the administrative expenses of the eligible agency.

(b) Matching requirement

(1) In general

In order to receive a grant from the Secretary under section 9211(b) of this title each eligible agency shall provide, for the costs to be incurred by the eligible agency in carrying out the adult education and literacy activities for which the grant is awarded, a non-Federal contribution in an amount equal to—

(A) in the case of an eligible agency serving an outlying area, 12 percent of the total amount of funds expended for adult education and literacy activities in the outlying area, except that the Secretary may decrease the amount of funds required under this subparagraph for an eligible agency; and

(B) in the case of an eligible agency serving a State, 25 percent of the total amount of funds expended for adult education and literacy activities in the State.

(2) Non-Federal contribution

An eligible agency's non-Federal contribution required under paragraph (1) may be provided in cash or in kind, fairly evaluated, and shall include only non-Federal funds that are used for adult education and literacy activities in a manner that is consistent with the purpose of this part.

(Pub. L. 105–220, title II, § 222, Aug. 7, 1998, 112 Stat. 1066.)

§ 9223. State leadership activities

(a) In general

Each eligible agency shall use funds made available under section 9222(a)(2) of this title for one or more of the following adult education and literacy activities:

(1) The establishment or operation of professional development programs to improve the quality of instruction provided pursuant to local activities required under section 9241(b) of this title, including instruction incorporating phonemic awareness, systematic phonics, fluency, and reading comprehension, and instruction provided by volunteers or by personnel of a State or outlying area.

(2) The provision of technical assistance to eligible providers of adult education and literacy activities.

(3) The provision of technology assistance, including staff training, to eligible providers of adult education and literacy activities to enable the eligible providers to improve the quality of such activities.

(4) The support of State or regional networks of literacy resource centers.

(5) The monitoring and evaluation of the quality of, and the improvement in, adult education and literacy activities.

(6) Incentives for—

(A) program coordination and integration; and

(B) performance awards.

(7) Developing and disseminating curricula, including curricula incorporating phonemic awareness, systematic phonics, fluency, and reading comprehension.

(8) Other activities of statewide significance that promote the purpose of this subchapter.

(9) Coordination with existing support services, such as transportation, child care, and other assistance designed to increase rates of enrollment in, and successful completion of, adult education and literacy activities, to adults enrolled in such activities.

(10) Integration of literacy instruction and occupational skill training, and promoting linkages with employers.

(11) Linkages with postsecondary educational institutions.

(b) Collaboration

In carrying out this section, eligible agencies shall collaborate where possible, and avoid duplicating efforts, in order to maximize the impact of the activities described in subsection (a) of this section.

(c) State-imposed requirements

Whenever a State or outlying area implements any rule or policy relating to the administration or operation of a program authorized under this part that has the effect of imposing a requirement that is not imposed under Federal law (including any rule or policy based on a State or outlying area interpretation of a Federal statute, regulation, or guideline), the State or outlying area shall identify, to eligible providers, the rule or policy as being State- or outlying area-imposed.

(Pub. L. 105–220, title II, § 223, Aug. 7, 1998, 112 Stat. 1067.)

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a)(8), was in the original ''this title'', meaning title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, known as the Adult Education and Family Literacy Act, which enacted this subchapter, amended sections 6362, 6365, 6366, 6813, and 7881 of this title, and section 3013 of Title 42, The Public Health and Welfare, and repealed sections 1201 to 1213d of this title and provisions set out as notes under sections 1201, 1213c, 2963, and 2966 of this title. For complete classification of title II to the Code, see Short Title note set out under section 9201 of this title and Tables.

§ 9224. State plan

(a) 5-year plans

(1) In general

Each eligible agency desiring a grant under this part for any fiscal year shall submit to, or

have on file with, the Secretary a 5-year State plan.

(2) Comprehensive plan or application

The eligible agency may submit the State plan as part of a comprehensive plan or application for Federal education assistance.

(b) Plan contents

In developing the State plan, and any revisions to the State plan, the eligible agency shall include in the State plan or revisions—

(1) an objective assessment of the needs of individuals in the State or outlying area for adult education and literacy activities, including individuals most in need or hardest to serve;

(2) a description of the adult education and literacy activities that will be carried out with any funds received under this part;

(3) a description of how the eligible agency will evaluate annually the effectiveness of the adult education and literacy activities based on the performance measures described in section 9212 of this title;

(4) a description of the performance measures described in section 9212 of this title and how such performance measures will ensure the improvement of adult education and literacy activities in the State or outlying area;

(5) an assurance that the eligible agency will award not less than one grant under this part to an eligible provider who offers flexible schedules and necessary support services (such as child care and transportation) to enable individuals, including individuals with disabilities, or individuals with other special needs, to participate in adult education and literacy activities, which eligible provider shall attempt to coordinate with support services that are not provided under this part prior to using funds for adult education and literacy activities provided under this part for support services;

(6) an assurance that the funds received under this part will not be expended for any purpose other than for activities under this part;

(7) a description of how the eligible agency will fund local activities in accordance with the considerations described in section 9241(e) of this title;

(8) an assurance that the eligible agency will expend the funds under this part only in a manner consistent with fiscal requirements in section 9251 of this title;

(9) a description of the process that will be used for public participation and comment with respect to the State plan;

(10) a description of how the eligible agency will develop program strategies for populations that include, at a minimum—

(A) low-income students;

(B) individuals with disabilities;

(C) single parents and displaced homemakers; and

(D) individuals with multiple barriers to educational enhancement, including individuals with limited English proficiency;

(11) a description of how the adult education and literacy activities that will be carried out with any funds received under this part will be integrated with other adult education, career development, and employment and training activities in the State or outlying area served by the eligible agency; and

(12) a description of the steps the eligible agency will take to ensure direct and equitable access, as required in section 9241(c)(1) of this title.

(c) Plan revisions

When changes in conditions or other factors require substantial revisions to an approved State plan, the eligible agency shall submit the revisions to the State plan to the Secretary.

(d) Consultation

The eligible agency shall—

(1) submit the State plan, and any revisions to the State plan, to the Governor of the State or outlying area for review and comment; and

(2) ensure that any comments by the Governor regarding the State plan, and any revision to the State plan, are submitted to the Secretary.

(e) Peer review

The Secretary shall establish a peer review process to make recommendations regarding the approval of State plans.

(f) Plan approval

A State plan submitted to the Secretary shall be approved by the Secretary unless the Secretary makes a written determination, within 90 days after receiving the plan, that the plan is inconsistent with the specific provisions of this part.

(g) Transition

The provisions of this section shall be subject to section 9276(b) of this title.

(Pub. L. 105–220, title II, § 224, Aug. 7, 1998, 112 Stat. 1068; Pub. L. 105–332, § 4(1), Oct. 31, 1998, 112 Stat. 3126.)

AMENDMENTS

1998—Subsec. (g). Pub. L. 105–332 added subsec. (g).

§ 9225. Programs for corrections education and other institutionalized individuals

(a) Program authorized

From funds made available under section 9222(a)(1) of this title for a fiscal year, each eligible agency shall carry out corrections education and education for other institutionalized individuals.

(b) Uses of funds

The funds described in subsection (a) of this section shall be used for the cost of educational programs for criminal offenders in correctional institutions and for other institutionalized individuals, including academic programs for—

(1) basic education;

(2) special education programs as determined by the eligible agency;

(3) English literacy programs; and

(4) secondary school credit programs.

(c) Priority

Each eligible agency that is using assistance provided under this section to carry out a pro-

gram for criminal offenders in a correctional institution shall give priority to serving individuals who are likely to leave the correctional institution within 5 years of participation in the program.

(d) Definitions

(1) Criminal offender

The term ''criminal offender'' means any individual who is charged with or convicted of any criminal offense.

(2) Correctional institution

The term ''correctional institution'' means any—

(A) prison;
(B) jail;
(C) reformatory;
(D) work farm;
(E) detention center; or
(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

(Pub. L. 105–220, title II, § 225, Aug. 7, 1998, 112 Stat. 1069; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 404(d)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–417.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1204 of this title prior to repeal by Pub. L. 105–220.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, § 101(f) [title VIII, § 404(d)(1)], substituted ''and education'' for ''or education''.

Subsec. (c). Pub. L. 105–277, § 101(f) [title VIII, § 404(d)(2)], substituted ''within'' for ''with'' before ''5 years''.

SUBPART 3—LOCAL PROVISIONS

§ 9241. Grants and contracts for eligible providers

(a) Grants and contracts

From grant funds made available under section 9211(b) of this title, each eligible agency shall award multiyear grants or contracts, on a competitive basis, to eligible providers within the State or outlying area to enable the eligible providers to develop, implement, and improve adult education and literacy activities within the State.

(b) Required local activities

The eligible agency shall require that each eligible provider receiving a grant or contract under subsection (a) of this section use the grant or contract to establish or operate one or more programs that provide services or instruction in one or more of the following categories:

(1) Adult education and literacy services, including workplace literacy services.
(2) Family literacy services.
(3) English literacy programs.

(c) Direct and equitable access; same process

Each eligible agency receiving funds under this part shall ensure that—

(1) all eligible providers have direct and equitable access to apply for grants or contracts under this section; and

(2) the same grant or contract announcement process and application process is used for all eligible providers in the State or outlying area.

(d) Special rule

Each eligible agency awarding a grant or contract under this section shall not use any funds made available under this part for adult education and literacy activities for the purpose of supporting or providing programs, services, or activities for individuals who are not individuals described in subparagraphs (A) and (B) of section 9202(1) of this title, except that such agency may use such funds for such purpose if such programs, services, or activities are related to family literacy services. In providing family literacy services under this part, an eligible provider shall attempt to coordinate with programs and services that are not assisted under this part prior to using funds for adult education and literacy activities under this part for activities other than adult education activities.

(e) Considerations

In awarding grants or contracts under this section, the eligible agency shall consider—

(1) the degree to which the eligible provider will establish measurable goals for participant outcomes;

(2) the past effectiveness of an eligible provider in improving the literacy skills of adults and families, and, after the 1-year period beginning with the adoption of an eligible agency's performance measures under section 9212 of this title, the success of an eligible provider receiving funding under this part in meeting or exceeding such performance measures, especially with respect to those adults with the lowest levels of literacy;

(3) the commitment of the eligible provider to serve individuals in the community who are most in need of literacy services, including individuals who are low-income or have minimal literacy skills;

(4) whether or not the program—

(A) is of sufficient intensity and duration for participants to achieve substantial learning gains; and

(B) uses instructional practices, such as phonemic awareness, systematic phonics, fluency, and reading comprehension that research has proven to be effective in teaching individuals to read;

(5) whether the activities are built on a strong foundation of research and effective educational practice;

(6) whether the activities effectively employ advances in technology, as appropriate, including the use of computers;

(7) whether the activities provide learning in real life contexts to ensure that an individual has the skills needed to compete in the workplace and exercise the rights and responsibilities of citizenship;

(8) whether the activities are staffed by well-trained instructors, counselors, and administrators;

(9) whether the activities coordinate with other available resources in the community, such as by establishing strong links with ele-

mentary schools and secondary schools, post-secondary educational institutions, one-stop centers, job training programs, and social service agencies;

(10) whether the activities offer flexible schedules and support services (such as child care and transportation) that are necessary to enable individuals, including individuals with disabilities or other special needs, to attend and complete programs;

(11) whether the activities maintain a high-quality information management system that has the capacity to report participant outcomes and to monitor program performance against the eligible agency performance measures; and

(12) whether the local communities have a demonstrated need for additional English literacy programs.

(Pub. L. 105–220, title II, § 231, Aug. 7, 1998, 112 Stat. 1070.)

§ 9242. Local application

Each eligible provider desiring a grant or contract under this part shall submit an application to the eligible agency containing such information and assurances as the eligible agency may require, including—

(1) a description of how funds awarded under this part will be spent; and

(2) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy activities.

(Pub. L. 105–220, title II, § 232, Aug. 7, 1998, 112 Stat. 1072.)

§ 9243. Local administrative cost limits

(a) In general

Subject to subsection (b) of this section, of the amount that is made available under this part to an eligible provider—

(1) not less than 95 percent shall be expended for carrying out adult education and literacy activities; and

(2) the remaining amount, not to exceed 5 percent, shall be used for planning, administration, personnel development, and interagency coordination.

(b) Special rule

In cases where the cost limits described in subsection (a) of this section are too restrictive to allow for adequate planning, administration, personnel development, and interagency coordination, the eligible provider shall negotiate with the eligible agency in order to determine an adequate level of funds to be used for noninstructional purposes.

(Pub. L. 105–220, title II, § 233, Aug. 7, 1998, 112 Stat. 1072.)

SUBPART 4—GENERAL PROVISIONS

§ 9251. Administrative provisions

(a) Supplement not supplant

Funds made available for adult education and literacy activities under this part shall supplement and not supplant other State or local public funds expended for adult education and literacy activities.

(b) Maintenance of effort

(1) In general

(A) Determination

An eligible agency may receive funds under this part for any fiscal year if the Secretary finds that the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the second preceding fiscal year, was not less than 90 percent of the fiscal effort per student or the aggregate expenditures of such eligible agency for adult education and literacy activities, in the third preceding fiscal year.

(B) Proportionate reduction

Subject to paragraphs (2), (3), and (4), for any fiscal year with respect to which the Secretary determines under subparagraph (A) that the fiscal effort or the aggregate expenditures of an eligible agency for the preceding program year were less than such effort or expenditures for the second preceding program year, the Secretary—

(i) shall determine the percentage decreases in such effort or in such expenditures; and

(ii) shall decrease the payment made under this part for such program year to the agency for adult education and literacy activities by the lesser of such percentages.

(2) Computation

In computing the fiscal effort and aggregate expenditures under paragraph (1), the Secretary shall exclude capital expenditures and special one-time project costs.

(3) Decrease in Federal support

If the amount made available for adult education and literacy activities under this part for a fiscal year is less than the amount made available for adult education and literacy activities under this part for the preceding fiscal year, then the fiscal effort per student and the aggregate expenditures of an eligible agency required in order to avoid a reduction under paragraph (1)(B) shall be decreased by the same percentage as the percentage decrease in the amount so made available.

(4) Waiver

The Secretary may waive the requirements of this subsection for 1 fiscal year only, if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or an unforeseen and precipitous decline in the financial resources of the State or outlying area of the eligible agency. If the Secretary grants a waiver under the preceding sentence for a fiscal year, the level of effort required under paragraph (1) shall not be reduced in the subsequent fiscal year because of the waiver.

(Pub. L. 105–220, title II, § 241, Aug. 7, 1998, 112 Stat. 1072.)

§ 9252. National Institute for Literacy

(a) Purpose

The purpose of this section is to establish a National Institute for Literacy that—

(1) provides national leadership regarding literacy;

(2) coordinates literacy services and policy; and

(3) serves as a national resource for adult education and literacy programs by—

(A) providing the best and most current information available, including the work of the National Institute of Child Health and Human Development in the area of phonemic awareness, systematic phonics, fluency, and reading comprehension, to all recipients of Federal assistance that focuses on reading, including programs under titles I and VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq. and 7401 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and this Act; and

(B) supporting the creation of new ways to offer services of proven effectiveness.

(b) Establishment

(1) In general

There is established the National Institute for Literacy (in this section referred to as the ''Institute''). The Institute shall be administered under the terms of an interagency agreement entered into by the Secretary of Education with the Secretary of Labor and the Secretary of Health and Human Services (in this section referred to as the ''Interagency Group''). The Interagency Group may include in the Institute any research and development center, institute, or clearinghouse established within the Department of Education, the Department of Labor, or the Department of Health and Human Services the purpose of which is determined by the Interagency Group to be related to the purpose of the Institute.

(2) Offices

The Institute shall have offices separate from the offices of the Department of Education, the Department of Labor, and the Department of Health and Human Services.

(3) Recommendations

The Interagency Group shall consider the recommendations of the National Institute for Literacy Advisory Board (in this section referred to as the ''Board'') established under subsection (e) of this section in planning the goals of the Institute and in the implementation of any programs to achieve the goals. If the Board's recommendations are not followed, the Interagency Group shall provide a written explanation to the Board concerning actions the Interagency Group takes that are inconsistent with the Board's recommendations, including the reasons for not following the Board's recommendations with respect to the actions. The Board may also request a meeting of the Interagency Group to discuss the Board's recommendations.

(4) Daily operations

The daily operations of the Institute shall be administered by the Director of the Institute.

(c) Duties

(1) In general

In order to provide leadership for the improvement and expansion of the system for delivery of literacy services, the Institute is authorized—

(A) to establish a national electronic data base of information that disseminates information to the broadest possible audience within the literacy and basic skills field, and that includes—

(i) effective practices in the provision of literacy and basic skills instruction, including instruction in phonemic awareness, systematic phonics, fluency, and reading comprehension, and the integration of literacy and basic skills instruction with occupational skills training;

(ii) public and private literacy and basic skills programs, and Federal, State, and local policies, affecting the provision of literacy services at the national, State, and local levels;

(iii) opportunities for technical assistance, meetings, conferences, and other opportunities that lead to the improvement of literacy and basic skills services; and

(iv) a communication network for literacy programs, providers, social service agencies, and students;

(B) to coordinate support for the provision of literacy and basic skills services across Federal agencies and at the State and local levels;

(C) to coordinate the support of reliable and replicable research and development on literacy and basic skills in families and adults across Federal agencies, especially with the Office of Educational Research and Improvement in the Department of Education, and to carry out basic and applied research and development on topics that are not being investigated by other organizations or agencies, such as the special literacy needs of individuals with learning disabilities;

(D) to collect and disseminate information on methods of advancing literacy that show great promise, including phonemic awareness, systematic phonics, fluency, and reading comprehension based on the work of the National Institute of Child Health and Human Development;

(E) to provide policy and technical assistance to Federal, State, and local entities for the improvement of policy and programs relating to literacy;

(F) to fund a network of State or regional adult literacy resource centers to assist State and local public and private nonprofit efforts to improve literacy by—

(i) encouraging the coordination of literacy services;

(ii) enhancing the capacity of State and local organizations to provide literacy services; and

(iii) serving as a link between the Institute and providers of adult education and literacy activities for the purpose of sharing information, data, research, expertise, and literacy resources;

(G) to coordinate and share information with national organizations and associations that are interested in literacy and workforce investment activities;

(H) to advise Congress and Federal departments and agencies regarding the development of policy with respect to literacy and basic skills; and

(I) to undertake other activities that lead to the improvement of the Nation's literacy delivery system and that complement other such efforts being undertaken by public and private agencies and organizations.

(2) Grants, contracts, and cooperative agreements

The Institute may award grants to, or enter into contracts or cooperative agreements with, individuals, public or private institutions, agencies, organizations, or consortia of such institutions, agencies, or organizations to carry out the activities of the Institute.

(d) Literacy leadership

(1) In general

The Institute, in consultation with the Board, may award fellowships, with such stipends and allowances that the Director considers necessary, to outstanding individuals pursuing careers in adult education or literacy in the areas of instruction, management, research, or innovation.

(2) Fellowships

Fellowships awarded under this subsection shall be used, under the auspices of the Institute, to engage in research, education, training, technical assistance, or other activities to advance the field of adult education or literacy, including the training of volunteer literacy providers at the national, State, or local level.

(3) Interns and volunteers

The Institute, in consultation with the Board, may award paid and unpaid internships to individuals seeking to assist the Institute in carrying out its mission. Notwithstanding section 1342 of title 31, the Institute may accept and use voluntary and uncompensated services as the Institute determines necessary.

(e) National Institute for Literacy Advisory Board

(1) Establishment

(A) In general

There shall be a National Institute for Literacy Advisory Board (in this section referred to as the ''Board''), which shall consist of 10 individuals appointed by the President with the advice and consent of the Senate.

(B) Composition

The Board shall be comprised of individuals who are not otherwise officers or employees of the Federal Government and who are representative of entities such as—

(i) literacy organizations and providers of literacy services, including nonprofit providers, providers of English literacy programs and services, social service organizations, and eligible providers receiving assistance under this part;

(ii) businesses that have demonstrated interest in literacy programs;

(iii) literacy students, including literacy students with disabilities;

(iv) experts in the area of literacy research;

(v) State and local governments;

(vi) State Directors of adult education; and

(vii) representatives of employees, including representatives of labor organizations.

(2) Duties

The Board shall—

(A) make recommendations concerning the appointment of the Director and staff of the Institute;

(B) provide independent advice on the operation of the Institute; and

(C) receive reports from the Interagency Group and the Director.

(3) Federal Advisory Committee Act

Except as otherwise provided, the Board established by this subsection shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

(4) Appointments

(A) In general

Each member of the Board shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which one-third of the members are selected each year. Any such member may be appointed for not more than 2 consecutive terms.

(B) Vacancies

Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

(5) Quorum

A majority of the members of the Board shall constitute a quorum but a lesser number may hold hearings. Any recommendation of the Board may be passed only by a majority of the Board's members present.

(6) Election of officers

The Chairperson and Vice Chairperson of the Board shall be elected by the members of the Board. The term of office of the Chairperson and Vice Chairperson shall be 2 years.

(7) Meetings

The Board shall meet at the call of the Chairperson or a majority of the members of the Board.

(f) Gifts, bequests, and devises

(1) In general

The Institute may accept, administer, and use gifts or donations of services, money, or property, whether real or personal, tangible or intangible.

(2) Rules

The Board shall establish written rules setting forth the criteria to be used by the Institute in determining whether the acceptance of contributions of services, money, or property whether real or personal, tangible or intangible, would reflect unfavorably upon the ability of the Institute or any employee to carry out the responsibilities of the Institute or employee, or official duties, in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of the Institute's programs or any official involved in those programs.

(g) Mails

The Board and the Institute may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(h) Staff

The Interagency Group, after considering recommendations made by the Board, shall appoint and fix the pay of a Director.

(i) Applicability of certain civil service laws

The Director and staff of the Institute may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for level IV of the Executive Schedule.

(j) Experts and consultants

The Institute may procure temporary and intermittent services under section 3109(b) of title 5.

(k) Report

The Institute shall submit a report biennially to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate. Each report submitted under this subsection shall include—

(1) a comprehensive and detailed description of the Institute's operations, activities, financial condition, and accomplishments in the field of literacy for the period covered by the report;

(2) a description of how plans for the operation of the Institute for the succeeding 2 fiscal years will facilitate achievement of the goals of the Institute and the goals of the literacy programs within the Department of Education, the Department of Labor, and the Department of Health and Human Services; and

(3) any additional minority, or dissenting views submitted by members of the Board.

(*l*) Funding

Any amounts appropriated to the Secretary, the Secretary of Labor, the Secretary of Health and Human Services, or any other department that participates in the Institute for purposes that the Institute is authorized to perform under this section may be provided to the Institute for such purposes.

(Pub. L. 105–220, title II, §242, Aug. 7, 1998, 112 Stat. 1073.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(3)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27. Titles I and VII of the Act are classified generally to subchapters I (§6301 et seq.) and VII (§7401 et seq.), respectively, of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Head Start Act, referred to in subsec. (a)(3)(A), is subchapter B (§§635–657) of chapter 8 of subtitle a of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of Title 42 and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a)(3)(A), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

This Act, referred to in subsec. (a)(3)(A), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Federal Advisory Committee Act, referred to in subsec. (e)(3), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (i), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

Level IV of the Executive Schedule, referred to in subsec. (i), is set out in section 5315 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 1213c of this title prior to repeal by Pub. L. 105–220.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

The Office of Educational Research and Improvement was established by section 3419 of this title. Section

3419 was repealed and a new section 3419 establishing the Institute of Educational Sciences was enacted by Pub. L. 107–279, title IV, § 402(2), Nov. 5, 2002, 116 Stat. 1985.

§ 9253. National leadership activities

The Secretary shall establish and carry out a program of national leadership activities to enhance the quality of adult education and literacy programs nationwide. Such activities may include the following:

(1) Technical assistance, including—

(A) assistance provided to eligible providers in developing and using performance measures for the improvement of adult education and literacy activities, including family literacy services;

(B) assistance related to professional development activities, and assistance for the purposes of developing, improving, identifying, and disseminating the most successful methods and techniques for providing adult education and literacy activities, including family literacy services, based on scientific evidence where available; and

(C) assistance in distance learning and promoting and improving the use of technology in the classroom.

(2) Funding national leadership activities that are not described in paragraph (1), either directly or through grants, contracts, or cooperative agreements awarded on a competitive basis to or with postsecondary educational institutions, public or private organizations or agencies, or consortia of such institutions, organizations, or agencies, such as—

(A) developing, improving, and identifying the most successful methods and techniques for addressing the education needs of adults, including instructional practices using phonemic awareness, systematic phonics, fluency, and reading comprehension, based on the work of the National Institute of Child Health and Human Development;

(B) increasing the effectiveness of, and improving the quality of, adult education and literacy activities, including family literacy services;

(C) carrying out research, such as estimating the number of adults functioning at the lowest levels of literacy proficiency;

(D)(i) carrying out demonstration programs;

(ii) developing and replicating model and innovative programs, such as the development of models for basic skill certificates, identification of effective strategies for working with adults with learning disabilities and with individuals with limited English proficiency who are adults, and workplace literacy programs; and

(iii) disseminating best practices information, including information regarding promising practices resulting from federally funded demonstration programs;

(E) providing for the conduct of an independent evaluation and assessment of adult education and literacy activities through studies and analyses conducted independently through grants and contracts awarded on a competitive basis, which evaluation and assessment shall include descriptions of—

(i) the effect of performance measures and other measures of accountability on the delivery of adult education and literacy activities, including family literacy services;

(ii) the extent to which the adult education and literacy activities, including family literacy services, increase the literacy skills of adults (and of children, in the case of family literacy services), lead the participants in such activities to involvement in further education and training, enhance the employment and earnings of such participants, and, if applicable, lead to other positive outcomes, such as reductions in recidivism in the case of prison-based adult education and literacy activities;

(iii) the extent to which the provision of support services to adults enrolled in adult education and family literacy programs increase the rate of enrollment in, and successful completion of, such programs; and

(iv) the extent to which eligible agencies have distributed funds under section 9241 of this title to meet the needs of adults through community-based organizations;

(F) supporting efforts aimed at capacity building at the State and local levels, such as technical assistance in program planning, assessment, evaluation, and monitoring of activities carried out under this part;

(G) collecting data, such as data regarding the improvement of both local and State data systems, through technical assistance and development of model performance data collection systems; and

(H) other activities designed to enhance the quality of adult education and literacy activities nationwide.

(Pub. L. 105–220, title II, § 243, Aug. 7, 1998, 112 Stat. 1078; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 404(e)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–417.)

AMENDMENTS

1998—Par. (2)(B). Pub. L. 105–277 substituted ''quality'' for ''qualify''.

SUBCHAPTER II—GENERAL PROVISIONS

§ 9271. State unified plan

(a) "Appropriate Secretary" defined

In this section, the term ''appropriate Secretary'' means the head of the Federal agency who exercises administrative authority over an activity or program described in subsection (b) of this section.

(b) State unified plan

(1) In general

A State may develop and submit to the appropriate Secretaries a State unified plan for 2 or more of the activities or programs set forth in paragraph (2), except that the State may include in the plan the activities described in paragraph (2)(A) only with the prior approval of the legislature of the State. The State unified plan shall cover one or more of the activities set forth in subparagraphs (A)

through (D) of paragraph (2) and may cover one or more of the activities set forth in subparagraphs (E) through (O) of paragraph (2). For purposes of this paragraph, the activities and programs described in subparagraphs (A) and (B) of paragraph (2) shall not be considered to be 2 or more activities or programs for purposes of the unified plan. Such activities or programs shall be considered to be 1 activity or program.

(2) Activities

The activities and programs referred to in paragraph (1) are as follows:

(A) Secondary vocational education programs authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(B) Postsecondary vocational education programs authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(C) Activities authorized under title I [29 U.S.C. 2801 et seq.].

(D) Activities authorized under title II [20 U.S.C. 9201 et seq.].

(E) Programs authorized under section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)).

(F) Work programs authorized under section 6(*o*) of the Food Stamp Act of 1977 (7 U.S.C. 2015(*o*)).

(G) Activities authorized under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.).

(H) Programs authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(I) Programs authorized under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.), other than section 112 of such Act (29 U.S.C. 732).

(J) Activities authorized under chapter 41 of title 38.

(K) Programs authorized under State unemployment compensation laws (in accordance with applicable Federal law).

(L) Programs authorized under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

(M) Programs authorized under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(N) Training activities carried out by the Department of Housing and Urban Development.

(O) Programs authorized under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

(c) Requirements

(1) In general

The portion of a State unified plan covering an activity or program described in subsection (b) of this section shall be subject to the requirements, if any, applicable to a plan or application for assistance under the Federal statute authorizing the activity or program.

(2) Additional submission not required

A State that submits a State unified plan covering an activity or program described in subsection (b) of this section that is approved under subsection (d) of this section shall not be required to submit any other plan or application in order to receive Federal funds to carry out the activity or program.

(3) Coordination

A State unified plan shall include—

(A) a description of the methods used for joint planning and coordination of the programs and activities included in the unified plan; and

(B) an assurance that the methods included an opportunity for the entities responsible for planning or administering such programs and activities to review and comment on all portions of the unified plan.

(d) Approval by appropriate Secretaries

(1) Jurisdiction

The appropriate Secretary shall have the authority to approve the portion of the State unified plan relating to the activity or program over which the appropriate Secretary exercises administrative authority. On the approval of the appropriate Secretary, the portion of the plan relating to the activity or program shall be implemented by the State pursuant to the applicable portion of the State unified plan.

(2) Approval

(A) In general

A portion of the State unified plan covering an activity or program described in subsection (b) of this section that is submitted to the appropriate Secretary under this section shall be considered to be approved by the appropriate Secretary at the end of the 90-day period beginning on the day the appropriate Secretary receives the portion, unless the appropriate Secretary makes a written determination, during the 90-day period, that the portion is not consistent with the requirements of the Federal statute authorizing the activity or program including the criteria for approval of a plan or application, if any, under such statute or the plan is not consistent with the requirements of subsection (c)(3) of this section.

(B) Special rule

In subparagraph (A), the term ''criteria for approval of a State plan'', relating to activities carried out under title I [29 U.S.C. 2801 et seq.] or II [20 U.S.C. 9201 et seq.] or under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), includes a requirement for agreement between the State and the appropriate Secretary regarding State performance measures, including levels of performance.

(Pub. L. 105–220, title V, §501, Aug. 7, 1998, 112 Stat. 1242; Pub. L. 105–277, div. A, §101(f) [title VIII, §401(17)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

REFERENCES IN TEXT

The Carl D. Perkins Vocational and Applied Technology Education Act, referred to in subsecs. (b)(2)(A), (B) and (d)(2)(B), was Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended, which was classified generally to chapter 44 (§2301 et seq.) of this title prior to being

amended generally and renamed the Carl D. Perkins Vocational and Technical Education Act of 1998 by Pub. L. 105–332, §1(b), Oct. 31, 1998, 112 Stat. 3076. For complete classification of Pub. L. 88–210 to the Code, see Short Title note set out under section 2301 of this title and Tables.

Title I, referred to in subsec. (b)(2)(C), is title I of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 939, which is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of title I to the Code, see Tables.

Title II, referred to in subsec. (b)(2)(D), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, known as the Adult Education and Family Literacy Act, which is classified principally to subchapter I (§9201 et seq.) of this chapter. For complete classification of title II to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Trade Act of 1974, referred to in subsec. (b)(2)(G), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, as amended. Chapter 2 of title II of the Act is classified generally to part 2 (§2271 et seq.) of subchapter II of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

The Wagner-Peyser Act, referred to in subsec. (b)(2)(H), is act June 6, 1933, ch. 49, 48 Stat. 113, as amended, which is classified generally to chapter 4B (§49 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 49 of Title 29 and Tables.

The Rehabilitation Act of 1973, referred to in subsec. (b)(2)(I), is Pub. L. 93–112, Sept. 26, 1973, 87 Stat. 357, as amended, Title I of the Act is classified generally to subchapter I (§720 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

The Social Security Act, referred to in subsec. (b)(2)(L), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Older Americans Act of 1965, referred to in subsec. (b)(2)(M), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, as amended. Title V of the Act, known as the ''Older Americans Community Services Employment Act'', is classified generally to subchapter IX (§3056 et seq.) of chapter 35 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

The Community Services Block Grant Act, referred to in subsec. (b)(2)(O), is subtitle B (§671 et seq.) of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 511, as amended, which is classified generally to chapter 106 (§9901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short title note set out under section 9901 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–277 inserted at end ''For purposes of this paragraph, the activities and programs described in subparagraphs (A) and (B) of paragraph (2) shall not be considered to be 2 or more activities or programs for purposes of the unified plan. Such activities or programs shall be considered to be 1 activity or program.''

§ 9272. Definitions for indicators of performance

(a) In general

In order to ensure nationwide comparability of performance data, the Secretary of Labor and the Secretary of Education, after consultation with the representatives described in subsection (b) of this section, shall issue definitions for indicators of performance and levels of performance established under titles I [29 U.S.C. 2801 et seq.] and II [20 U.S.C. 9201 et seq.].

(b) Representatives

The representatives referred to in subsection (a) of this section are representatives of States (as defined in section 2801 of title 29) and political subdivisions, business and industry, employees, eligible providers of employment and training activities (as defined in section 2801 of title 29), educators, participants in activities carried out under this Act, State Directors of adult education, providers of adult education, providers of literacy services, individuals with expertise in serving the employment and training needs of eligible youth (as defined in section 2801 of title 29), parents, and other interested parties, with expertise regarding activities authorized under this Act.

(Pub. L. 105–220, title V, §502, Aug. 7, 1998, 112 Stat. 1244.)

REFERENCES IN TEXT

Title I, referred to in subsec. (a), is title I of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 939, which is classified principally to chapter 30 (§2801 et seq.) of Title 29, Labor. For complete classification of title I to the Code, see Tables.

Title II, referred to in subsec. (a), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, known as the Adult Education and Family Literacy Act, which is classified principally to subchapter I (§9201 et seq.) of this chapter. For complete classification of title II to the Code, see Short Title note set out under section 9201 of this title and Tables.

This Act, referred to in subsec. (b), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

§ 9273. Incentive grants

(a) In general

Beginning on July 1, 2000, the Secretary shall award a grant to each State that exceeds the State adjusted levels of performance for title I [29 U.S.C. 2801 et seq.], the adjusted levels of performance for title II [20 U.S.C. 9201 et seq.], and the levels of performance for programs under Public Law 105–332 (20 U.S.C. 2301 et seq.), for the purpose of carrying out an innovative program consistent with the requirements of any one or more of the programs within title I, title II, or such Public Law, respectively.

(b) Application

(1) In general

The Secretary may provide a grant to a State under subsection (a) of this section only if the State submits an application to the Secretary for the grant that meets the requirements of paragraph (2).

(2) Requirements

The Secretary may review an application described in paragraph (1) only to ensure that the application contains the following assurances:

(A) The legislature of the State was consulted with respect to the development of the application.

(B) The application was approved by the Governor, the eligible agency (as defined in section 9202 of this title), and the State agency responsible for programs established under Public Law 105–332 (20 U.S.C. 2301 et seq.).

(C) The State and the eligible agency, as appropriate, exceeded the State adjusted levels of performance for title I [29 U.S.C. 2801 et seq.], the expected levels of performance for title II [20 U.S.C. 9201 et seq.], and the levels of performance for programs under Public Law 105–332 (20 U.S.C. 2301 et seq.).

(c) Amount

(1) Minimum and maximum grant amounts

Subject to paragraph (2), a grant provided to a State under subsection (a) of this section shall be awarded in an amount that is not less than $750,000 and not more than $3,000,000.

(2) Proportionate reduction

If the amount available for grants under this section for a fiscal year is insufficient to award a grant to each State or eligible agency that is eligible for a grant, the Secretary shall reduce the minimum and maximum grant amount by a uniform percentage.

(d) Expected levels of performance as consideration

Notwithstanding any other provision of this section, for fiscal year 2000, the Secretary shall not consider the expected levels of performance under Public Law 105–332 (20 U.S.C. 2301 et seq.) and shall not award a grant under subsection (a) of this section based on the levels of performance for that Act.

(Pub. L. 105–220, title V, § 503, Aug. 7, 1998, 112 Stat. 1244; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 404(f)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–417; Pub. L. 106–246, div. B, title II, § 2403(a)(1), July 13, 2000, 114 Stat. 555.)

REFERENCES IN TEXT

Title I, referred to in subsecs. (a) and (b)(2)(C), is title I of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 939, which is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of title I to the Code, see Tables.

Title II, referred to in subsecs. (a) and (b)(2)(C), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, known as the Adult Education and Family Literacy Act, which is classified principally to subchapter I (§ 9201 et seq.) of this chapter. For complete classification of title II to the Code, see Short Title note set out under section 9201 of this title and Tables.

Public Law 105–332 (20 U.S.C. 2301 et seq.), referred to in subsecs. (a), (b)(2)(B), (C), and (d), is Pub. L. 105–332, Oct. 31, 1998, 112 Stat. 3076, known as the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998. For complete classification of this Act to the Code, see Short Title of 1998 Amendment note set out under section 2301 of this title and Tables.

AMENDMENTS

2000—Subsecs. (a), (b)(2)(B), (C). Pub. L. 106–246, § 2403(a)(1)(A), substituted ''under Public Law 105–332 (20 U.S.C. 2301 et seq.)'' for ''under Public Law 88–210 (as amended; 20 U.S.C. 2301 et seq.)''.

Subsec. (d). Pub. L. 106–246, § 2403(a)(1)(B), added subsec. (d).

1998—Subsec. (a). Pub. L. 105–277 substituted ''adjusted'' for ''expected'' before ''levels of performance for title II''.

§ 9274. Privacy

(a) Effect on privacy protections

Nothing in this Act shall be construed to supersede the privacy protections afforded parents and students under section 1232g of this title.

(b) Prohibition on development of national database

(1) In general

Nothing in this Act shall be construed to permit the development of a national database of personally identifiable information on individuals receiving services under title I of this Act [29 U.S.C. 2801 et seq.].

(2) Limitation

Nothing in paragraph (1) shall be construed to prevent the proper administration of national programs under subtitles C and D of title I of this Act [29 U.S.C. 2881 et seq., 2911 et seq.] or to carry out program management activities consistent with title I of this Act [29 U.S.C. 2801 et seq.].

(Pub. L. 105–220, title V, § 504, Aug. 7, 1998, 112 Stat. 1245.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended, known as the Workforce Investment Act of 1998. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. Subtitles C and D of title I of the Act are classified generally to subchapters III (§ 2881 et seq.) and IV (§ 2911 et seq.), respectively, of chapter 30 of Title 29. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

§ 9275. Buy-American requirements

(a) Compliance with Buy American Act

None of the funds made available under title I [29 U.S.C. 2801 et seq.], II [20 U.S.C. 9201 et seq.], or III or this subchapter may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with the Buy American Act (41 U.S.C. 10a et seq.).

(b) Sense of the Congress; requirement regarding notice

(1) Purchase of American-made equipment and products

In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available under title I [29 U.S.C. 2801 et seq.], II [20 U.S.C. 9201 et seq.], or III or this subchapter, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) Notice to recipients of assistance

In providing financial assistance using funds made available under title I [29 U.S.C. 2801 et seq.], II [20 U.S.C. 9201 et seq.], or III or this subchapter, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) Prohibition of contracts with persons falsely labeling products as made in America

If it has been finally determined by a court or Federal agency that any person intentionally af-

fixed a label bearing a ''Made in America'' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available in this subtitle,[1] pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations, as such sections are in effect on August 7, 1998, or pursuant to any successor regulations.

(Pub. L. 105–220, title V, § 505, Aug. 7, 1998, 112 Stat. 1245; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 401(18)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412.)

REFERENCES IN TEXT

Titles I, II, and III, referred to in subsecs. (a) and (b), are titles I, II, and III of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 939, 1059, 1080, as amended. Title I is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. Title II, known as the Adult Education and Family Literacy Act, is classified principally to subchapter I (§ 9201 et seq.) of this chapter. Title III enacted section 49*l*–2 of this title and section 4110B of Title 38, Veterans' Benefits, amended sections 49a to 49c, 49d, 49e to 49g, 49j, 49k, 633a, and 791 of this title, section 7103 of Title 5, Government Organization and Employees, section 2311 of Title 19, Customs Duties, and sections 655a, 2000e–16, and 3056 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under sections 49a, 633a, and 2701 of this title. For complete classification of titles I, II, and III to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Buy American Act, referred to in subsec. (a), is title III of act Mar. 3, 1933, ch. 212, 47 Stat. 1520, as amended, which is classified generally to sections 10a, 10b, and 10c of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 10a of Title 41 and Tables.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105–277, § 101(f) [title VIII, § 401(18)(A)], substituted ''under title I, II, or III or this subchapter'' for ''in this Act''.

Subsec. (b)(1), (2). Pub. L. 105–277, § 101(f) [title VIII, § 401(18)(B)], substituted ''under title I, II, or III or this subchapter'' for ''under this Act''.

§ 9276. Transition provisions

(a) Workforce investment systems

The Secretary of Labor shall take such actions as the Secretary determines to be appropriate to provide for the orderly transition from any authority under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) to the workforce investment systems established under title I of this Act [29 U.S.C. 2801 et seq.]. Such actions shall include the provision of guidance relating to the designation of State workforce investment boards, local workforce investment areas, and local workforce investment boards described in such title.

(b) Adult education and literacy programs

(1) In general

The Secretary of Education shall take such actions as the Secretary determines to be appropriate to provide for the transition from any authority under the Adult Education Act to any authority under the Adult Education and Family Literacy Act [20 U.S.C. 9201 et seq.] (as added by title II of this Act).

(2) Limitation

The authority to take actions under paragraph (1) shall apply until July 1, 2000.

(c) Regulations

(1) Interim final regulations

Not later than 180 days after August 7, 1998, the Secretary of Labor shall develop and publish in the Federal Register interim final regulations relating to the transition to, and implementation of, this Act.

(2) Final regulations

Not later than December 31, 1999, the Secretary shall develop and publish in the Federal Register final regulations relating to the transition to, and implementation of, this Act.

(d) Expenditure of funds during transition

(1) In general

Subject to paragraph (2) and in accordance with regulations developed under subsection (c) of this section, States, grant recipients, administrative entities, and other recipients of financial assistance under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or under this Act may expend funds received under the Job Training Partnership Act or under this Act, prior to July 1, 2000, in order to plan and implement programs and activities authorized under this Act.

(2) Additional requirements

Not to exceed 2 percent of any allotment to any State from amounts appropriated under the Job Training Partnership Act or under this Act for fiscal year 1998 or 1999 may be made available to carry out planning authorized under paragraph (1) and not less than 50 percent of any such amount used to carry out planning authorized under paragraph (1) shall be made available to local entities for the planning purposes described in such paragraph.

(e) Reorganization

Not later than 1 year after August 7, 1998, the Secretary of Labor shall reorganize and align functions within the Department of Labor and within the Employment and Training Administration in order to carry out the duties and responsibilities required by this Act (and related laws) in an effective and efficient manner.

(Pub. L. 105–220, title V, § 506, Aug. 7, 1998, 112 Stat. 1246; Pub. L. 105–277, div. A, § 101(f) [title VIII, § 401(19)], Oct. 21, 1998, 112 Stat. 2681–337, 2681–412; Pub. L. 105–332, § 4(2), Oct. 31, 1998, 112 Stat. 3126.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsecs. (a) and (d), is Pub. L. 97–300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§ 1501 et seq.) of Title 29, Labor, prior to repeal by Pub. L. 105–220, title I, § 199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. For complete classification of this Act to the Code, see Tables.

This Act, referred to in subsecs. (a) and (c) to (e), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, as amended,

[1] So in original. This section is not contained in a subtitle.

known as the Workforce Investment Act of 1998. Title I of the Act is classified principally to chapter 30 (§ 2801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

The Adult Education Act, referred to in subsec. (b)(1), is title III of Pub. L. 89–750, Nov. 3, 1966, 80 Stat. 1216, as amended, which was classified generally to chapter 30 (§ 1201 et seq.) of this title, prior to repeal by Pub. L. 105–220, title II, § 251(a)(1), Aug. 7, 1998, 112 Stat. 1079. For complete classification of this Act to the Code, see Tables.

The Adult Education and Family Literacy Act, referred to in subsec. (b)(1), is title II of Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 1059, as amended, which is classified principally to subchapter I (§ 9201 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of this title and Tables.

AMENDMENTS

1998—Subsec. (b)(2). Pub. L. 105–332 amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''The authority to take actions under paragraph (1) shall apply only for the 1-year period beginning on August 7, 1998.''

Subsec. (d)(1). Pub. L. 105–277, § 101(f) [title VIII, § 401(19)(A)], substituted ''subsection (c)'' for ''subsection (b)''.

Subsec. (d)(2). Pub. L. 105–277, § 101(f) [title VIII, § 401(19)(B)], inserted ''planning authorized under'' after ''carry out'' in two places and substituted ''the planning purposes'' for ''the purposes''.

CHAPTER 74—TROOPS-TO-TEACHERS PROGRAM

§§ 9301 to 9309. Repealed. Pub. L. 107–110, title X, § 1011(6), Jan. 8, 2002, 115 Stat. 1986

Section 9301, Pub. L. 106–65, div. A, title XVII, § 1701, Oct. 5, 1999, 113 Stat. 817, set forth short title of the Troops-to-Teachers Program Act of 1999 and defined terms. See section 6671 of this title.

Section 9302, Pub. L. 106–65, div. A, title XVII, § 1702, Oct. 5, 1999, 113 Stat. 818, authorized program. See section 6672 of this title.

Section 9303, Pub. L. 106–65, div. A, title XVII, § 1703, Oct. 5, 1999, 113 Stat. 818, related to eligibility to participate in program. See section 6673 of this title.

Section 9304, Pub. L. 106–65, div. A, title XVII, § 1704, Oct. 5, 1999, 113 Stat. 819, related to selection of participants. See section 6673 of this title.

Section 9305, Pub. L. 106–65, div. A, title XVII, § 1705, Oct. 5, 1999, 113 Stat. 821, related to stipend and bonus for participants. See section 6674 of this title.

Section 9306, Pub. L. 106–65, div. A, title XVII, § 1706, Oct. 5, 1999, 113 Stat. 822, related to participation by States. See section 6675 of this title.

Section 9307, Pub. L. 106–65, div. A, title XVII, § 1707, Oct. 5, 1999, 113 Stat. 823, related to termination of original program and transfer of functions.

Section 9308, Pub. L. 106–65, div. A, title XVII, § 1708, Oct. 5, 1999, 113 Stat. 823, set forth reporting requirements. See section 6677 of this title.

Section 9309, Pub. L. 106–65, div. A, title XVII, § 1709, Oct. 5, 1999, 113 Stat. 824, related to funds for fiscal year 2000.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

CHAPTER 75—EARLY LEARNING OPPORTUNITIES

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§ 9401. Purposes

The purposes of this chapter are—

(1) to increase the availability of voluntary programs, services, and activities that support early childhood development, increase parent effectiveness, and promote the learning readiness of young children so that young children enter school ready to learn;

(2) to support parents, child care providers, and caregivers who want to incorporate early learning activities into the daily lives of young children;

(3) to remove barriers to the provision of an accessible system of early childhood learning programs in communities throughout the United States;

(4) to increase the availability and affordability of professional development activities and compensation for caregivers and child care providers; and

(5) to facilitate the development of community-based systems of collaborative service delivery models characterized by resource sharing, linkages between appropriate supports, and local planning for services.

(Pub. L. 106–554, § 1(a)(1) [title VIII, § 802], Dec. 21, 2000, 114 Stat. 2763, 2763A–80.)

SHORT TITLE; FINDINGS

Pub. L. 106–554, § 1(a)(1) [title VIII, § 801], Dec. 21, 2000, 114 Stat. 2763, 2763A–79, provided that:

''(a) SHORT TITLE.—This title [enacting this chapter] may be cited as the 'Early Learning Opportunities Act'.

''(b) FINDINGS.—Congress finds that—

''(1) medical research demonstrates that adequate stimulation of a young child's brain between birth and age 5 is critical to the physical development of the young child's brain;

''(2) parents are the most significant and effective teachers of their children, and they alone are responsible for choosing the best early learning opportunities for their child;

''(3) parent education and parent involvement are critical to the success of any early learning program or activity;

''(4) the more intensively parents are involved in their child's early learning, the greater the cognitive and noncognitive benefits to their children;

''(5) many parents have difficulty finding the information and support the parents seek to help their children grow to their full potential;

''(6) each day approximately 13,000,000 young children, including 6,000,000 infants or toddlers, spend some or all of their day being cared for by someone other than their parents;

''(7) quality early learning programs, including those designed to promote effective parenting, can increase the literacy rate, the secondary school graduation rate, the employment rate, and the college enrollment rate for children who have participated in voluntary early learning programs and activities;

''(8) early childhood interventions can yield substantial advantages to participants in terms of emotional and cognitive development, education, economic well-being, and health, with the latter two advantages applying to the children's families as well;

''(9) participation in quality early learning programs, including those designed to promote effective parenting, can decrease the future incidence of teenage pregnancy, welfare dependency, at-risk behaviors, and juvenile delinquency for children;

''(10) several cost-benefit analysis studies indicate that for each $1 invested in quality early learning programs, the Federal Government can save over $5 by reducing the number of children and families who participate in Federal Government programs like special education and welfare;

''(11) for children placed in the care of others during the workday, the low salaries paid to the child care staff, the lack of career progression for the staff, and the lack of child development specialists involved in early learning and child care programs, make it difficult to attract and retain the quality of staff necessary for a positive early learning experience;

''(12) Federal Government support for early learning has primarily focused on out-of-home care programs like those established under the Head Start Act [42 U.S.C. 9831 et seq.], the Child Care and Development Block Grant [Act] of 1990 [42 U.S.C. 9858 et seq.], and part C of the Individuals with Disabilities Education Act [20 U.S.C. 1431 et seq.], and these programs—

''(A) serve far fewer than half of all eligible children;

''(B) are not primarily designed to provide support for parents who care for their young children in the home; and

''(C) lack a means of coordinating early learning opportunities in each community; and

''(13) by helping communities increase, expand, and better coordinate early learning opportunities for children and their families, the productivity and creativity of future generations will be improved, and the Nation will be prepared for continued leadership in the 21st century.''

§ 9402. Definitions

In this chapter:

(1) Caregiver

The term ''caregiver'' means an individual, including a relative, neighbor, or family friend, who regularly or frequently provides care, with or without compensation, for a child for whom the individual is not the parent.

(2) Child care provider

The term ''child care provider'' means a provider of non-residential child care services (including center-based, family-based, and in-home child care services) for compensation who or that is legally operating under State law, and complies with applicable State and local requirements for the provision of child care services.

(3) Early learning

The term ''early learning'', used with respect to a program or activity, means learning designed to facilitate the development of cognitive, language, motor, and social-emotional skills for, and to promote learning readiness in, young children.

(4) Early learning program

The term ''early learning program'' means—

(A) a program of services or activities that helps parents, caregivers, and child care providers incorporate early learning into the daily lives of young children; or

(B) a program that directly provides early learning to young children.

(5) Indian tribe

The term ''Indian tribe'' has the meaning given the term in section 450b of title 25.

(6) Local Council

The term ''Local Council'' means a Local Council established or designated under section 9413(a) of this title that serves one or more localities.

(7) Locality

The term ''locality'' means a city, county, borough, township, or area served by another general purpose unit of local government, an Indian tribe, a Regional Corporation, or a Native Hawaiian entity.

(8) Parent

The term ''parent'' means a biological parent, an adoptive parent, a stepparent, a foster parent, or a legal guardian of, or a person standing in loco parentis to, a child.

(9) Poverty line

The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 9902(2) of title 42) applicable to a family of the size involved.

(10) Regional Corporation

The term ''Regional Corporation'' means an entity listed in section 619(4)(B) of title 42.

(11) Secretary

The term ''Secretary'' means the Secretary of Health and Human Services.

(12) State

The term ''State'' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(13) Training

The term ''training'' means instruction in early learning that—

(A) is required for certification under State and local laws, regulations, and policies;

(B) is required to receive a nationally or State recognized credential or its equivalent;

(C) is received in a postsecondary education program focused on early learning or early childhood development in which the individual is enrolled; or

(D) is provided, certified, or sponsored by an organization that is recognized for its expertise in promoting early learning or early childhood development.

(14) Young child

The term ''young child'' means any child from birth to the age of mandatory school attendance in the State where the child resides.

(Pub. L. 106–554, §1(a)(1) [title VIII, §803], Dec. 21, 2000, 114 Stat. 2763, 2763A–81.)

§ 9403. Prohibitions

(a) Participation not required

No person, including a parent, shall be required to participate in any program of early childhood education, early learning, parent education, or developmental screening pursuant to the provisions of this chapter.

(b) Rights of parents

Nothing in this chapter shall be construed to affect the rights of parents otherwise established in Federal, State, or local law.

(c) Particular methods or settings

No entity that receives funds under this chapter shall be required to provide services under this chapter through a particular instructional method or in a particular instructional setting to comply with this chapter.

(d) Nonduplication

No funds provided under this chapter shall be used to carry out an activity funded under another provision of law providing for Federal child care or early learning programs, unless an expansion of such activity is identified in the local needs assessment and performance goals under this chapter.

(Pub. L. 106–554, §1(a)(1) [title VIII, §804], Dec. 21, 2000, 114 Stat. 2763, 2763A–82.)

§ 9404. Authorization and appropriation of funds

There are authorized to be appropriated to the Department of Health and Human Services to carry out this chapter—

(1) $750,000,000 for fiscal year 2001;

(2) $1,000,000,000 for fiscal year 2002;

(3) $1,500,000,000 for fiscal year 2003; and

(4) such sums as may be necessary for each of the fiscal years 2004 and 2005.

(Pub. L. 106–554, §1(a)(1) [title VIII, §805], Dec. 21, 2000, 114 Stat. 2763, 2763A–82.)

§ 9405. Coordination of Federal programs

(a) Coordination

The Secretary and the Secretary of Education shall develop mechanisms to resolve administrative and programmatic conflicts between Federal programs that would be a barrier to parents, caregivers, service providers, or children related to the coordination of services and funding for early learning programs.

(b) Use of equipment and supplies

In the case of a collaborative activity funded under this chapter and another provision of law providing for Federal child care or early learning programs, the use of equipment and nonconsumable supplies purchased with funds made available under this chapter or such provision shall not be restricted to children enrolled or otherwise participating in the program carried out under this chapter or such provision, during a period in which the activity is predominately funded under this chapter or such provision.

(Pub. L. 106–554, §1(a)(1) [title VIII, §806], Dec. 21, 2000, 114 Stat. 2763, 2763A–82.)

§ 9406. Program authorized

(a) Grants

From amounts appropriated under section 9404 of this title the Secretary shall award grants to States to enable the States to award grants to Local Councils to pay the Federal share of the cost of carrying out early learning programs in the locality served by the Local Council.

(b) Federal share

(1) In general

The Federal share of the cost described in subsections (a) and (e) of this section shall be 85 percent for the first and second years of the grant, 80 percent for the third and fourth years of the grant, and 75 percent for the fifth and subsequent years of the grant.

(2) Non-Federal share

The non-Federal share of the cost described in subsections (a) and (e) of this section may be contributed in cash or in kind, fairly evaluated, including facilities, equipment, or services, which may be provided from State or local public sources, or through donations from private entities. For the purposes of this paragraph the term ''facilities'' includes the use of facilities, but the term ''equipment'' means donated equipment and not the use of equipment.

(c) Maintenance of effort

The Secretary shall not award a grant under this chapter to any State unless the Secretary first determines that the total expenditures by the State and its political subdivisions to support early learning programs (other than funds used to pay the non-Federal share under subsection (b)(2) of this section) for the fiscal year for which the determination is made is equal to or greater than such expenditures for the preceding fiscal year.

(d) Supplement not supplant

Amounts received under this chapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to promote early learning.

(e) Special rule

If funds appropriated to carry out this chapter are less than $150,000,000 for any fiscal year, the

Secretary shall award grants for the fiscal year directly to Local Councils, on a competitive basis, to pay the Federal share of the cost of carrying out early learning programs in the locality served by the Local Council. In carrying out the preceding sentence—

(1) subsection (c) of this section, subsections (b) and (c) of section 9409 of this title, and paragraphs (1), (2), and (3) of section 9410(a) of this title shall not apply;

(2) State responsibilities described in section 9410(d) of this title shall be carried out by the Local Council with regard to the locality;

(3) the Secretary shall provide such technical assistance and monitoring as necessary to ensure that the use of the funds by Local Councils and the distribution of the funds to Local Councils are consistent with this chapter; and

(4) subject to paragraph (1), the Secretary shall assume the responsibilities of the Lead State Agency under this chapter, as appropriate.

(Pub. L. 106–554, §1(a)(1) [title VIII, §807], Dec. 21, 2000, 114 Stat. 2763, 2763A–82.)

§ 9407. Uses of funds

(a) In general

Subject to section 9409 of this title, grant funds under this chapter shall be used to pay for developing, operating, or enhancing voluntary early learning programs that are likely to produce sustained gains in early learning.

(b) Limited uses

Subject to section 9409 of this title, Lead State Agencies and Local Councils shall ensure that funds made available under this chapter to the agencies and Local Councils are used for three or more of the following activities:

(1) Helping parents, caregivers, child care providers, and educators increase their capacity to facilitate the development of cognitive, language comprehension, expressive language, social-emotional, and motor skills, and promote learning readiness.

(2) Promoting effective parenting.

(3) Enhancing early childhood literacy.

(4) Developing linkages among early learning programs within a community and between early learning programs and health care services for young children.

(5) Increasing access to early learning opportunities for young children with special needs, including developmental delays, by facilitating coordination with other programs serving such young children.

(6) Increasing access to existing early learning programs by expanding the days or times that the young children are served, by expanding the number of young children served, or by improving the affordability of the programs for low-income families.

(7) Improving the quality of early learning programs through professional development and training activities, increased compensation, and recruitment and retention incentives, for early learning providers.

(8) Removing ancillary barriers to early learning, including transportation difficulties and absence of programs during nontraditional work times.

(c) Requirements

Each Lead State Agency designated under section 9409(c) of this title and Local Councils receiving a grant under this chapter shall ensure—

(1) that Local Councils described in section 9413 of this title work with local educational agencies to identify cognitive, social, emotional, and motor developmental abilities which are necessary to support children's readiness for school;

(2) that the programs, services, and activities assisted under this chapter will represent developmentally appropriate steps toward the acquisition of those abilities; and

(3) that the programs, services, and activities assisted under this chapter collectively provide benefits for children cared for in their own homes as well as children placed in the care of others.

(d) Sliding scale payments

States and Local Councils receiving assistance under this chapter shall ensure that programs, services, and activities assisted under this chapter which customarily require a payment for such programs, services, or activities, adjust the cost of such programs, services, and activities provided to the individual or the individual's child based on the individual's ability to pay.

(Pub. L. 106–554, §1(a)(1) [title VIII, §808], Dec. 21, 2000, 114 Stat. 2763, 2763A–83.)

§ 9408. Reservations and allotments

(a) Reservation for Indian tribes, Alaska Natives, and Native Hawaiians

The Secretary shall reserve 1 percent of the total amount appropriated under section 9404 of this title for each fiscal year, to be allotted to Indian tribes, Regional Corporations, and Native Hawaiian entities, of which—

(1) 0.5 percent shall be available to Indian tribes; and

(2) 0.5 percent shall be available to Regional Corporations and Native Hawaiian entities.

(b) Allotments

From the funds appropriated under this chapter for each fiscal year that are not reserved under subsection (a) of this section, the Secretary shall allot to each State the sum of—

(1) an amount that bears the same ratio to 50 percent of such funds as the number of children 4 years of age and younger in the State bears to the number of such children in all States; and

(2) an amount that bears the same ratio to 50 percent of such funds as the number of children 4 years of age and younger living in families with incomes below the poverty line in the State bears to the number of such children in all States.

(c) Minimum allotment

No State shall receive an allotment under subsection (b) of this section for a fiscal year in an amount that is less than .40 percent of the total amount appropriated for the fiscal year under this chapter.

(d) Availability of funds

Any portion of the allotment to a State that is not expended for activities under this chapter in the fiscal year for which the allotment is made shall remain available to the State for two additional years, after which any unexpended funds shall be returned to the Secretary. The Secretary shall use the returned funds to carry out a discretionary grant program for research-based early learning demonstration projects.

(e) Data

The Secretary shall make allotments under this chapter on the basis of the most recent data available to the Secretary.

(Pub. L. 106–554, § 1(a)(1) [title VIII, § 809], Dec. 21, 2000, 114 Stat. 2763, 2763A–84.)

§ 9409. Grant administration

(a) Federal administrative costs

The Secretary may use not more than 3 percent of the amount appropriated under section 9404 of this title for a fiscal year to pay for the administrative costs of carrying out this chapter, including the monitoring and evaluation of State and local efforts.

(b) State administrative costs

A State that receives a grant under this chapter may use—

(1) not more than 2 percent of the funds made available through the grant to carry out activities designed to coordinate early learning programs on the State level, including programs funded or operated by the State educational agency, health, children and family, and human service agencies, and any State-level collaboration or coordination council involving early learning and education, such as the entities funded under section 9835(a)(5) of title 42;

(2) not more than 2 percent of the funds made available through the grant for the administrative costs of carrying out the grant program and the costs of reporting State and local efforts to the Secretary; and

(3) not more than 3 percent of the funds made available through the grant for training, technical assistance, and wage incentives provided by the State to Local Councils.

(c) Lead State Agency

(1) In general

To be eligible to receive an allotment under this chapter, the Governor of a State shall appoint, after consultation with the leadership of the State legislature, a Lead State Agency to carry out the functions described in paragraph (2).

(2) Lead State Agency

(A) Allocation of funds

The Lead State Agency described in paragraph (1) shall allocate funds to Local Councils as described in section 9411 of this title.

(B) Functions of agency

In addition to allocating funds pursuant to subparagraph (A), the Lead State Agency shall—

(i) advise and assist Local Councils in the performance of their duties under this chapter;

(ii) develop and submit the State application;

(iii) evaluate and approve applications submitted by Local Councils under section 9412 of this title;

(iv) ensure collaboration with respect to assistance provided under this chapter between the State agency responsible for education and the State agency responsible for children and family services;

(v) prepare and submit to the Secretary, an annual report on the activities carried out in the State under this chapter, which shall include a statement describing how all funds received under this chapter are expended and documentation of the effects that resources under this chapter have had on—

(I) parental capacity to improve learning readiness in their young children;

(II) early childhood literacy;

(III) linkages among early learning programs;

(IV) linkages between early learning programs and health care services for young children;

(V) access to early learning activities for young children with special needs;

(VI) access to existing early learning programs through expansion of the days or times that children are served;

(VII) access to existing early learning programs through expansion of the number of young children served;

(VIII) access to and affordability of existing early learning programs for low-income families;

(IX) the quality of early learning programs resulting from professional development, and recruitment and retention incentives for caregivers; and

(X) removal of ancillary barriers to early learning, including transportation difficulties and absence of programs during nontraditional work times; and

(vi) ensure that training and research is made available to Local Councils and that such training and research reflects the latest available brain development and early childhood development research related to early learning.

(Pub. L. 106–554, § 1(a)(1) [title VIII, § 810], Dec. 21, 2000, 114 Stat. 2763, 2763A–85.)

§ 9410. State requirements

(a) Eligibility

To be eligible for a grant under this chapter, a State shall—

(1) ensure that funds received by the State under this chapter shall be subject to appropriation by the State legislature, consistent with the terms and conditions required under State law;

(2) designate a Lead State Agency under section 9409(c) of this title to administer and monitor the grant and ensure State-level coordination of early learning programs;

(3) submit to the Secretary an application at such time, in such manner, and accompanied

by such information as the Secretary may require;

(4) ensure that funds made available under this chapter are distributed on a competitive basis throughout the State to Local Councils serving rural, urban, and suburban areas of the State; and

(5) assist the Secretary in developing mechanisms to ensure that Local Councils receiving funds under this chapter comply with the requirements of this chapter.

(b) State preference

In awarding grants to Local Councils under this chapter, the State, to the maximum extent possible, shall ensure that a broad variety of early learning programs that provide a continuity of services across the age spectrum assisted under this chapter are funded under this chapter, and shall give preference to supporting—

(1) a Local Council that meets criteria, that are specified by the State and approved by the Secretary, for qualifying as serving an area of greatest need for early learning programs; and

(2) a Local Council that demonstrates, in the application submitted under section 9412 of this title, the Local Council's potential to increase collaboration as a means of maximizing use of resources provided under this chapter with other resources available for early learning programs.

(c) Local preference

In awarding grants under this chapter, Local Councils shall give preference to supporting—

(1) projects that demonstrate their potential to collaborate as a means of maximizing use of resources provided under this chapter with other resources available for early learning programs;

(2) programs that provide a continuity of services for young children across the age spectrum, individually, or through community-based networks or cooperative agreements; and

(3) programs that help parents and other caregivers promote early learning with their young children.

(d) Performance goals

(1) Assessments

Based on information and data received from Local Councils, and information and data available through State resources, the State shall biennially assess the needs and available resources related to the provision of early learning programs within the State.

(2) Performance goals

Based on the analysis of information described in paragraph (1), the State shall establish measurable performance goals to be achieved through activities assisted under this chapter.

(3) Requirement

The State shall award grants to Local Councils only for purposes that are consistent with the performance goals established under paragraph (2).

(4) Report

The State shall report to the Secretary annually regarding the State's progress toward achieving the performance goals established in paragraph (2) and any necessary modifications to those goals, including the rationale for the modifications.

(5) Improvement plans

If the Secretary determines, based on the State report submitted under paragraph (4), that the State is not making progress toward achieving the performance goals described in paragraph (2), then the State shall submit a performance improvement plan to the Secretary, and demonstrate reasonable progress in implementing such plan, in order to remain eligible for funding under this chapter.

(Pub. L. 106–554, §1(a)(1) [title VIII, §811], Dec. 21, 2000, 114 Stat. 2763, 2763A–86.)

§ 9411. Local allocations

(a) In general

The Lead State Agency shall allocate to Local Councils in the State not less than 93 percent of the funds provided to the State under this chapter for a fiscal year.

(b) Limitation

The Lead State Agency shall allocate funds provided under this chapter on the basis of the population of the locality served by the Local Council.

(Pub. L. 106–554, §1(a)(1) [title VIII, §812], Dec. 21, 2000, 114 Stat. 2763, 2763A–88.)

§ 9412. Local applications

(a) In general

To be eligible to receive assistance under this chapter, the Local Council shall submit an application to the Lead State Agency at such time, in such manner, and containing such information as the Lead State Agency may require.

(b) Contents

Each application submitted pursuant to subsection (a) of this section shall include a statement ensuring that the local government entity, Indian tribe, Regional Corporation, or Native Hawaiian entity has established or designated a Local Council under section 9413 of this title, and the Local Council has developed a local plan for carrying out early learning programs under this chapter that includes—

(1) a needs and resources assessment concerning early learning services and a statement describing how early learning programs will be funded consistent with the assessment;

(2) a statement of how the Local Council will ensure that early learning programs will meet the performance goals reported by the Lead State Agency under this chapter; and

(3) a description of how the Local Council will form collaboratives among local youth, social service, and educational providers to maximize resources and concentrate efforts on areas of greatest need.

(Pub. L. 106–554, §1(a)(1) [title VIII, §813], Dec. 21, 2000, 114 Stat. 2763, 2763A–88.)

§ 9413. Local administration

(a) Local Council

(1) In general

To be eligible to receive funds under this chapter, a local government entity, Indian tribe, Regional Corporation, or Native Hawaiian entity, as appropriate, shall establish or designate a Local Council, which shall be composed of—

(A) representatives of local agencies directly affected by early learning programs assisted under this chapter;

(B) parents;

(C) other individuals concerned with early learning issues in the locality, such as representative entities providing elementary education, child care resource and referral services, early learning opportunities, child care, and health services; and

(D) other key community leaders.

(2) Designating existing entity

If a local government entity, Indian tribe, Regional Corporation, or Native Hawaiian entity has, before December 21, 2000, a Local Council or a regional entity that is comparable to the Local Council described in paragraph (1), the entity, tribe, or corporation may designate the council or entity as a Local Council under this chapter, and shall be considered to have established a Local Council in compliance with this subsection.

(3) Functions

The Local Council shall be responsible for preparing and submitting the application described in section 9412 of this title.

(b) Administration

(1) Administrative costs

Not more than 3 percent of the funds received by a Local Council under this chapter shall be used to pay for the administrative costs of the Local Council in carrying out this chapter.

(2) Fiscal agent

A Local Council may designate any entity, with a demonstrated capacity for administering grants, that is affected by, or concerned with, early learning issues, including the State, to serve as fiscal agent for the administration of grant funds received by the Local Council under this chapter.

(Pub. L. 106–554, § 1(a)(1) [title VIII, § 814], Dec. 21, 2000, 114 Stat. 2763, 2763A–88.)

CHAPTER 76—EDUCATION RESEARCH, STATISTICS, EVALUATION, INFORMATION, AND DISSEMINATION

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SUBCHAPTER I—EDUCATION SCIENCES REFORM

§ 9501. Definitions

In this subchapter:

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The terms ''elementary school'', ''secondary school'', ''local educational agency'', and ''State educational agency'' have the meanings given those terms in section 7801 of this title and the terms ''freely associated states''

and ''outlying area'' have the meanings given those terms in section 6331(c) of this title.

(2) Applied research

The term ''applied research'' means research—

(A) to gain knowledge or understanding necessary for determining the means by which a recognized and specific need may be met; and

(B) that is specifically directed to the advancement of practice in the field of education.

(3) Basic research

The term ''basic research'' means research—

(A) to gain fundamental knowledge or understanding of phenomena and observable facts, without specific application toward processes or products; and

(B) for the advancement of knowledge in the field of education.

(4) Board

The term ''Board'' means the National Board for Education Sciences established under section 9516 of this title.

(5) Bureau

The term ''Bureau'' means the Bureau of Indian Affairs.

(6) Comprehensive center

The term ''comprehensive center'' means an entity established under section 9602 of this title.

(7) Department

The term ''Department'' means the Department of Education.

(8) Development

The term ''development'' means the systematic use of knowledge or understanding gained from the findings of scientifically valid research and the shaping of that knowledge or understanding into products or processes that can be applied and evaluated and may prove useful in areas such as the preparation of materials and new methods of instruction and practices in teaching, that lead to the improvement of the academic skills of students, and that are replicable in different educational settings.

(9) Director

The term ''Director'' means the Director of the Institute of Education Sciences.

(10) Dissemination

The term ''dissemination'' means the communication and transfer of the results of scientifically valid research, statistics, and evaluations, in forms that are understandable, easily accessible, and usable, or adaptable for use in, the improvement of educational practice by teachers, administrators, librarians, other practitioners, researchers, parents, policymakers, and the public, through technical assistance, publications, electronic transfer, and other means.

(11) Early childhood educator

The term ''early childhood educator'' means a person providing, or employed by a provider of, nonresidential child care services (including center-based, family-based, and in-home child care services) that is legally operating under State law, and that complies with applicable State and local requirements for the provision of child care services to children at any age from birth through the age at which a child may start kindergarten in that State.

(12) Field-initiated research

The term ''field-initiated research'' means basic research or applied research in which specific questions and methods of study are generated by investigators (including teachers and other practitioners) and that conforms to standards of scientifically valid research.

(13) Historically Black college or university

The term ''historically Black college or university'' means a part B institution as defined in section 1061 of this title.

(14) Institute

The term ''Institute'' means the Institute of Education Sciences established under section 9511 of this title.

(15) Institution of higher education

The term ''institution of higher education'' has the meaning given that term in section 1001(a) of this title.

(16) National research and development center

The term ''national research and development center'' means a research and development center supported under section 9533(c) of this title.

(17) Provider of early childhood services

The term ''provider of early childhood services'' means a public or private entity that serves young children, including—

(A) child care providers;

(B) Head Start agencies operating Head Start programs, and entities carrying out Early Head Start programs, under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) preschools;

(D) kindergartens; and

(E) libraries.

(18) Scientifically based research standards

(A) The term ''scientifically based research standards'' means research standards that—

(i) apply rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to education activities and programs; and

(ii) present findings and make claims that are appropriate to and supported by the methods that have been employed.

(B) The term includes, appropriate to the research being conducted—

(i) employing systematic, empirical methods that draw on observation or experiment;

(ii) involving data analyses that are adequate to support the general findings;

(iii) relying on measurements or observational methods that provide reliable data;

(iv) making claims of causal relationships only in random assignment experiments or other designs (to the extent such designs substantially eliminate plausible competing explanations for the obtained results);

(v) ensuring that studies and methods are presented in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;

(vi) obtaining acceptance by a peer-reviewed journal or approval by a panel of independent experts through a comparably rigorous, objective, and scientific review; and

(vii) using research designs and methods appropriate to the research question posed.

(19) Scientifically valid education evaluation

The term ''scientifically valid education evaluation'' means an evaluation that—

(A) adheres to the highest possible standards of quality with respect to research design and statistical analysis;

(B) provides an adequate description of the programs evaluated and, to the extent possible, examines the relationship between program implementation and program impacts;

(C) provides an analysis of the results achieved by the program with respect to its projected effects;

(D) employs experimental designs using random assignment, when feasible, and other research methodologies that allow for the strongest possible causal inferences when random assignment is not feasible; and

(E) may study program implementation through a combination of scientifically valid and reliable methods.

(20) Scientifically valid research

The term ''scientifically valid research'' includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with scientifically based research standards.

(21) Secretary

The term ''Secretary'' means the Secretary of Education.

(22) State

The term ''State'' includes (except as provided in section 9548 of this title) each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the freely associated states, and the outlying areas.

(23) Technical assistance

The term ''technical assistance'' means—

(A) assistance in identifying, selecting, or designing solutions based on research, including professional development and high-quality training to implement solutions leading to—

(i) improved educational and other practices and classroom instruction based on scientifically valid research; and

(ii) improved planning, design, and administration of programs;

(B) assistance in interpreting, analyzing, and utilizing statistics and evaluations; and

(C) other assistance necessary to encourage the improvement of teaching and learning through the applications of techniques supported by scientifically valid research.

(Pub. L. 107–279, title I, § 102, Nov. 5, 2002, 116 Stat. 1941.)

REFERENCES IN TEXT

The Head Start Act, referred to in par. (17)(B), is subchapter B (§§ 635–657) of chapter 8 of subtitle A of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this Title 42 and Tables.

SHORT TITLE

Pub. L. 107–279, title I, § 101, Nov. 5, 2002, 116 Stat. 1941, provided that: ''This title [enacting this subchapter] may be cited as the 'Education Sciences Reform Act of 2002'.''

Pub. L. 107–279, title II, § 201, Nov. 5, 2002, 116 Stat. 1975, provided that: ''This title [enacting subchapter II of this chapter] may be cited as the 'Educational Technical Assistance Act of 2002'.''

Pub. L. 107–279, title III, § 301, Nov. 5, 2002, 116 Stat. 1982, provided that: ''This title [enacting subchapter III of this chapter] may be referred to as the 'National Assessment of Educational Progress Authorization Act'.''

ORDERLY TRANSITION

Pub. L. 107–279, title IV, § 405, Nov. 5, 2002, 116 Stat. 1986, provided that: ''The Secretary of Education shall take such steps as are necessary to provide for the orderly transition to, and implementation of, the offices, boards, committees, and centers (and their various functions and responsibilities) established or authorized by this Act [enacting this chapter and section 3419 of this title, amending sections 1232j, 3412, 3461, 6194, 6311, 6312, 6317, 6491, 6932, 7013, 7253c, 7283b, 7283d, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 of this title and section 5315 of Title 5, Government Organization and Employees, transferring sections 9010 and 9011 of this title to sections 9622 and 9621 of this title, respectively, repealing sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacting provisions set out as notes under this section and section 7703 of this title, and repealing provisions set out as notes under sections 1221e and 9001 of this title], and by the amendments made by this Act, from those established or authorized by the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6001 et seq.) and the National Education Statistics Act of 1994 (20 U.S.C. 9001 et seq.).''

PART A—THE INSTITUTE OF EDUCATION SCIENCES

§ 9511. Establishment

(a) Establishment

There shall be in the Department the Institute of Education Sciences, to be administered by a Director (as described in section 9514 of this title) and, to the extent set forth in section 9516 of this title, a board of directors.

(b) Mission

(1) In general

The mission of the Institute is to provide national leadership in expanding fundamental knowledge and understanding of education from early childhood through postsecondary study, in order to provide parents, educators, students, researchers, policymakers, and the general public with reliable information about—

(A) the condition and progress of education in the United States, including early childhood education and special education;

(B) educational practices that support learning and improve academic achievement and access to educational opportunities for all students; and

(C) the effectiveness of Federal and other education programs.

(2) Carrying out mission

In carrying out the mission described in paragraph (1), the Institute shall compile statistics, develop products, and conduct research, evaluations, and wide dissemination activities in areas of demonstrated national need (including in technology areas) that are supported by Federal funds appropriated to the Institute and ensure that such activities—

(A) conform to high standards of quality, integrity, and accuracy; and

(B) are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(c) Organization

The Institute shall consist of the following:

(1) The Office of the Director (as described in section 9514 of this title).

(2) The National Board for Education Sciences (as described in section 9516 of this title).

(3) The National Education Centers, which include—

(A) the National Center for Education Research (as described in part B of this subchapter);

(B) the National Center for Education Statistics (as described in part C of this subchapter);

(C) the National Center for Education Evaluation and Regional Assistance (as described in part D of this subchapter); and

(D) the National Center for Special Education Research (as described in part E of this subchapter).

(Pub. L. 107–279, title I, §111, Nov. 5, 2002, 116 Stat. 1944; Pub. L. 108–446, title II, §201(b)(2)(A), (B), Dec. 3, 2004, 118 Stat. 2802.)

AMENDMENTS

2004—Subsec. (b)(1)(A). Pub. L. 108–446, §201(b)(2)(A), inserted ''and special education'' after ''early childhood education''.

Subsec. (c)(3)(D). Pub. L. 108–446, §201(b)(2)(B), added subpar. (D).

§ 9512. Functions

From funds appropriated under section 9584 of this title, the Institute, directly or through grants, contracts, or cooperative agreements, shall—

(1) conduct and support scientifically valid research activities, including basic research and applied research, statistics activities, scientifically valid education evaluation, development, and wide dissemination;

(2) widely disseminate the findings and results of scientifically valid research in education;

(3) promote the use, development, and application of knowledge gained from scientifically valid research activities;

(4) strengthen the national capacity to conduct, develop, and widely disseminate scientifically valid research in education;

(5) promote the coordination, development, and dissemination of scientifically valid research in education within the Department and the Federal Government; and

(6) promote the use and application of research and development to improve practice in the classroom.

(Pub. L. 107–279, title I, §112, Nov. 5, 2002, 116 Stat. 1945.)

§ 9513. Delegation

(a) Delegation of authority

Notwithstanding section 3472 of this title, the Secretary shall delegate to the Director all functions for carrying out this subchapter (other than administrative and support functions), except that—

(1) nothing in this subchapter or in subchapter III of this chapter (except section 9621(e)(1)(J) of this title) shall be construed to alter or diminish the role, responsibilities, or authority of the National Assessment Governing Board with respect to the National Assessment of Educational Progress (including with respect to the methodologies of the National Assessment of Educational Progress described in section 9621(e)(1)(E) of this title) from those authorized by the National Education Statistics Act of 1994 (20 U.S.C. 9001 et seq.) on the day before November 5, 2002;

(2) members of the National Assessment Governing Board shall continue to be appointed by the Secretary;

(3) section 9621(f)(1) of this title shall apply to the National Assessment Governing Board in the exercise of its responsibilities under this Act;

(4) sections 9515 and 9516 of this title shall not apply to the National Assessment of Educational Progress; and

(5) sections 9515 and 9516 of this title shall not apply to the National Assessment Governing Board.

(b) Other activities

The Secretary may assign the Institute responsibility for administering other activities, if those activities are consistent with—

(1) the Institute's priorities, as approved by the National Board for Education Sciences under section 9516 of this title, and the Institute's mission, as described in section 9511(b) of this title; or

(2) the Institute's mission, but only if those activities do not divert the Institute from its priorities.

(Pub. L. 107–279, title I, §113, Nov. 5, 2002, 116 Stat. 1945.)

REFERENCES IN TEXT

The National Education Statistics Act of 1994, referred to in subsec. (a)(1), is title IV of Pub. L. 103–382, Oct. 20, 1994, 108 Stat. 4029, as amended, which was classified generally to chapter 71 (§9001 et seq.) of this title, prior to repeal by Pub. L. 107–279, title IV, §403(1), Nov. 5, 2002, 116 Stat. 1985. Provisions relating to education statistics are now contained in part C (§9541 et seq.) of this subchapter.

This Act, referred to in subsec. (a)(3), means Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 6317, 6491, 6932, 7013, 7253c, 7283b, 7283d, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

§ 9514. Office of the Director

(a) Appointment

Except as provided in subsection (b)(2) of this section, the President, by and with the advice and consent of the Senate, shall appoint the Director of the Institute.

(b) Term

(1) In general

The Director shall serve for a term of 6 years, beginning on the date of appointment of the Director.

(2) First Director

The President, without the advice and consent of the Senate, may appoint the Assistant Secretary for the Office of Educational Research and Improvement (as such office existed on the day before November 5, 2002) to serve as the first Director of the Institute.

(3) Subsequent Directors

The Board may make recommendations to the President with respect to the appointment of a Director under subsection (a) of this section, other than a Director appointed under paragraph (2).

(c) Pay

The Director shall receive the rate of basic pay for level II of the Executive Schedule.

(d) Qualifications

The Director shall be selected from individuals who are highly qualified authorities in the fields of scientifically valid research, statistics, or evaluation in education, as well as management within such areas, and have a demonstrated capacity for sustained productivity and leadership in these areas.

(e) Administration

The Director shall—

(1) administer, oversee, and coordinate the activities carried out under the Institute, including the activities of the National Education Centers; and

(2) coordinate and approve budgets and operating plans for each of the National Education Centers for submission to the Secretary.

(f) Duties

The duties of the Director shall include the following:

(1) To propose to the Board priorities for the Institute, in accordance with section 9515(a) of this title.

(2) To ensure the methodology applied in conducting research, development, evaluation, and statistical analysis is consistent with the standards for such activities under this subchapter.

(3) To coordinate education research and related activities carried out by the Institute with such research and activities carried out by other agencies within the Department and the Federal Government.

(4) To advise the Secretary on research, evaluation, and statistics activities relevant to the activities of the Department.

(5) To establish necessary procedures for technical and scientific peer review of the activities of the Institute, consistent with section 9516(b)(3) of this title.

(6) To ensure that all participants in research conducted or supported by the Institute are afforded their privacy rights and other relevant protections as research subjects, in accordance with section 9573 of this title, section 552a of title 5, and sections 1232g and 1232h of this title.

(7) To ensure that activities conducted or supported by the Institute are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(8) To undertake initiatives and programs to increase the participation of researchers and institutions that have been historically underutilized in Federal education research activities of the Institute, including historically Black colleges or universities or other institutions of higher education with large numbers of minority students.

(9) To coordinate with the Secretary to promote and provide for the coordination of research and development activities and technical assistance activities between the Institute and comprehensive centers.

(10) To solicit and consider the recommendations of education stakeholders, in order to ensure that there is broad and regular public and professional input from the educational field in the planning and carrying out of the Institute's activities.

(11) To coordinate the wide dissemination of information on scientifically valid research.

(12) To carry out and support other activities consistent with the priorities and mission of the Institute.

(g) Expert guidance and assistance

The Director may establish technical and scientific peer-review groups and scientific program advisory committees for research and evaluations that the Director determines are necessary to carry out the requirements of this subchapter. The Director shall appoint such personnel, except that officers and employees of the United States shall comprise no more than ¼ of the members of any such group or committee and shall not receive additional compensation for their service as members of such a group or committee. The Director shall ensure that reviewers are highly qualified and capable to appraise education research and development projects. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a peer-review

group or an advisory committee established under this subsection.

(h) Review

The Director may, when requested by other officers of the Department, and shall, when directed by the Secretary, review the products and publications of other offices of the Department to certify that evidence-based claims about those products and publications are scientifically valid.

(Pub. L. 107–279, title I, § 114, Nov. 5, 2002, 116 Stat. 1946.)

REFERENCES IN TEXT

Level II of the Executive Schedule, referred to in subsec. (c), is set out in section 5313 of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 9515. Priorities

(a) Proposal

The Director shall propose to the Board priorities for the Institute (taking into consideration long-term research and development on core issues conducted through the national research and development centers). The Director shall identify topics that may require long-term research and topics that are focused on understanding and solving particular education problems and issues, including those associated with the goals and requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), such as—

(1) closing the achievement gap between high-performing and low-performing children, especially achievement gaps between minority and nonminority children and between disadvantaged children and such children's more advantaged peers; and

(2) ensuring—

(A) that all children have the ability to obtain a high-quality education (from early childhood through postsecondary education) and reach, at a minimum, proficiency on challenging State academic achievement standards and State academic assessments, particularly in mathematics, science, and reading or language arts;

(B) access to, and opportunities for, postsecondary education; and

(C) the efficacy, impact on academic achievement, and cost-effectiveness of technology use within the Nation's schools.

(b) Approval

The Board shall approve or disapprove the priorities for the Institute proposed by the Director, including any necessary revision of those priorities. The Board shall transmit any priorities so approved to the appropriate congressional committees.

(c) Consistency

The Board shall ensure that priorities of the Institute and the National Education Centers are consistent with the mission of the Institute.

(d) Public availability and comment

(1) Priorities

Before submitting to the Board proposed priorities for the Institute, the Director shall make such priorities available to the public for comment for not less than 60 days (including by means of the Internet and through publishing such priorities in the Federal Register). The Director shall provide to the Board a copy of each such comment submitted.

(2) Plan

Upon approval of such priorities, the Director shall make the Institute's plan for addressing such priorities available for public comment in the same manner as under paragraph (1).

(Pub. L. 107–279, title I, § 115, Nov. 5, 2002, 116 Stat. 1948; Pub. L. 108–446, title II, § 201(b)(2)(C), Dec. 3, 2004, 118 Stat. 2802.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

The Individuals with Disabilities Education Act, referred to in subsec. (a), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§ 1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

The Higher Education Act of 1965, referred to in subsec. (a), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108–446, in introductory provisions, substituted ''including those associated with the goals and requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), such as'' for ''including those associated with the goals and requirements established in the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), such as''.

§ 9516. National Board for Education Sciences

(a) Establishment

The Institute shall have a board of directors, which shall be known as the National Board for Education Sciences.

(b) Duties

The duties of the Board shall be the following:

(1) To advise and consult with the Director on the policies of the Institute.

(2) To consider and approve priorities proposed by the Director under section 9515 of this title to guide the work of the Institute.

(3) To review and approve procedures for technical and scientific peer review of the activities of the Institute.

(4) To advise the Director on the establishment of activities to be supported by the Insti-

tute, including the general areas of research to be carried out by the National Center for Education Research.

(5) To present to the Director such recommendations as it may find appropriate for—

(A) the strengthening of education research; and

(B) the funding of the Institute.

(6) To advise the Director on the funding of applications for grants, contracts, and cooperative agreements for research, after the completion of peer review.

(7) To review and regularly evaluate the work of the Institute, to ensure that scientifically valid research, development, evaluation, and statistical analysis are consistent with the standards for such activities under this subchapter.

(8) To advise the Director on ensuring that activities conducted or supported by the Institute are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(9) To solicit advice and information from those in the educational field, particularly practitioners and researchers, to recommend to the Director topics that require long-term, sustained, systematic, programmatic, and integrated research efforts, including knowledge utilization and wide dissemination of research, consistent with the priorities and mission of the Institute.

(10) To advise the Director on opportunities for the participation in, and the advancement of, women, minorities, and persons with disabilities in education research, statistics, and evaluation activities of the Institute.

(11) To recommend to the Director ways to enhance strategic partnerships and collaborative efforts among other Federal and State research agencies.

(12) To recommend to the Director individuals to serve as Commissioners of the National Education Centers.

(c) Composition

(1) Voting members

The Board shall have 15 voting members appointed by the President, by and with the advice and consent of the Senate.

(2) Advice

The President shall solicit advice regarding individuals to serve on the Board from the National Academy of Sciences, the National Science Board, and the National Science Advisor.

(3) Nonvoting ex officio members

The Board shall have the following nonvoting ex officio members:

(A) The Director of the Institute of Education Sciences.

(B) Each of the Commissioners of the National Education Centers.

(C) The Director of the National Institute of Child Health and Human Development.

(D) The Director of the Census.

(E) The Commissioner of Labor Statistics.

(F) The Director of the National Science Foundation.

(4) Appointed membership

(A) Qualifications

Members appointed under paragraph (1) shall be highly qualified to appraise education research, statistics, evaluations, or development, and shall include the following individuals:

(i) Not fewer than 8 researchers in the field of statistics, evaluation, social sciences, or physical and biological sciences, which may include those researchers recommended by the National Academy of Sciences.

(ii) Individuals who are knowledgeable about the educational needs of the United States, who may include school-based professional educators, parents (including parents with experience in promoting parental involvement in education), Chief State School Officers, State postsecondary education executives, presidents of institutions of higher education, local educational agency superintendents, early childhood experts, special education experts, principals, members of State or local boards of education or Bureau-funded school boards, and individuals from business and industry with experience in promoting private sector involvement in education.

(B) Terms

Each member appointed under paragraph (1) shall serve for a term of 4 years, except that—

(i) the terms of the initial members appointed under such paragraph shall (as determined by a random selection process at the time of appointment) be for staggered terms of—

(I) 4 years for each of 5 members;

(II) 3 years for each of 5 members; and

(III) 2 years for each of 5 members; and

(ii) no member appointed under such paragraph shall serve for more than 2 consecutive terms.

(C) Unexpired terms

Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(D) Conflict of interest

A voting member of the Board shall be considered a special Government employee for the purposes of the Ethics in Government Act of 1978.

(5) Chair

The Board shall elect a chair from among the members of the Board.

(6) Compensation

Members of the Board shall serve without pay for such service. Members of the Board who are officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

(7) Travel expenses

The members of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5.

(8) Powers of the Board

(A) Executive Director

The Board shall have an Executive Director who shall be appointed by the Board.

(B) Additional staff

The Board shall utilize such additional staff as may be appointed or assigned by the Director, in consultation with the Chair and the Executive Director.

(C) Detail of personnel

The Board may use the services and facilities of any department or agency of the Federal Government. Upon the request of the Board, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Board to assist the Board in carrying out this Act.

(D) Contracts

The Board may enter into contracts or make other arrangements as may be necessary to carry out its functions.

(E) Information

The Board may, to the extent otherwise permitted by law, obtain directly from any executive department or agency of the Federal Government such information as the Board determines necessary to carry out its functions.

(9) Meetings

The Board shall meet not less than 3 times each year. The Board shall hold additional meetings at the call of the Chair or upon the written request of not less than 6 voting members of the Board. Meetings of the Board are subject to section 552b of title 5 (commonly referred to as the Government in the Sunshine Act).

(10) Quorum

A majority of the voting members of the Board serving at the time of the meeting shall constitute a quorum.

(d) Standing committees

(1) Establishment

The Board may establish standing committees—

(A) that will each serve 1 of the National Education Centers; and

(B) to advise, consult with, and make recommendations to the Director and the Commissioner of the appropriate National Education Center.

(2) Membership

A majority of the members of each standing committee shall be voting members of the Board whose expertise is needed for the functioning of the committee. In addition, the membership of each standing committee may include, as appropriate—

(A) experts and scientists in research, statistics, evaluation, or development who are recognized in their discipline as highly qualified to represent such discipline and who are not members of the Board, but who may have been recommended by the Commissioner of the appropriate National Education Center and approved by the Board;

(B) ex officio members of the Board; and

(C) policymakers and expert practitioners with knowledge of, and experience using, the results of research, evaluation, and statistics who are not members of the Board, but who may have been recommended by the Commissioner of the appropriate National Education Center and approved by the Board.

(3) Duties

Each standing committee shall—

(A) review and comment, at the discretion of the Board or the standing committee, on any grant, contract, or cooperative agreement entered into (or proposed to be entered into) by the applicable National Education Center;

(B) prepare for, and submit to, the Board an annual evaluation of the operations of the applicable National Education Center;

(C) review and comment on the relevant plan for activities to be undertaken by the applicable National Education Center for each fiscal year; and

(D) report periodically to the Board regarding the activities of the committee and the applicable National Education Center.

(e) Annual report

The Board shall submit to the Director, the Secretary, and the appropriate congressional committees, not later than July 1 of each year, a report that assesses the effectiveness of the Institute in carrying out its priorities and mission, especially as such priorities and mission relate to carrying out scientifically valid research, conducting unbiased evaluations, collecting and reporting accurate education statistics, and translating research into practice.

(f) Recommendations

The Board shall submit to the Director, the Secretary, and the appropriate congressional committees a report that includes any recommendations regarding any actions that may be taken to enhance the ability of the Institute to carry out its priorities and mission. The Board shall submit an interim report not later than 3 years after November 5, 2002, and a final report not later than 5 years after such date.

(Pub. L. 107–279, title I, §116, Nov. 5, 2002, 116 Stat. 1948; Pub. L. 108–446, title II, §§201(b)(2)(D), 202, Dec. 3, 2004, 118 Stat. 2802.)

REFERENCES IN TEXT

The Ethics in Government Act of 1978, referred to in subsec. (c)(4)(D), is Pub. L. 95–521, Oct. 26, 1978, 92 Stat. 1824, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 101 of Pub. L. 95–521 in the Appendix to Title 5, Government Organization and Employees, and Tables.

This Act, referred to in subsec. (c)(8)(C), means Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 6317, 6491, 6932, 7013, 7253c, 7283b, 7283d, 7451, 7703, 7909, 9007, 9010, 9011, 9573,

9623, and 9624 of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2004—Subsec. (c)(4)(A)(ii). Pub. L. 108–446, § 201(b)(2)(D), inserted ''special education experts,'' after ''early childhood experts,''.

Subsec. (c)(9). Pub. L. 108–446, § 202, substituted ''Meetings of the Board are subject to section 552b of title 5 (commonly referred to as the Government in the Sunshine Act).'' for ''Meetings of the Board shall be open to the public.''

§ 9517. Commissioners of the National Education Centers

(a) Appointment of Commissioners

(1) In general

Except as provided in subsection (b) of this section, each of the National Education Centers shall be headed by a Commissioner appointed by the Director. In appointing Commissioners, the Director shall seek to promote continuity in leadership of the National Education Centers and shall consider individuals recommended by the Board. The Director may appoint a Commissioner to carry out the functions of a National Education Center without regard to the provisions of title 5 governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Pay and qualifications

Except as provided in subsection (b) of this section, each Commissioner shall—

(A) receive the rate of basic pay for level IV of the Executive Schedule; and

(B) be highly qualified in the field of education research or evaluation.

(3) Service

Except as provided in subsection (b) of this section, each Commissioner shall report to the Director. A Commissioner shall serve for a period of not more than 6 years, except that a Commissioner—

(A) may be reappointed by the Director; and

(B) may serve after the expiration of that Commissioner's term, until a successor has been appointed, for a period not to exceed 1 additional year.

(b) Appointment of Commissioner for Education Statistics

The National Center for Education Statistics shall be headed by a Commissioner for Education Statistics who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall—

(1) have substantial knowledge of programs assisted by the National Center for Education Statistics;

(2) receive the rate of basic pay for level IV of the Executive Schedule; and

(3) serve for a term of 6 years, with the term to expire every sixth June 21, beginning in 2003.

(c) Coordination

Each Commissioner of a National Education Center shall coordinate with each of the other Commissioners of the National Education Centers in carrying out such Commissioner's duties under this subchapter.

(d) Supervision and approval

Each Commissioner, except the Commissioner for Education Statistics, shall carry out such Commissioner's duties under this subchapter under the supervision and subject to the approval of the Director.

(Pub. L. 107–279, title I, § 117, Nov. 5, 2002, 116 Stat. 1952.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

Level IV of the Executive Schedule, referred to in subsecs. (a)(2)(A) and (b)(2), is set out in section 5315 of Title 5, Government Organization and Employees.

§ 9518. Agreements

The Institute may carry out research projects of common interest with entities such as the National Science Foundation and the National Institute of Child Health and Human Development through agreements with such entities that are in accordance with section 1231 of this title.

(Pub. L. 107–279, title I, § 118, Nov. 5, 2002, 116 Stat. 1953.)

§ 9519. Biennial report

The Director shall, on a biennial basis, transmit to the President, the Board, and the appropriate congressional committees, and make widely available to the public (including by means of the Internet), a report containing the following:

(1) A description of the activities carried out by and through the National Education Centers during the prior fiscal years.

(2) A summary of each grant, contract, and cooperative agreement in excess of $100,000 funded through the National Education Centers during the prior fiscal years, including, at a minimum, the amount, duration, recipient, purpose of the award, and the relationship, if any, to the priorities and mission of the Institute, which shall be available in a user-friendly electronic database.

(3) A description of how the activities of the National Education Centers are consistent with the principles of scientifically valid research and the priorities and mission of the Institute.

(4) Such additional comments, recommendations, and materials as the Director considers appropriate.

(Pub. L. 107–279, title I, § 119, Nov. 5, 2002, 116 Stat. 1953.)

§ 9520. Competitive awards

Activities carried out under this Act through grants, contracts, or cooperative agreements, at a minimum, shall be awarded on a competitive basis and, when practicable, through a process of peer review.

(Pub. L. 107–279, title I, § 120, Nov. 5, 2002, 116 Stat. 1953.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 6317, 6491, 6932, 7013, 7253c, 7283b, 7283d, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

PART B—NATIONAL CENTER FOR EDUCATION RESEARCH

§ 9531. Establishment

(a) Establishment

There is established in the Institute a National Center for Education Research (in this part referred to as the ''Research Center'').

(b) Mission

The mission of the Research Center is—

(1) to sponsor sustained research that will lead to the accumulation of knowledge and understanding of education, to—

(A) ensure that all children have access to a high-quality education;

(B) improve student academic achievement, including through the use of educational technology;

(C) close the achievement gap between high-performing and low-performing students through the improvement of teaching and learning of reading, writing, mathematics, science, and other academic subjects; and

(D) improve access to, and opportunity for, postsecondary education;

(2) to support the synthesis and, as appropriate, the integration of education research;

(3) to promote quality and integrity through the use of accepted practices of scientific inquiry to obtain knowledge and understanding of the validity of education theories, practices, or conditions; and

(4) to promote scientifically valid research findings that can provide the basis for improving academic instruction and lifelong learning.

(Pub. L. 107–279, title I, § 131, Nov. 5, 2002, 116 Stat. 1954.)

§ 9532. Commissioner for Education Research

The Research Center shall be headed by a Commissioner for Education Research (in this part referred to as the ''Research Commissioner'') who shall have substantial knowledge of the activities of the Research Center, including a high level of expertise in the fields of research and research management.

(Pub. L. 107–279, title I, § 132, Nov. 5, 2002, 116 Stat. 1954.)

§ 9533. Duties

(a) General duties

The Research Center shall—

(1) maintain published peer-review standards and standards for the conduct and evaluation of all research and development carried out under the auspices of the Research Center in accordance with this part;

(2) propose to the Director a research plan that—

(A) is consistent with the priorities and mission of the Institute and the mission of the Research Center and includes the activities described in paragraph (3); and

(B) shall be carried out pursuant to paragraph (4) and, as appropriate, be updated and modified;

(3) carry out specific, long-term research activities that are consistent with the priorities and mission of the Institute, and are approved by the Director;

(4) implement the plan proposed under paragraph (2) to carry out scientifically valid research that—

(A) uses objective and measurable indicators, including timelines, that are used to assess the progress and results of such research;

(B) meets the procedures for peer review established by the Director under section 9514(f)(5) of this title and the standards of research described in section 9534 of this title; and

(C) includes both basic research and applied research, which shall include research conducted through field-initiated research and ongoing research initiatives;

(5) promote the use of scientifically valid research within the Federal Government, including active participation in interagency research projects described in section 9518 of this title;

(6) ensure that research conducted under the direction of the Research Center is relevant to education practice and policy;

(7) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance, the findings and results of education research conducted or supported by the Research Center;

(8) assist the Director in the preparation of a biennial report, as described in section 9519 of this title;

(9) carry out research on successful State and local education reform activities, including those that result in increased academic achievement and in closing the achievement gap, as approved by the Director;

(10) carry out research initiatives regarding the impact of technology, including—

(A) research into how technology affects student achievement;

(B) long-term research into cognition and learning issues as they relate to the uses of technology;

(C) rigorous, peer-reviewed, large-scale, long-term, and broadly applicable empirical research that is designed to determine which approaches to the use of technology are most effective and cost-efficient in practice and under what conditions; and

(D) field-based research on how teachers implement technology and Internet-based resources in the classroom, including an understanding[1] how these resources are being accessed, put to use, and the effectiveness of such resources; and

(11) carry out research that is rigorous, peer-reviewed, and large scale to determine which methods of mathematics and science teaching are most effective, cost efficient, and able to be applied, duplicated, and scaled up for use in elementary and secondary classrooms, including in low-performing schools, to improve the teaching of, and student achievement in, mathematics and science as required under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(b) Eligibility

Research carried out under subsection (a) of this section through contracts, grants, or cooperative agreements shall be carried out only by recipients with the ability and capacity to conduct scientifically valid research.

(c) National research and development centers

(1) Support

In carrying out activities under subsection (a)(3) of this section, the Research Commissioner shall support not less than 8 national research and development centers. The Research Commissioner shall assign each of the 8 national research and development centers not less than 1 of the topics described in paragraph (2). In addition, the Research Commissioner may assign each of the 8 national research and development centers additional topics of research consistent with the mission and priorities of the Institute and the mission of the Research Center.

(2) Topics of research

The Research Commissioner shall support the following topics of research, through national research and development centers or through other means:

(A) Adult literacy.

(B) Assessment, standards, and accountability research.

(C) Early childhood development and education.

(D) English language learners research.

(E) Improving low achieving schools.

(F) Innovation in education reform.

(G) State and local policy.

(H) Postsecondary education and training.

(I) Rural education.

(J) Teacher quality.

(K) Reading and literacy.

(3) Duties of centers

The national research and development centers shall address areas of national need, including in educational technology areas. The Research Commissioner may support additional national research and development centers to address topics of research not described in paragraph (2) if such topics are consistent with the priorities and mission of the Institute and the mission of the Research Center. The research carried out by the centers shall incorporate the potential or existing role of educational technology, where appropriate, in achieving the goals of each center.

(4) Scope

Support for a national research and development center shall be for a period of not more than 5 years, shall be of sufficient size and scope to be effective, and notwithstanding section 9534(b) of this title, may be renewed without competition for not more than 5 additional years if the Director, in consultation with the Research Commissioner and the Board, determines that the research of the national research and development center—

(A) continues to address priorities of the Institute; and

(B) merits renewal (applying the procedures and standards established in section 9534 of this title).

(5) Limit

No national research and development center may be supported under this subsection for a period of more than 10 years without submitting to a competitive process for the award of the support.

(6) Continuation of awards

The Director shall continue awards made to the national research and development centers that are in effect on the day before November 5, 2002, in accordance with the terms of those awards and may renew them in accordance with paragraphs (4) and (5).

(7) Disaggregation

To the extent feasible, research conducted under this subsection shall be disaggregated by age, race, gender, and socioeconomic background.

(Pub. L. 107–279, title I, § 133, Nov. 5, 2002, 116 Stat. 1954.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(11), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

§ 9534. Standards for conduct and evaluation of research

(a) In general

In carrying out this part, the Research Commissioner shall—

(1) ensure that all research conducted under the direction of the Research Center follows scientifically based research standards;

(2) develop such other standards as may be necessary to govern the conduct and evaluation of all research, development, and wide

[1] So in original. Probably should be ''understanding of''.

dissemination activities carried out by the Research Center to assure that such activities meet the highest standards of professional excellence;

(3) review the procedures utilized by the National Institutes of Health, the National Science Foundation, and other Federal departments or agencies engaged in research and development, and actively solicit recommendations from research organizations and members of the general public in the development of the standards described in paragraph (2); and

(4) ensure that all research complies with Federal guidelines relating to research misconduct.

(b) Peer review

(1) In general

The Director shall establish a peer review system, involving highly qualified individuals with an in-depth knowledge of the subject to be investigated, for reviewing and evaluating all applications for grants and cooperative agreements that exceed $100,000, and for evaluating and assessing the products of research by all recipients of grants and cooperative agreements under this Act.

(2) Evaluation

The Research Commissioner shall—

(A) develop the procedures to be used in evaluating applications for research grants, cooperative agreements, and contracts, and specify the criteria and factors (including, as applicable, the use of longitudinal data linking test scores, enrollment, and graduation rates over time) which shall be considered in making such evaluations; and

(B) evaluate the performance of each recipient of an award of a research grant, contract, or cooperative agreement at the conclusion of the award.

(c) Long-term research

The Research Commissioner shall ensure that not less than 50 percent of the funds made available for research for each fiscal year shall be used to fund long-term research programs of not less than 5 years, which support the priorities and mission of the Institute and the mission of the Research Center.

(Pub. L. 107–279, title I, §134, Nov. 5, 2002, 116 Stat. 1957.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1), means Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 6317, 6491, 6932, 7013, 7253c, 7283b, 7283d, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections 9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

PART C—NATIONAL CENTER FOR EDUCATION STATISTICS

PRIOR PROVISIONS

Provisions similar to those in this part were contained in chapter 71 (§9001 et seq.) of this title prior to repeal by Pub. L. 107–279, title IV, §403(1), Nov. 5, 2002, 116 Stat. 1985.

§ 9541. Establishment

(a) Establishment

There is established in the Institute a National Center for Education Statistics (in this part referred to as the ''Statistics Center'').

(b) Mission

The mission of the Statistics Center shall be—

(1) to collect and analyze education information and statistics in a manner that meets the highest methodological standards;

(2) to report education information and statistics in a timely manner; and

(3) to collect, analyze, and report education information and statistics in a manner that—

(A) is objective, secular, neutral, and nonideological and is free of partisan political influence and racial, cultural, gender, or regional bias; and

(B) is relevant and useful to practitioners, researchers, policymakers, and the public.

(Pub. L. 107–279, title I, §151, Nov. 5, 2002, 116 Stat. 1957.)

§ 9542. Commissioner for Education Statistics

The Statistics Center shall be headed by a Commissioner for Education Statistics (in this part referred to as the ''Statistics Commissioner'') who shall be highly qualified and have substantial knowledge of statistical methodologies and activities undertaken by the Statistics Center.

(Pub. L. 107–279, title I, §152, Nov. 5, 2002, 116 Stat. 1958.)

§ 9543. Duties

(a) General duties

The Statistics Center shall collect, report, analyze, and disseminate statistical data related to education in the United States and in other nations, including—

(1) collecting, acquiring, compiling (where appropriate, on a State-by-State basis), and disseminating full and complete statistics (disaggregated by the population characteristics described in paragraph (3)) on the condition and progress of education, at the preschool, elementary, secondary, postsecondary, and adult levels in the United States, including data on—

(A) State and local education reform activities;

(B) State and local early childhood school readiness activities;

(C) student achievement in, at a minimum, the core academic areas of reading, mathematics, and science at all levels of education;

(D) secondary school completions, dropouts, and adult literacy and reading skills;

(E) access to, and opportunity for, postsecondary education, including data on financial aid to postsecondary students;

(F) teaching, including—

(i) data on in-service professional development, including a comparison of courses taken in the core academic areas of reading, mathematics, and science with courses in noncore academic areas, including technology courses; and

(ii) the percentage of teachers who are highly qualified (as such term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) in each State and, where feasible, in each local educational agency and school;

(G) instruction, the conditions of the education workplace, and the supply of, and demand for, teachers;

(H) the incidence, frequency, seriousness, and nature of violence affecting students, school personnel, and other individuals participating in school activities, as well as other indices of school safety, including information regarding—

(i) the relationship between victims and perpetrators;

(ii) demographic characteristics of the victims and perpetrators; and

(iii) the type of weapons used in incidents, as classified in the Uniform Crime Reports of the Federal Bureau of Investigation;

(I) the financing and management of education, including data on revenues and expenditures;

(J) the social and economic status of children, including their academic achievement;

(K) the existence and use of educational technology and access to the Internet by students and teachers in elementary schools and secondary schools;

(L) access to, and opportunity for, early childhood education;

(M) the availability of, and access to, before-school and after-school programs (including such programs during school recesses);

(N) student participation in and completion of secondary and postsecondary vocational and technical education programs by specific program area; and

(O) the existence and use of school libraries;

(2) conducting and publishing reports on the meaning and significance of the statistics described in paragraph (1);

(3) collecting, analyzing, cross-tabulating, and reporting, to the extent feasible, information by gender, race, ethnicity, socioeconomic status, limited English proficiency, mobility, disability, urban, rural, suburban districts, and other population characteristics, when such disaggregated information will facilitate educational and policy decisionmaking;

(4) assisting public and private educational agencies, organizations, and institutions in improving and automating statistical and data collection activities, which may include assisting State educational agencies and local educational agencies with the disaggregation of data and with the development of longitudinal student data systems;

(5) determining voluntary standards and guidelines to assist State educational agencies in developing statewide longitudinal data systems that link individual student data consistent with the requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), promote linkages across States, and protect student privacy consistent with section 9573 of this title, to improve student academic achievement and close achievement gaps;

(6) acquiring and disseminating data on educational activities and student achievement (such as the Third International Math and Science Study) in the United States compared with foreign nations;

(7) conducting longitudinal and special data collections necessary to report on the condition and progress of education;

(8) assisting the Director in the preparation of a biennial report, as described in section 9519 of this title; and

(9) determining, in consultation with the National Research Council of the National Academies, methodology by which States may accurately measure graduation rates (defined as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years), school completion rates, and dropout rates.

(b) Training program

The Statistics Commissioner may establish a program to train employees of public and private educational agencies, organizations, and institutions in the use of standard statistical procedures and concepts, and may establish a fellowship program to appoint such employees as temporary fellows at the Statistics Center, in order to assist the Statistics Center in carrying out its duties.

(Pub. L. 107–279, title I, § 153, Nov. 5, 2002, 116 Stat. 1958.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsec. (a)(5), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

STUDY BY NATIONAL CENTER FOR EDUCATION STATISTICS RESPECTING CONDITION OF EDUCATION FOR HISPANIC AMERICANS

Pub. L. 98–211, § 24(b), Dec. 8, 1983, 97 Stat. 1419, provided that: ''The National Center for Education Statistics shall not terminate the study of the condition of education for Hispanic Americans unless specifically required or authorized to do so by law.''

§ 9544. Performance of duties

(a) Grants, contracts, and cooperative agreements

In carrying out the duties under this part, the Statistics Commissioner,[1] may award grants,

[1] So in original. The comma probably should not appear.

enter into contracts and cooperative agreements, and provide technical assistance.

(b) Gathering information

(1) Sampling

The Statistics Commissioner may use the statistical method known as sampling (including random sampling) to carry out this part.

(2) Source of information

The Statistics Commissioner may, as appropriate, use information collected—

(A) from States, local educational agencies, public and private schools, preschools, institutions of higher education, vocational and adult education programs, libraries, administrators, teachers, students, the general public, and other individuals, organizations, agencies, and institutions (including information collected by States and local educational agencies for their own use); and

(B) by other offices within the Institute and by other Federal departments, agencies, and instrumentalities.

(3) Collection

The Statistics Commissioner may—

(A) enter into interagency agreements for the collection of statistics;

(B) arrange with any agency, organization, or institution for the collection of statistics; and

(C) assign employees of the Statistics Center to any such agency, organization, or institution to assist in such collection.

(4) Technical assistance and coordination

In order to maximize the effectiveness of Department efforts to serve the educational needs of children and youth, the Statistics Commissioner shall—

(A) provide technical assistance to the Department offices that gather data for statistical purposes; and

(B) coordinate with other Department offices in the collection of data.

(c) Duration

Notwithstanding any other provision of law, the grants, contracts, and cooperative agreements under this section may be awarded, on a competitive basis, for a period of not more than 5 years, and may be renewed at the discretion of the Statistics Commissioner for an additional period of not more than 5 years.

(Pub. L. 107–279, title I, §154, Nov. 5, 2002, 116 Stat. 1960.)

§ 9545. Reports

(a) Procedures for issuance of reports

The Statistics Commissioner,[1] shall establish procedures, in accordance with section 9576 of this title, to ensure that the reports issued under this section are relevant, of high quality, useful to customers, subject to rigorous peer review, produced in a timely fashion, and free from any partisan political influence.

(b) Report on condition and progress of education

Not later than June 1, 2003, and each June 1 thereafter, the Statistics Commissioner,[1] shall submit to the President and the appropriate congressional committees a statistical report on the condition and progress of education in the United States.

(c) Statistical reports

The Statistics Commissioner shall issue regular and, as necessary, special statistical reports on education topics, particularly in the core academic areas of reading, mathematics, and science, consistent with the priorities and the mission of the Statistics Center.

(Pub. L. 107–279, title I, §155, Nov. 5, 2002, 116 Stat. 1960.)

§ 9546. Dissemination

(a) General requests

(1) In general

The Statistics Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

(2) Compilations

The Statistics Center shall provide State educational agencies, local educational agencies, and institutions of higher education with opportunities to suggest the establishment of particular compilations of statistics, surveys, and analyses that will assist those educational agencies.

(b) Congressional requests

The Statistics Center shall furnish such special statistical compilations and surveys as the relevant congressional committees may request.

(c) Joint statistical projects

The Statistics Center may engage in joint statistical projects related to the mission of the Center, or other statistical purposes authorized by law, with nonprofit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

(d) Fees

(1) In general

Statistical compilations and surveys under this section, other than those carried out pursuant to subsections (b) and (c) of this section, may be made subject to the payment of the actual or estimated cost of such work.

(2) Funds received

All funds received in payment for work or services described in this subsection may be used to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

(e) Access

(1) Other agencies

The Statistics Center shall, consistent with section 9573 of this title, cooperate with other Federal agencies having a need for educational data in providing access to educational data received by the Statistics Center.

[1] So in original. The comma probably should not appear.

(2) Interested parties

The Statistics Center shall, in accordance with such terms and conditions as the Center may prescribe, provide all interested parties, including public and private agencies, parents, and other individuals, direct access, in the most appropriate form (including, where possible, electronically), to data collected by the Statistics Center for the purposes of research and acquiring statistical information.

(Pub. L. 107–279, title I, § 156, Nov. 5, 2002, 116 Stat. 1961.)

§ 9547. Cooperative education statistics systems

The Statistics Center may establish 1 or more national cooperative education statistics systems for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on early childhood education, elementary and secondary education, postsecondary education, adult education, and libraries, that are useful for policymaking at the Federal, State, and local levels.

(Pub. L. 107–279, title I, § 157, Nov. 5, 2002, 116 Stat. 1962.)

§ 9548. State defined

In this part, the term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 107–279, title I, § 158, Nov. 5, 2002, 116 Stat. 1962.)

PART D—NATIONAL CENTER FOR EDUCATION EVALUATION AND REGIONAL ASSISTANCE

§ 9561. Establishment

(a) Establishment

There is established in the Institute a National Center for Education Evaluation and Regional Assistance.

(b) Mission

The mission of the National Center for Education Evaluation and Regional Assistance shall be—

(1) to provide technical assistance;

(2) to conduct evaluations of Federal education programs administered by the Secretary (and as time and resources allow, other education programs) to determine the impact of such programs (especially on student academic achievement in the core academic areas of reading, mathematics, and science);

(3) to support synthesis and wide dissemination of results of evaluation, research, and products developed; and

(4) to encourage the use of scientifically valid education research and evaluation throughout the United States.

(c) Grants, contracts, and cooperative agreements

In carrying out the duties under this part, the Director may award grants, enter into contracts and cooperative agreements, and provide technical assistance.

(Pub. L. 107–279, title I, § 171, Nov. 5, 2002, 116 Stat. 1962.)

§ 9562. Commissioner for Education Evaluation and Regional Assistance

(a) In general

The National Center for Education Evaluation and Regional Assistance shall be headed by a Commissioner for Education Evaluation and Regional Assistance (in this part referred to as the ''Evaluation and Regional Assistance Commissioner'') who is highly qualified and has demonstrated a capacity to carry out the mission of the Center and shall—

(1) conduct evaluations pursuant to section 9563 of this title;

(2) widely disseminate information on scientifically valid research, statistics, and evaluation on education, particularly to State educational agencies and local educational agencies, to institutions of higher education, to the public, the media, voluntary organizations, professional associations, and other constituencies, especially with respect to information relating to, at a minimum—

(A) the core academic areas of reading, mathematics, and science;

(B) closing the achievement gap between high-performing students and low-performing students;

(C) educational practices that improve academic achievement and promote learning;

(D) education technology, including software; and

(E) those topics covered by the Educational Resources Information Center Clearinghouses (established under section 941(f) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f)) (as such provision was in effect on the day before November 5, 2002);

(3) make such information accessible in a user-friendly, timely, and efficient manner (including through use of a searchable Internet-based online database that shall include all topics covered in paragraph (2)(E)) to schools, institutions of higher education, educators (including early childhood educators), parents, administrators, policymakers, researchers, public and private entities (including providers of early childhood services), entities responsible for carrying out technical assistance through the Department, and the general public;

(4) support the regional educational laboratories in conducting applied research, the development and dissemination of educational research, products and processes, the provision of technical assistance, and other activities to serve the educational needs of such laboratories' regions;

(5) manage the National Library of Education described in subsection (d) of this section, and other sources of digital information on education research;

(6) assist the Director in the preparation of a biennial report, described in section 9519 of this title; and

(7) award a contract for a prekindergarten through grade 12 mathematics and science teacher clearinghouse.

(b) Additional duties

In carrying out subsection (a) of this section, the Evaluation and Regional Assistance Commissioner shall—

(1) ensure that information disseminated under this section is provided in a cost-effective, nonduplicative manner that includes the most current research findings, which may include through the continuation of individual clearinghouses authorized under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (title IX of the Goals 2000: Educate America Act; 20 U.S.C. 6001 et seq.) (as such Act existed on the day before November 5, 2002);

(2) describe prominently the type of scientific evidence that is used to support the findings that are disseminated;

(3) explain clearly the scientifically appropriate and inappropriate uses of—

(A) the findings that are disseminated; and

(B) the types of evidence used to support those findings; and

(4) respond, as appropriate, to inquiries from schools, educators, parents, administrators, policymakers, researchers, public and private entities, and entities responsible for carrying out technical assistance.

(c) Continuation

The Director shall continue awards for the support of the Educational Resources Information Center Clearinghouses and contracts for regional educational laboratories (established under subsections (f) and (h) of section 941 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f) and (h)) (as such awards were in effect on the day before November 5, 2002)) for the duration of those awards, in accordance with the terms and agreements of such awards.

(d) National Library of Education

(1) Establishment

There is established within the National Center for Education Evaluation and Regional Assistance a National Library of Education that shall—

(A) be headed by an individual who is highly qualified in library science;

(B) collect and archive information;

(C) provide a central location within the Federal Government for information about education;

(D) provide comprehensive reference services on matters related to education to employees of the Department of Education and its contractors and grantees, other Federal employees, and members of the public; and

(E) promote greater cooperation and resource sharing among providers and repositories of education information in the United States.

(2) Information

The information collected and archived by the National Library of Education shall include—

(A) products and publications developed through, or supported by, the Institute; and

(B) other relevant and useful education-related research, statistics, and evaluation materials and other information, projects, and publications that are—

(i) consistent with—

(I) scientifically valid research; or

(II) the priorities and mission of the Institute; and

(ii) developed by the Department, other Federal agencies, or entities (including entities supported under subchapter II of this chapter and the Educational Resources Information Center Clearinghouses (established under section 941(f) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f)) (as such provision was in effect on the day before November 5, 2002))).[1]

(Pub. L. 107–279, title I, §172, Nov. 5, 2002, 116 Stat. 1962.)

REFERENCES IN TEXT

The Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002), referred to in subsecs. (a)(1)(E), (b)(1), (c), and (d)(2)(B)(ii), is title IX of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 212, as amended, which was classified principally to subchapter IX (§6001 et seq.) of chapter 68 of this title and was substantially repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985. Section 941 of the Act was classified to section 6041 of this title prior to repeal. For complete classification of this Act to the Code, see section 6001 of this title and Tables.

§ 9563. Evaluations

(a) In general

(1) Requirements

In carrying out its missions, the National Center for Education Evaluation and Regional Assistance may—

(A) conduct or support evaluations consistent with the Center's mission as described in section 9561(b) of this title;

(B) evaluate programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(C) to the extent practicable, examine evaluations conducted or supported by others in order to determine the quality and relevance of the evidence of effectiveness generated by those evaluations, with the approval of the Director;

(D) coordinate the activities of the National Center for Education Evaluation and Regional Assistance with other evaluation activities in the Department;

(E) review and, where feasible, supplement Federal education program evaluations, particularly those by the Department, to determine or enhance the quality and relevance of the evidence generated by those evaluations;

(F) establish evaluation methodology; and

(G) assist the Director in the preparation of the biennial report, as described in section 9519 of this title.

(2) Additional requirements

Each evaluation conducted by the National Center for Education Evaluation and Regional Assistance pursuant to paragraph (1) shall—

[1] So in original. The third closing parenthesis probably should not appear.

(A) adhere to the highest possible standards of quality for conducting scientifically valid education evaluation; and

(B) be subject to rigorous peer-review.

(b) Administration of evaluations under title I of the Elementary and Secondary Education Act of 1965

The Evaluation and Regional Assistance Commissioner, consistent with the mission of the National Center for Education Evaluation and Regional Assistance under section 9561(b) of this title, shall administer all operations and contracts associated with evaluations authorized by part E of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491 et seq.) and administered by the Department as of November 5, 2002.

(Pub. L. 107–279, title I, §173, Nov. 5, 2002, 116 Stat. 1964.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (a)(1)(B) and (b), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Title I of the Act is classified generally to subchapter I (§6301 et seq.) of chapter 70 of this title. Part E of title I of the Act is classified generally to part E (§6491 et seq.) of subchapter I of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

§ 9564. Regional educational laboratories for research, development, dissemination, and technical assistance

(a) Regional educational laboratories

The Director shall enter into contracts with entities to establish a networked system of 10 regional educational laboratories that serve the needs of each region of the United States in accordance with the provisions of this section. The amount of assistance allocated to each laboratory by the Evaluation and Regional Assistance Commissioner shall reflect the number of local educational agencies and the number of school-age children within the region served by such laboratory, as well as the cost of providing services within the geographic area encompassed by the region.

(b) Regions

The regions served by the regional educational laboratories shall be the 10 geographic regions served by the regional educational laboratories established under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such provision existed on the day before November 5, 2002).

(c) Eligible applicants

The Director may enter into contracts under this section with research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in this section, including regional entities that carried out activities under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002) and title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before January 8, 2002).

(d) Applications

(1) Submission

Each applicant desiring a contract under this section shall submit an application at such time, in such manner, and containing such information as the Director may reasonably require.

(2) Plan

Each application submitted under paragraph (1) shall contain a 5-year plan for carrying out the activities described in this section in a manner that addresses the priorities established under section 9606 of this title and addresses the needs of all States (and to the extent practicable, of local educational agencies) within the region to be served by the regional educational laboratory, on an ongoing basis.

(e) Entering into contracts

(1) In general

In entering into contracts under this section, the Director shall—

(A) enter into contracts for a 5-year period; and

(B) ensure that regional educational laboratories established under this section have strong and effective governance, organization, management, and administration, and employ qualified staff.

(2) Coordination

In order to ensure coordination and prevent unnecessary duplication of activities among the regions, the Evaluation and Regional Assistance Commissioner shall—

(A) share information about the activities of each regional educational laboratory awarded a contract under this section with each other regional educational laboratory awarded a contract under this section and with the Department of Education, including the Director and the Board;

(B) oversee a strategic plan for ensuring that each regional educational laboratory awarded a contract under this section increases collaboration and resource-sharing in such activities;

(C) ensure, where appropriate, that the activities of each regional educational laboratory awarded a contract under this section also serve national interests; and

(D) ensure that each regional educational laboratory awarded a contract under this section coordinates such laboratory's activities with the activities of each other regional technical assistance provider.

(3) Outreach

In conducting competitions for contracts under this section, the Director shall—

(A) actively encourage eligible entities to compete for such awards by making information and technical assistance relating to the competition widely available; and

(B) seek input from the chief executive officers of States, chief State school officers, educators, and parents regarding the need for applied research, wide dissemination,

training, technical assistance, and development activities authorized by this subchapter in the regions to be served by the regional educational laboratories and how those educational needs could be addressed most effectively.

(4) Objectives and indicators

Before entering into a contract under this section, the Director shall design specific objectives and measurable indicators to be used to assess the particular programs or initiatives, and ongoing progress and performance, of the regional educational laboratories, in order to ensure that the educational needs of the region are being met and that the latest and best research and proven practices are being carried out as part of school improvement efforts.

(5) Standards

The Evaluation and Regional Assistance Commissioner shall establish a system for technical and peer review to ensure that applied research activities, research-based reports, and products of the regional educational laboratories are consistent with the research standards described in section 9534 of this title and the evaluation standards adhered to pursuant to section 9563(a)(2)(A) of this title.

(f) Central mission and primary function

Each regional educational laboratory awarded a contract under this section shall support applied research, development, wide dissemination, and technical assistance activities by—

(1) providing training (which may include supporting internships and fellowships and providing stipends) and technical assistance to State educational agencies, local educational agencies, school boards, schools funded by the Bureau as appropriate, and State boards of education regarding, at a minimum—

(A) the administration and implementation of programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(B) scientifically valid research in education on teaching methods, assessment tools, and high quality, challenging curriculum frameworks for use by teachers and administrators in, at a minimum—

(i) the core academic subjects of mathematics, science, and reading;

(ii) English language acquisition;

(iii) education technology; and

(iv) the replication and adaption of exemplary and promising practices and new educational methods, including professional development strategies and the use of educational technology to improve teaching and learning; and

(C) the facilitation of communication between educational experts, school officials, and teachers, parents, and librarians, to enable such individuals to assist schools to develop a plan to meet the State education goals;

(2) developing and widely disseminating, including through Internet-based means, scientifically valid research, information, reports, and publications that are usable for improving academic achievement, closing achievement gaps, and encouraging and sustaining school improvement, to—

(A) schools, districts, institutions of higher education, educators (including early childhood educators and librarians), parents, policymakers, and other constituencies, as appropriate, within the region in which the regional educational laboratory is located; and

(B) the National Center for Education Evaluation and Regional Assistance;

(3) developing a plan for identifying and serving the needs of the region by conducting a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools, teachers, administrators, parents, local educational agencies, librarians, and State educational agencies within the region;

(4) in the event such quality applied research does not exist as determined by the regional educational laboratory or the Department, carrying out applied research projects that are designed to serve the particular educational needs (in prekindergarten through grade 16) of the region in which the regional educational laboratory is located, that reflect findings from scientifically valid research, and that result in user-friendly, replicable school-based classroom applications geared toward promoting increased student achievement, including using applied research to assist in solving site-specific problems and assisting in development activities (including high-quality and on-going professional development and effective parental involvement strategies);

(5) supporting and serving the educational development activities and needs of the region by providing educational applied research in usable forms to promote school-improvement, academic achievement, and the closing of achievement gaps and contributing to the current base of education knowledge by addressing enduring problems in elementary and secondary education and access to postsecondary education;

(6) collaborating and coordinating services with other technical assistance providers funded by the Department of Education;

(7) assisting in gathering information on school finance systems to promote improved access to educational opportunities and to better serve all public school students;

(8) assisting in gathering information on alternative administrative structures that are more conducive to planning, implementing, and sustaining school reform and improved academic achievement;

(9) bringing teams of experts together to develop and implement school improvement plans and strategies, especially in low-performing or high poverty schools; and

(10) developing innovative approaches to the application of technology in education that are unlikely to originate from within the private sector, but which could result in the development of new forms of education software, education content, and technology-enabled pedagogy.

(g) Activities

Each regional educational laboratory awarded a contract under this section shall carry out the following activities:

(1) Collaborate with the National Education Centers in order to—

(A) maximize the use of research conducted through the National Education Centers in the work of such laboratory;

(B) keep the National Education Centers apprised of the work of the regional educational laboratory in the field; and

(C) inform the National Education Centers about additional research needs identified in the field.

(2) Consult with the State educational agencies and local educational agencies in the region in developing the plan for serving the region.

(3) Develop strategies to utilize schools as critical components in reforming education and revitalizing rural communities in the United States.

(4) Report and disseminate information on overcoming the obstacles faced by educators and schools in high poverty, urban, and rural areas.

(5) Identify successful educational programs that have either been developed by such laboratory in carrying out such laboratory's functions or that have been developed or used by others within the region served by the laboratory and make such information available to the Secretary and the network of regional educational laboratories so that such programs may be considered for inclusion in the national education dissemination system.

(h) Governing board and allocation

(1) In general

In carrying out its responsibilities, each regional educational laboratory awarded a contract under this section, in keeping with the terms and conditions of such laboratory's contract, shall—

(A) establish a governing board that—

(i) reflects a balanced representation of—

(I) the States in the region;

(II) the interests and concerns of regional constituencies; and

(III) technical expertise;

(ii) includes the chief State school officer or such officer's designee of each State represented in such board's region;

(iii) includes—

(I) representatives nominated by chief executive officers of States and State organizations of superintendents, principals, institutions of higher education, teachers, parents, businesses, and researchers; or

(II) other representatives of the organizations described in subclause (I), as required by State law in effect on the day before November 5, 2002;

(iv) is the sole entity that—

(I) guides and directs the laboratory in carrying out the provisions of this subsection and satisfying the terms and conditions of the contract award;

(II) determines the regional agenda of the laboratory;

(III) engages in an ongoing dialogue with the Evaluation and Regional Assistance Commissioner concerning the laboratory's goals, activities, and priorities; and

(IV) determines at the start of the contract period, subject to the requirements of this section and in consultation with the Evaluation and Regional Assistance Commissioner, the mission of the regional educational laboratory for the duration of the contract period;

(v) ensures that the regional educational laboratory attains and maintains a high level of quality in the laboratory's work and products;

(vi) establishes standards to ensure that the regional educational laboratory has strong and effective governance, organization, management, and administration, and employs qualified staff;

(vii) directs the regional educational laboratory to carry out the laboratory's duties in a manner that will make progress toward achieving the State education goals and reforming schools and educational systems; and

(viii) conducts a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools and teachers; and

(B) allocate the regional educational laboratory's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the laboratory.

(2) Special rule

If a regional educational laboratory needs flexibility in order to meet the requirements of paragraph (1)(A)(i), the regional educational laboratory may select not more than 10 percent of the governing board from individuals outside those representatives nominated in accordance with paragraph (1)(A)(iii).

(i) Duties of governing board

In order to improve the efficiency and effectiveness of the regional educational laboratories, the governing boards of the regional educational laboratories shall establish and maintain a network to—

(1) share information about the activities each laboratory is carrying out;

(2) plan joint activities that would meet the needs of multiple regions;

(3) create a strategic plan for the development of activities undertaken by the laboratories to reduce redundancy and increase collaboration and resource-sharing in such activities; and

(4) otherwise devise means by which the work of the individual laboratories could serve national, as well as regional, needs.

(j) Evaluations

The Evaluation and Regional Assistance Commissioner shall provide for independent evaluations of each of the regional educational laboratories in carrying out the duties described in this section in the third year that such laboratory receives assistance under this section in accordance with the standards developed by the Evaluation and Regional Assistance Commissioner and approved by the Board and shall transmit the results of such evaluations to the relevant committees of Congress, the Board, and the appropriate regional educational laboratory governing board.

(k) Rule of construction

No regional educational laboratory receiving assistance under this section shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Department of Education as authorized by law or be prohibited from engaging in activities involving international projects or endeavors.

(*l*) Advance payment system

Each regional educational laboratory awarded a contract under this section shall participate in the advance payment system at the Department of Education.

(m) Additional projects

In addition to activities authorized under this section, the Director is authorized to enter into contracts or agreements with a regional educational laboratory for the purpose of carrying out additional projects to enable such regional educational laboratory to assist in efforts to achieve State education goals and for other purposes.

(n) Annual report and plan

Not later than July 1 of each year, each regional educational laboratory awarded a contract under this section shall submit to the Evaluation and Regional Assistance Commissioner—

(1) a plan covering the succeeding fiscal year, in which such laboratory's mission, activities, and scope of work are described, including a general description of the plans such laboratory expects to submit in the remaining years of such laboratory's contract; and

(2) a report of how well such laboratory is meeting the needs of the region, including a summary of activities during the preceding year, a list of entities served, a list of products, and any other information that the regional educational laboratory may consider relevant or the Evaluation and Regional Assistance Commissioner may require.

(*o*) Construction

Nothing in this section shall be construed to require any modifications in a regional educational laboratory contract in effect on the day before November 5, 2002.

(Pub. L. 107–279, title I, §174, Nov. 5, 2002, 116 Stat. 1965.)

REFERENCES IN TEXT

The Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002), referred to in subsecs. (b) and (c), is title IX of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 212, as amended, which was classified principally to subchapter IX (§6001 et seq.) of chapter 68 of this title and was substantially repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985. Section 941 of the Act was classified to section 6041 of this title prior to repeal. For complete classification of this Act to the Code, see section 6001 of this title and Tables.

Title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before January 8, 2002), referred to in subsec. (c), means title XIII of Pub. L. 89–10, as added by Pub. L. 103–382, title I, §101, Oct. 20, 1994, 108 Stat. 3876, which was classified generally to subchapter XIII (§8601 et seq.) of chapter 70 of this title, prior to amendment by Pub. L. 107–110. Parts A to D of title XIII of Pub. L. 89–10, were classified to parts A (§8621 et seq.), B (§8651 et seq.), C (§8671 et seq.), and D (§8701 et seq.), respectively, of subchapter XIII of chapter 70 of this title, and were redesignated as parts K to N of title IX of Pub. L. 103–227, by Pub. L. 107–110, title X, §§1021(a), 1022(a), 1023(a), 1024(a), Jan. 8, 2002, 115 Stat. 1987, transferred to parts G (§6053 et seq.), H (§6054 et seq.), I (§6055 et seq.), and J (§6056 et seq.), respectively, of subchapter IX of chapter 68 of this title, and subsequently repealed by Pub. L. 107–279, title IV, §403(2), Nov. 5, 2002, 116 Stat. 1985.

The Elementary and Secondary Education Act of 1965, referred to in subsec. (f)(1)(A), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

PART E—NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH

PRIOR PROVISIONS

A prior part E, consisting of sections 9571 to 9584, was redesignated part F of this subchapter by Pub. L. 108–446, title II, §201(a)(1), Dec. 3, 2004, 118 Stat 2799.

§ 9567. Establishment

(a) Establishment

There is established in the Institute a National Center for Special Education Research (in this part referred to as the ''Special Education Research Center'').

(b) Mission

The mission of the Special Education Research Center is—

(1) to sponsor research to expand knowledge and understanding of the needs of infants, toddlers, and children with disabilities in order to improve the developmental, educational, and transitional results of such individuals;

(2) to sponsor research to improve services provided under, and support the implementation of, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

(3) to evaluate the implementation and effectiveness of the Individuals with Disabilities Education Act in coordination with the National Center for Education Evaluation and Regional Assistance.

(c) Applicability of this subchapter

Parts A and F of this subchapter, and the standards for peer review of applications and for

the conduct and evaluation of research under sections 9533(a) and 9534 of this title, respectively, shall apply to the Secretary, the Director, and the Commissioner in carrying out this part.

(Pub. L. 107–279, title I, §175, as added Pub. L. 108–446, title II, §201(a)(2), Dec. 3, 2004, 118 Stat. 2799.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsec. (b)(2), (3), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

§ 9567a. Commissioner for Special Education Research

The Special Education Research Center shall be headed by a Commissioner for Special Education Research (in this part referred to as the ''Special Education Research Commissioner'') who shall have substantial knowledge of the Special Education Research Center's activities, including a high level of expertise in the fields of research, research management, and the education of children with disabilities.

(Pub. L. 107–279, title I, §176, as added Pub. L. 108–446, title II, §201(a)(2), Dec. 3, 2004, 118 Stat. 2799.)

§ 9567b. Duties

(a) General duties

The Special Education Research Center shall carry out research activities under this part consistent with the mission described in section 9567(b) of this title, such as activities that—

(1) improve services provided under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.] in order to improve—

(A) academic achievement, functional outcomes, and educational results for children with disabilities; and

(B) developmental outcomes for infants or toddlers with disabilities;

(2) identify scientifically based educational practices that support learning and improve academic achievement, functional outcomes, and educational results for all students with disabilities;

(3) examine the special needs of preschool aged children, infants, and toddlers with disabilities, including factors that may result in developmental delays;

(4) identify scientifically based related services and interventions that promote participation and progress in the general education curriculum and general education settings;

(5) improve the alignment, compatibility, and development of valid and reliable assessments, including alternate assessments, as required by section 6311(b) of this title;

(6) examine State content standards and alternate assessments for students with significant cognitive impairment in terms of academic achievement, individualized instructional need, appropriate education settings, and improved post-school results;

(7) examine the educational, developmental, and transitional needs of children with high incidence and low incidence disabilities;

(8) examine the extent to which overidentification and underidentification of children with disabilities occurs, and the causes thereof;

(9) improve reading and literacy skills of children with disabilities;

(10) examine and improve secondary and postsecondary education and transitional outcomes and results for children with disabilities;

(11) examine methods of early intervention for children with disabilities, including children with multiple or complex developmental delays;

(12) examine and incorporate universal design concepts in the development of standards, assessments, curricula, and instructional methods to improve educational and transitional results for children with disabilities;

(13) improve the preparation of personnel, including early intervention personnel, who provide educational and related services to children with disabilities to increase the academic achievement and functional performance of students with disabilities;

(14) examine the excess costs of educating a child with a disability and expenses associated with high cost special education and related services;

(15) help parents improve educational results for their children, particularly related to transition issues;

(16) address the unique needs of children with significant cognitive disabilities; and

(17) examine the special needs of limited English proficient children with disabilities.

(b) Standards

The Special Education Research Commissioner shall ensure that activities assisted under this section—

(1) conform to high standards of quality, integrity, accuracy, validity, and reliability;

(2) are carried out in accordance with the standards for the conduct and evaluation of all research and development established by the National Center for Education Research; and

(3) are objective, secular, neutral, and nonideological, and are free of partisan political influence, and racial, cultural, gender, regional, or disability bias.

(c) Plan

The Special Education Research Commissioner shall propose to the Director a research plan, developed in collaboration with the Assistant Secretary for Special Education and Rehabilitative Services, that—

(1) is consistent with the priorities and mission of the Institute and the mission of the Special Education Research Center;

(2) is carried out, updated, and modified, as appropriate;

(3) is consistent with the purposes of the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.];

(4) contains an appropriate balance across all age ranges and types of children with disabilities;

(5) provides for research that is objective and uses measurable indicators to assess its progress and results; and

(6) is coordinated with the comprehensive plan developed under section 681 of the Individuals with Disabilities Education Act [20 U.S.C. 1481].

(d) Grants, contracts, and cooperative agreements

(1) In general

In carrying out the duties under this section, the Director may award grants to, or enter into contracts or cooperative agreements with, eligible applicants.

(2) Eligible applicants

Activities carried out under this subsection through contracts, grants, or cooperative agreements shall be carried out only by recipients with the ability and capacity to conduct scientifically valid research.

(3) Applications

An eligible applicant that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

(e) Dissemination

The Special Education Research Center shall—

(1) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance, the findings and results of special education research conducted or supported by the Special Education Research Center; and

(2) assist the Director in the preparation of a biennial report, as described in section 9519 of this title.

(f) Authorization of appropriations

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 2005 through 2010.

(Pub. L. 107–279, title I, §177, as added Pub. L. 108–446, title II, §201(a)(2), Dec. 3, 2004, 118 Stat. 2800.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(1) and (c)(3), is title VI of Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of this title. For complete classification of this Act to the Code, see section 1400 of this title and Tables.

EFFECTIVE DATE

Pub. L. 108–446, title III, §302(c), Dec. 3, 2004, 118 Stat. 2803, provided that:

''(1) NATIONAL CENTER FOR SPECIAL EDUCATION RESEARCH.—Sections 175, 176, and 177 [20 U.S.C. 9567, 9567a, 9567b] (other than section 177(c) [20 U.S.C. 9567b(c)]) of the Education Sciences Reform Act of 2002, as enacted by section 201(a)(2) of this Act, shall take effect on the date of enactment of this Act [Dec. 3, 2004].

''(2) PLAN.—Section 177(c) of the Education Sciences Reform Act of 2002, as enacted by section 201(a)(2) of this Act, shall take effect on October 1, 2005.''

PART F—GENERAL PROVISIONS

AMENDMENTS

2004—Pub. L. 108–446, title II, §201(a)(1), Dec. 3, 2004, 118 Stat. 2799, redesignated part E as F.

§ 9571. Interagency data sources and formats

The Secretary, in consultation with the Director, shall ensure that the Department and the Institute use common sources of data in standardized formats.

(Pub. L. 107–279, title I, §181, Nov. 5, 2002, 116 Stat. 1971.)

§ 9572. Prohibitions

(a) National database

Nothing in this subchapter may be construed to authorize the establishment of a nationwide database of individually identifiable information on individuals involved in studies or other collections of data under this subchapter.

(b) Federal Government and use of Federal funds

Nothing in this subchapter may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control the curriculum, program of instruction, or allocation of State or local resources of a State, local educational agency, or school, or to mandate a State, or any subdivision thereof, to spend any funds or incur any costs not provided for under this subchapter.

(c) Endorsement of curriculum

Notwithstanding any other provision of Federal law, no funds provided under this subchapter to the Institute, including any office, board, committee, or center of the Institute, may be used by the Institute to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

(d) Federally sponsored testing

(1) In general

Subject to paragraph (2), no funds provided under this subchapter to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

(2) Exceptions

Subsection (a) of this section shall not apply to international comparative assessments developed under the authority of section 9543(a)(6) of this title or section 9003(a)(6) of this title (as such section was in effect on the day before November 5, 2002) and administered to only a representative sample of pupils in the United States and in foreign nations.

(Pub. L. 107–279, title I, §182, Nov. 5, 2002, 116 Stat. 1971.)

REFERENCES IN TEXT

Section 9003 of this title, referred to in subsec. (d)(2), was repealed by Pub. L. 107–279, title IV, §403(1), Nov. 5, 2002, 116 Stat. 1985.

§ 9573. Confidentiality

(a) In general

All collection, maintenance, use, and wide dissemination of data by the Institute, including

each office, board, committee, and center of the Institute, shall conform with the requirements of section 552a of title 5, the confidentiality standards of subsection (c) of this section, and sections 1232g and 1232h of this title.

(b) Student information

The Director shall ensure that all individually identifiable information about students, their academic achievements, their families, and information with respect to individual schools, shall remain confidential in accordance with section 552a of title 5, the confidentiality standards of subsection (c) of this section, and sections 1232g and 1232h of this title.

(c) Confidentiality standards

(1) In general

(A) The Director shall develop and enforce standards designed to protect the confidentiality of persons in the collection, reporting, and publication of data under this subchapter.

(B) This section shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies that receive grants from, or have contracts or cooperative agreements with, the Federal Government.

(2) Prohibition

No person may—

(A) use any individually identifiable information furnished under this subchapter for any purpose other than a research, statistics, or evaluation purpose under this subchapter;

(B) make any publication whereby the data furnished by any particular person under this subchapter can be identified; or

(C) permit anyone other than the individuals authorized by the Director to examine the individual reports.

(d) Administration

(1) In general

(A) Disclosure

No Federal department, bureau, agency, officer, or employee and no recipient of a Federal grant, contract, or cooperative agreement may, for any reason, require the Director, any Commissioner of a National Education Center, or any other employee of the Institute to disclose individually identifiable information that has been collected or retained under this subchapter.

(B) Immunity

Individually identifiable information collected or retained under this subchapter shall be immune from legal process and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

(C) Application

This paragraph does not apply to requests for individually identifiable information submitted by or on behalf of the individual identified in the information.

(2) Employee or staff violations

Whoever, being or having been an employee or staff member of the Department, having taken or subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (c)(2) of this section, knowingly publishes or communicates any individually identifiable information (as defined in paragraph (5)(A)), the disclosure of which is prohibited by subsection (c)(2) of this section, and that comes into such employee or staff's possession by reason of employment (or otherwise providing services) under this subchapter, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, or both.

(3) Temporary staff

The Director may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies), and employees of private organizations to assist the Director in performing the Director's responsibilities, but only if such temporary staff are sworn to observe the limitations imposed by this section.

(4) Information requirements

No collection of information or data acquisition activity undertaken by the Director shall be subject to any review, coordination, or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, except such collection of information or data acquisition activity may be subject to review or coordination if the Director determines that such review or coordination is beneficial.

(5) Definitions

For the purposes of this section—

(A) the term ''individually identifiable information'' means any record, response form, completed survey, or aggregation thereof from which information about particular individuals may be revealed; and

(B) the term ''report'' means a response provided by or about an individual to an inquiry from the Director and does not include a statistical aggregation from which individually identifiable information cannot be revealed.

(6) Violations

Any person who uses any data provided by the Director, in conjunction with any other information or technique, to identify any individual student, teacher, administrator, or other individual and who knowingly discloses, publishes, or uses such data for a purpose other than a statistical purpose, or who otherwise violates subparagraph (A) or (B) of subsection (c)(2) of this section, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, or both.

(7) Access to reports or records

Nothing in this section shall restrict the right of the Secretary, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Librarian of Congress, to gain access to any reports or other records, including information identi-

fying individuals, in the Director's possession, except that the same restrictions on disclosure that apply under paragraphs (1) and (6) shall apply to such individuals.

(e) Investigation and prosecution of terrorism

(1) In general

Notwithstanding subsections (a) and (b) of this section, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring the Secretary to permit the Attorney General (or his designee) to—

(A) collect reports, records, and information (including individually identifiable information) in the possession of the Director that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18 or an act of domestic or international terrorism as defined in section 2331 of that title; and

(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such information, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

(2) Application and approval

(A) IN GENERAL.—An application under paragraph (1) shall certify that there are specific and articulable facts giving reason to believe that the information sought is described in paragraph (1)(A).

(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

(3) Protection

An officer or employee of the Department who, in good faith, produces information in accordance with an order issued under this subsection does not violate subsection (b)(2)[1] of this section and shall not be liable to any person for that production.

(Pub. L. 107–279, title I, §183, title IV, §401(a)(6), Nov. 5, 2002, 116 Stat. 1972, 1983.)

CODIFICATION

Subsecs. (a) to (c) of section 9007 of this title, which were transferred to this section and redesignated subsecs. (c) to (e) by Pub. L. 107–279, §401(a)(6), were based on Pub. L. 103–382, title IV, §408(a) to (c), Oct. 20, 1994, 108 Stat. 4034; Pub. L. 107–56, title V, §508, Oct. 26, 2001, 115 Stat. 368; Pub. L. 107–279, title IV, §401(a)(1)–(5), Nov. 5, 2002, 116 Stat. 1983.

AMENDMENTS

2002—Subsecs. (c) to (e). Pub. L. 107–279, §401(a)(6), transferred subsecs. (a) to (c) of section 9007 of this title to this section and redesignated them as subsecs. (c) to (e), respectively. See Codification note above.

[1] So in original. Probably means subsection (d)(2).

§ 9574. Availability of data

Subject to section 9573 of this title, data collected by the Institute, including any office, board, committee, or center of the Institute, in carrying out the priorities and mission of the Institute, shall be made available to the public, including through use of the Internet.

(Pub. L. 107–279, title I, §184, Nov. 5, 2002, 116 Stat. 1972.)

§ 9575. Performance management

The Director shall ensure that all activities conducted or supported by the Institute or a National Education Center make customer service a priority. The Director shall ensure a high level of customer satisfaction through the following methods:

(1) Establishing and improving feedback mechanisms in order to anticipate customer needs.

(2) Disseminating information in a timely fashion and in formats that are easily accessible and usable by researchers, practitioners, and the general public.

(3) Utilizing the most modern technology and other methods available, including arrangements to use data collected electronically by States and local educational agencies, to ensure the efficient collection and timely distribution of information, including data and reports.

(4) Establishing and measuring performance against a set of indicators for the quality of data collected, analyzed, and reported.

(5) Continuously improving management strategies and practices.

(6) Making information available to the public in an expeditious fashion.

(Pub. L. 107–279, title I, §185, Nov. 5, 2002, 116 Stat. 1972.)

§ 9576. Authority to publish

(a) Publication

The Director may prepare and publish (including through oral presentation) such research, statistics (consistent with part C of this subchapter), and evaluation information and reports from any office, board, committee, and center of the Institute, as needed to carry out the priorities and mission of the Institute without the approval of the Secretary or any other office of the Department.

(b) Advance copies

The Director shall provide the Secretary and other relevant offices with an advance copy of any information to be published under this section before publication.

(c) Peer review

All research, statistics, and evaluation reports conducted by, or supported through, the Institute shall be subjected to rigorous peer review before being published or otherwise made available to the public.

(d) Items not covered

Nothing in subsections[1] (a), (b), or (c) of this section shall be construed to apply to—

[1] So in original. Probably should be ''subsection''.

(1) information on current or proposed budgets, appropriations, or legislation;

(2) information prohibited from disclosure by law or the Constitution, classified national security information, or information described in section 552(b) of title 5; and

(3) review by officers of the United States in order to prevent the unauthorized disclosure of information described in paragraph (1) or (2).

(Pub. L. 107–279, title I, §186, Nov. 5, 2002, 116 Stat. 1973.)

§ 9577. Vacancies

Any member appointed to fill a vacancy on the Board occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A vacancy in an office, board, committee, or center of the Institute shall be filled in the manner in which the original appointment was made. This section does not apply to employees appointed under section 9578 of this title.

(Pub. L. 107–279, title I, §187, Nov. 5, 2002, 116 Stat. 1973.)

§ 9578. Scientific or technical employees

(a) In general

The Director may appoint, for terms not to exceed 6 years (without regard to the provisions of title 5 governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or technical employees to carry out the functions of the Institute or the office, board, committee, or center, respectively, if—

(1) at least 30 days prior to the appointment of any such employee, public notice is given of the availability of such position and an opportunity is provided for qualified individuals to apply and compete for such position;

(2) the rate of basic pay for such employees does not exceed the maximum rate of basic pay payable for positions at GS–15, as determined in accordance with section 5376 of title 5, except that not more than 7 individuals appointed under this section may be paid at a rate that does not exceed the rate of basic pay for level III of the Executive Schedule;

(3) the appointment of such employee is necessary (as determined by the Director on the basis of clear and convincing evidence) to provide the Institute or the office, board, committee, or center with scientific or technical expertise which could not otherwise be obtained by the Institute or the office, board, committee, or center through the competitive service; and

(4) the total number of such employees does not exceed 40 individuals or ⅕ of the number of full-time, regular scientific or professional employees of the Institute, whichever is greater.

(b) Duties of employees

All employees described in subsection (a) of this section shall work on activities of the Institute or the office, board, committee, or center, and shall not be reassigned to other duties outside the Institute or the office, board, committee, or center during their term.

(Pub. L. 107–279, title I, §188, Nov. 5, 2002, 116 Stat. 1973.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (a), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

GS–15, referred to in subsec. (a)(2), is contained in the General Schedule, which is set out under section 5332 of Title 5, Government Organization and Employees.

Level III of the Executive Schedule, referred to in subsec. (a)(2), is set out in section 5314 of Title 5, Government Organization and Employees.

§ 9579. Fellowships

In order to strengthen the national capacity to carry out high-quality research, evaluation, and statistics related to education, the Director shall establish and maintain research, evaluation, and statistics fellowships in institutions of higher education (which may include the establishment of such fellowships in historically Black colleges and universities and other institutions of higher education with large numbers of minority students) that support graduate and postdoctoral study onsite at the Institute or at the institution of higher education. In establishing the fellowships, the Director shall ensure that women and minorities are actively recruited for participation.

(Pub. L. 107–279, title I, §189, Nov. 5, 2002, 116 Stat. 1974.)

§ 9580. Voluntary service

The Director may accept voluntary and uncompensated services to carry out and support activities that are consistent with the priorities and mission of the Institute.

(Pub. L. 107–279, title I, §190, Nov. 5, 2002, 116 Stat. 1974.)

§ 9581. Rulemaking

Notwithstanding section 1232(d) of this title, the exemption for public property, loans, grants, and benefits in section 553(a)(2) of title 5 shall apply to the Institute.

(Pub. L. 107–279, title I, §191, Nov. 5, 2002, 116 Stat. 1974.)

§ 9582. Copyright

Nothing in this Act shall be construed to affect the rights, remedies, limitations, or defense under title 17.

(Pub. L. 107–279, title I, §192, Nov. 5, 2002, 116 Stat. 1974.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 107–279, Nov. 5, 2002, 116 Stat. 1940, which enacted this chapter and section 3419 of this title, amended sections 1232j, 3412, 3461, 6194, 6311, 6312, 6317, 6491, 6932, 7013, 7253c, 7283b, 7283d, 7451, 7703, 7909, 9007, 9010, 9011, 9573, 9623, and 9624 of this title and section 5315 of Title 5, Government Organization and Employees, transferred sections

9010 and 9011 of this title to sections 9621 and 9622 of this title, respectively, repealed sections 3419, 6011, 6021, 6031, 6041, 6051, 6053 to 6053e, 6054 to 6054b, 6055 to 6055h, 6056, 6056a, 9001 to 9009, and 9012 of this title, enacted provisions set out as notes under section 7703 and 9501 of this title, and repealed provisions set out as notes under sections 1221e and 9001 of this title. For complete classification of this Act to the Code, see Tables.

§ 9583. Removal

(a) Presidential

The Director, each member of the Board, and the Commissioner for Education Statistics may be removed by the President prior to the expiration of the term of each such appointee.

(b) Director

Each Commissioner appointed by the Director pursuant to section 9517 of this title may be removed by the Director prior to the expiration of the term of each such Commissioner.

(Pub. L. 107–279, title I, § 193, Nov. 5, 2002, 116 Stat. 1974.)

§ 9584. Authorization of appropriations

(a) In general

There are authorized to be appropriated to administer and carry out this subchapter (except section 9564 of this title) $400,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

(1) not less than the amount provided to the National Center for Education Statistics (as such Center was in existence on the day before November 5, 2002) for fiscal year 2002 shall be provided to the National Center for Education Statistics, as authorized under part C of this subchapter; and

(2) not more than the lesser of 2 percent of such funds or $1,000,000 shall be made available to carry out section 9516 of this title (relating to the National Board for Education Sciences).

(b) Regional educational laboratories

There are authorized to be appropriated to carry out section 9564 of this title $100,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years. Of the amounts appropriated under the preceding sentence for a fiscal year, the Director shall obligate not less than 25 percent to carry out such purpose with respect to rural areas (including schools funded by the Bureau which are located in rural areas).

(c) Availability

Amounts made available under this section shall remain available until expended.

(Pub. L. 107–279, title I, § 194, Nov. 5, 2002, 116 Stat. 1975.)

SUBCHAPTER II—EDUCATIONAL TECHNICAL ASSISTANCE

§ 9601. Definitions

In this subchapter:

(1) In general

The terms ''local educational agency'' and ''State educational agency'' have the meanings given those terms in section 7801 of this title.

(2) Secretary

The term ''Secretary'' means the Secretary of Education.

(Pub. L. 107–279, title II, § 202, Nov. 5, 2002, 116 Stat. 1975.)

SHORT TITLE

This subchapter known as the ''Educational Technical Assistance Act of 2002'', see Short Title note set out under section 9501 of this title.

§ 9602. Comprehensive centers

(a) Authorization

(1) In general

Subject to paragraph (2), beginning in fiscal year 2004, the Secretary is authorized to award not less than 20 grants to local entities, or consortia of such entities, with demonstrated expertise in providing technical assistance and professional development in reading, mathematics, science, and technology, especially to low-performing schools and districts, to establish comprehensive centers.

(2) Regions

In awarding grants under paragraph (1), the Secretary—

(A) shall ensure that not less than 1 comprehensive center is established in each of the 10 geographic regions served by the regional educational laboratories established under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such provision existed on the day before November 5, 2002); and

(B) after meeting the requirements of subparagraph (A), shall consider, in awarding the remainder of the grants, the school-age population, proportion of economically disadvantaged students, the increased cost burdens of service delivery in areas of sparse population, and the number of schools identified for school improvement (as described in section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b))[1] in the population served by the local entity or consortium of such entities.

(b) Eligible applicants

(1) In general

Grants under this section may be made with research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in subsection (f) of this section, including regional entities that carried out activities under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002) and title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before January 8, 2002).

(2) Outreach

In conducting competitions for grants under this section, the Secretary shall actively en-

[1] So in original. Probably should be followed by a third closing parenthesis.

courage potential applicants to compete for such awards by making widely available information and technical assistance relating to the competition.

(3) Objectives and indicators

Before awarding a grant under this section, the Secretary shall design specific objectives and measurable indicators, using the results of the assessment conducted under section 9605 of this title, to be used to assess the particular programs or initiatives, and ongoing progress and performance, of the regional entities, in order to ensure that the educational needs of the region are being met and that the latest and best research and proven practices are being carried out as part of school improvement efforts.

(c) Application

(1) Submission

Each local entity, or consortium of such entities, seeking a grant under this section shall submit an application at such time, in such manner, and containing such additional information as the Secretary may reasonably require.

(2) Plan

Each application submitted under paragraph (1) shall contain a 5-year plan for carrying out the activities described in this section in a manner that addresses the priorities established under section 9606 of this title and addresses the needs of all States (and to the extent practicable, of local educational agencies) within the region to be served by the comprehensive center, on an ongoing basis.

(d) Allocation

Each comprehensive center established under this section shall allocate such center's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the center.

(e) Scope of work

Each comprehensive center established under this section shall work with State educational agencies, local educational agencies, regional educational agencies, and schools in the region where such center is located on school improvement activities that take into account factors such as the proportion of economically disadvantaged students in the region, and give priority to—

(1) schools in the region with high percentages or numbers of students from low-income families, as determined under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5)), including such schools in rural and urban areas, and schools receiving assistance under title I of that Act (20 U.S.C. 6301 et seq.);

(2) local educational agencies in the region in which high percentages or numbers of school-age children are from low-income families, as determined under section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(1)(A)), including such local educational agencies in rural and urban areas; and

(3) schools in the region that have been identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)).

(f) Activities

(1) In general

A comprehensive center established under this section shall support dissemination and technical assistance activities by—

(A) providing training, professional development, and technical assistance regarding, at a minimum—

(i) the administration and implementation of programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(ii) the use of scientifically valid teaching methods and assessment tools for use by teachers and administrators in, at a minimum—

(I) the core academic subjects of mathematics, science, and reading or language arts;

(II) English language acquisition; and

(III) education technology; and

(iii) the facilitation of communication between education experts, school officials, teachers, parents, and librarians, as appropriate; and

(B) disseminating and providing information, reports, and publications that are usable for improving academic achievement, closing achievement gaps, and encouraging and sustaining school improvement (as described in section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b))), to schools, educators, parents, and policymakers within the region in which the center is located; and

(C) developing teacher and school leader inservice and preservice training models that illustrate best practices in the use of technology in different content areas.

(2) Coordination and collaboration

Each comprehensive center established under this section shall coordinate its activities, collaborate, and regularly exchange information with the regional educational laboratory in the region in which the center is located, the National Center for Education Evaluation and Regional Assistance, the Office of the Secretary, the State service agency, and other technical assistance providers in the region.

(g) Comprehensive center advisory board

(1) Establishment

Each comprehensive center established under this section shall have an advisory board that shall support the priorities of such center.

(2) Duties

Each advisory board established under paragraph (1) shall advise the comprehensive center—

(A) concerning the activities described in subsection (d) of this section;

(B) on strategies for monitoring and addressing the educational needs of the region, on an ongoing basis;

(C) on maintaining a high standard of quality in the performance of the center's activities; and

(D) on carrying out the center's duties in a manner that promotes progress toward improving student academic achievement.

(3) Composition

(A) In general

Each advisory board shall be composed of—

(i) the chief State school officers, or such officers' designees or other State officials, in each State served by the comprehensive center who have primary responsibility under State law for elementary and secondary education in the State; and

(ii) not more than 15 other members who are representative of the educational interests in the region served by the comprehensive center and are selected jointly by the officials specified in clause (i) and the chief executive officer of each State served by the comprehensive center, including the following:

(I) Representatives of local educational agencies and regional educational agencies, including representatives of local educational agencies serving urban and rural areas.

(II) Representatives of institutions of higher education.

(III) Parents.

(IV) Practicing educators, including classroom teachers, principals, and administrators.

(V) Representatives of business.

(VI) Policymakers, expert practitioners, and researchers with knowledge of, and experience using, the results of research, evaluation, and statistics.

(B) Special rule

In the case of a State in which the chief executive officer has the primary responsibility under State law for elementary and secondary education in the State, the chief executive officer shall consult, to the extent permitted by State law, with the State educational agency in selecting additional members of the board under subparagraph (A)(i).

(h) Report to Secretary

Each comprehensive center established under this section shall submit to the Secretary an annual report, at such time, in such manner, and containing such information as the Secretary may require, which shall include the following:

(1) A summary of the comprehensive center's activities during the preceding year.

(2) A listing of the States, local educational agencies, and schools the comprehensive center assisted during the preceding year.

(Pub. L. 107–279, title II, § 203, Nov. 5, 2002, 116 Stat. 1975.)

REFERENCES IN TEXT

The Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before November 5, 2002), referred to in subsecs. (a)(2)(A) and (b)(1), is title IX of Pub. L. 103–227, Mar. 31, 1994, 108 Stat. 212, as amended, which was classified principally to subchapter IX (§ 6001 et seq.) of chapter 68 of this title and was substantially repealed by Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985. Section 941(h) of the Act was classified to section 6041(h) of this title prior to repeal. For complete classification of this Act to the Code, see section 6001 of this title and Tables.

Title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before January 8, 2002), referred to in subsec. (b)(1), means title XIII of Pub. L. 89–10, as added by Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3876, which was classified generally to subchapter XIII (§ 8601 et seq.) of chapter 70 of this title, prior to amendment by Pub. L. 107–110. Parts A to D of title XIII of Pub. L. 89–10, were classified to parts A (§ 8621 et seq.), B (§ 8651 et seq.), C (§ 8671 et seq.), and D (§ 8701 et seq.), respectively, of subchapter XIII of chapter 70 of this title, and were redesignated as parts K to N of title IX of Pub. L. 103–227, by Pub. L. 107–110, title X, §§ 1021(a), 1022(a), 1023(a), 1024(a), Jan. 8, 2002, 115 Stat. 1987, transferred to parts G (§ 6053 et seq.), H (§ 6054 et seq.), I (§ 6055 et seq.), and J (§ 6056 et seq.), respectively, of subchapter IX of chapter 68 of this title, and subsequently repealed by Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985.

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (e)(1) and (f)(1)(A)(i), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. Title I of the Act is classified generally to subchapter I (§ 6301 et seq.) of chapter 70 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

TERMINATION OF ADVISORY BOARDS

Advisory boards established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 9603. Evaluations

The Secretary shall provide for ongoing independent evaluations by the National Center for Education Evaluation and Regional Assistance of the comprehensive centers receiving assistance under this subchapter, the results of which shall be transmitted to the appropriate congressional committees and the Director of the Institute of Education Sciences. Such evaluations shall include an analysis of the services provided under this subchapter, the extent to which each of the comprehensive centers meets the objectives of its respective plan, and whether such services meet the educational needs of State educational agencies, local educational agencies, and schools in the region.

(Pub. L. 107–279, title II, § 204, Nov. 5, 2002, 116 Stat. 1979.)

§ 9604. Existing technical assistance providers

The Secretary shall continue awards for the support of the Eisenhower Regional Mathematics and Science Education Consortia established under part M of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such part existed on the day before November 5, 2002), the Regional Technology in Education Consortia under section 3141 of the Elementary and Secondary Education Act of 1965 (as such section existed on the day before January 8, 2002), and the Comprehensive Regional Assistance Centers established under part K of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such part existed on the day before November 5, 2002), in accordance with the terms of such awards, until the comprehensive centers authorized under section 9602 of this title are established.

(Pub. L. 107–279, title II, § 205, Nov. 5, 2002, 116 Stat. 1979.)

REFERENCES IN TEXT

Parts K and M of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such parts existed on the day before November 5, 2002), referred to in text, mean parts K and M of title IX of Pub. L. 103–227, which were classified to parts G (§ 6053 et seq.) and I (§ 6055 et seq.), respectively, of subchapter IX of chapter 68 of this title, prior to repeal by Pub. L. 107–279, title IV, § 403(2), Nov. 5, 2002, 116 Stat. 1985.

Section 3141 of the Elementary and Secondary Education Act of 1965 (as such section existed on the day before January 8, 2002), referred to in text, is section 3141 of title III of Pub. L. 89–10, as added Pub. L. 103–382, title I, § 101, Oct. 20, 1994, 108 Stat. 3649, which was classified to section 6861 of this title prior to the general amendment of title III of Pub. L. 89–10 by Pub. L. 107–110, title III, § 301, Jan. 8, 2002, 115 Stat. 1689.

§ 9605. Regional advisory committees

(a) Establishment

Beginning in 2004, the Secretary shall establish a regional advisory committee for each region described in section 9564(b) of this title.

(b) Membership

(1) Composition

The membership of each regional advisory committee shall—

(A) not exceed 25 members;

(B) contain a balanced representation of States in the region; and

(C) include not more than one representative of each State educational agency geographically located in the region.

(2) Eligibility

The membership of each regional advisory committee may include the following:

(A) Representatives of local educational agencies, including rural and urban local educational agencies.

(B) Representatives of institutions of higher education, including individuals representing university-based education research and university-based research on subjects other than education.

(C) Parents.

(D) Practicing educators, including classroom teachers, principals, administrators, school board members, and other local school officials.

(E) Representatives of business.

(F) Researchers.

(3) Recommendations

In choosing individuals for membership on a regional advisory committee, the Secretary shall consult with, and solicit recommendations from, the chief executive officers of States, chief State school officers, and education stakeholders within the applicable region.

(4) Special rule

(A) Total number

The total number of members on each committee who are selected under subparagraphs (A), (C), and (D) of paragraph (2), collectively, shall exceed the total number of members who are selected under paragraph (1)(C) and subparagraphs (B), (E), and (F) of paragraph (2), collectively.

(B) Dissolution

Each regional advisory committee shall be dissolved by the Secretary after submission of such committee's report described in subsection (c)(2) of this section to the Secretary, but each such committee may be reconvened at the discretion of the Secretary.

(c) Duties

Each regional advisory committee shall advise the Secretary on the following:

(1) An educational needs assessment of its region (using the results of the assessment conducted under subsection (d) of this section), in order to assist in making decisions regarding the regional educational priorities.

(2) Not later than 6 months after the committee is first convened, a report based on the assessment conducted under subsection (d) of this section.

(d) Regional assessments

Each regional advisory committee shall—

(1) assess the educational needs within the region to be served;

(2) in conducting the assessment under paragraph (1), seek input from chief executive officers of States, chief State school officers, educators, and parents (including through a process of open hearings to solicit the views and needs of schools (including public charter schools), teachers, administrators, members of the regional educational laboratory governing board, parents, local educational agencies, librarians, businesses, State educational agencies, and other customers (such as adult education programs) within the region) regarding the need for the activities described in section 9564 of this title and section 9602 of this title and how those needs would be most effectively addressed; and

(3) submit the assessment to the Secretary and to the Director of the Institute of Education Sciences, at such time, in such manner, and containing such information as the Secretary may require.

(Pub. L. 107–279, title II, § 206, Nov. 5, 2002, 116 Stat. 1979; Pub. L. 108–446, title II, § 203, Dec. 3, 2004, 118 Stat. 2803.)

AMENDMENTS

2004—Subsec. (d)(3). Pub. L. 108–446 substituted ''Institute'' for ''Academy''.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 9606. Priorities

The Secretary shall establish priorities for the regional educational laboratories (established under section 9564 of this title) and comprehensive centers (established under section 9602 of this title) to address, taking onto account the regional assessments conducted under section 9605 of this title and other relevant regional surveys of educational needs, to the extent the Secretary deems appropriate.

(Pub. L. 107–279, title II, § 207, Nov. 5, 2002, 116 Stat. 1981.)

§ 9607. Grant program for statewide, longitudinal data systems

(a) Grants authorized

The Secretary is authorized to award grants, on a competitive basis, to State educational agencies to enable such agencies to design, develop, and implement statewide, longitudinal data systems to efficiently and accurately manage, analyze, disaggregate, and use individual student data, consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(b) Applications

Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(c) Awarding of grants

In awarding grants under this section, the Secretary shall use a peer review process that—

(1) ensures technical quality (including validity and reliability), promotes linkages across States, and protects student privacy consistent with section 9573 of this title;

(2) promotes the generation and accurate and timely use of data that is needed—

(A) for States and local educational agencies to comply with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and other reporting requirements and close achievement gaps; and

(B) to facilitate research to improve student academic achievement and close achievement gaps; and

(3) gives priority to applications that meet the voluntary standards and guidelines described in section 9543(a)(5) of this title.

(d) Supplement not supplant

Funds made available under this section shall be used to supplement, and not supplant, other State or local funds used for developing State data systems.

(e) Report

Not later than 1 year after November 5, 2002, and again 3 years after such date, the Secretary, in consultation with the National Academies Committee on National Statistics, shall make publicly available a report on the implementation and effectiveness of Federal, State, and local efforts related to the goals of this section, including—

(1) identifying and analyzing State practices regarding the development and use of statewide, longitudinal data systems;

(2) evaluating the ability of such systems to manage individual student data consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), promote linkages across States, and protect student privacy consistent with section 9573 of this title; and

(3) identifying best practices and areas for improvement.

(Pub. L. 107–279, title II, § 208, Nov. 5, 2002, 116 Stat. 1981.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in subsecs. (a), (c)(2)(A), and (e)(2), is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended, which is classified generally to chapter 70 (§ 6301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of this title and Tables.

§ 9608. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter $80,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years.

(Pub. L. 107–279, title II, § 209, Nov. 5, 2002, 116 Stat. 1982.)

SUBCHAPTER III—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

§ 9621. National Assessment Governing Board

(a) Establishment

There is established the National Assessment Governing Board (hereafter in this subchapter referred to as the ''Assessment Board''), which shall formulate policy guidelines for the National Assessment (carried out under section 9622 of this title).

(b) Membership

(1) Appointment and composition

The Assessment Board shall be appointed by the Secretary and be composed as follows:

(A) Two Governors, or former Governors, who shall not be members of the same political party.

(B) Two State legislators, who shall not be members of the same political party.

(C) Two chief State school officers.

(D) One superintendent of a local educational agency.

(E) One member of a State board of education.

(F) One member of a local board of education.

(G) Three classroom teachers representing the grade levels at which the National Assessment is conducted.

(H) One representative of business or industry.

(I) Two curriculum specialists.

(J) Three testing and measurement experts, who shall have training and experience in the field of testing and measurement.

(K) One nonpublic school administrator or policymaker.

(L) Two school principals, of whom one shall be an elementary school principal and one shall be a secondary school principal.

(M) Two parents who are not employed by a local, State or Federal educational agency.

(N) Two additional members who are representatives of the general public, and who may be parents, but who are not employed by a local, State, or Federal educational agency.

(2) Director of the Institute of Education Sciences

The Director of the Institute of Education Sciences shall serve as an ex officio, nonvoting member of the Assessment Board.

(3) Balance and diversity

The Secretary and the Assessment Board shall ensure at all times that the membership of the Assessment Board reflects regional, racial, gender, and cultural balance and diversity and that the Assessment Board exercises its independent judgment, free from inappropriate influences and special interests.

(c) Terms

(1) In general

Terms of service of members of the Assessment Board shall be staggered and may not exceed a period of 4 years, as determined by the Secretary.

(2) Service limitation

Members of the Assessment Board may serve not more than two terms.

(3) Change of status

A member of the Assessment Board who changes status under subsection (b) of this section during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

(4) Conforming provision

Members of the Assessment Board previously granted 3 year terms, whose terms are in effect on December 21, 2000, shall have their terms extended by 1 year.

(d) Vacancies

(1) In general

(A) Organizations

The Secretary shall appoint new members to fill vacancies on the Assessment Board from among individuals who are nominated by organizations representing the type of individuals described in subsection (b)(1) of this section with respect to which the vacancy exists.

(B) Nominations

Each organization submitting nominations to the Secretary with respect to a particular vacancy shall nominate for such vacancy six individuals who are qualified by experience or training to fill the particular Assessment Board vacancy.

(C) Maintenance of Assessment Board

The Secretary's appointments shall maintain the composition, diversity, and balance of the Assessment Board required under subsection (b) of this section.

(2) Additional nominations

The Secretary may request that each organization described in paragraph (1)(A) submit additional nominations if the Secretary determines that none of the individuals nominated by such organization have appropriate knowledge or expertise.

(e) Duties

(1) In general

In carrying out its functions under this section the Assessment Board shall—

(A) select the subject areas to be assessed (consistent with section 9622(b) of this title);

(B) develop appropriate student achievement levels as provided in section 9622(e) of this title;

(C) develop assessment objectives consistent with the requirements of this section and test specifications that produce an assessment that is valid and reliable, and are based on relevant widely accepted professional standards;

(D) develop a process for review of the assessment which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public;

(E) design the methodology of the assessment to ensure that assessment items are valid and reliable, in consultation with appropriate technical experts in measurement and assessment, content and subject matter, sampling, and other technical experts who engage in large scale surveys;

(F) consistent with section 9622 of this title, measure student academic achievement in grades 4, 8, and 12 in the authorized academic subjects;

(G) develop guidelines for reporting and disseminating results;

(H) develop standards and procedures for regional and national comparisons;

(I) take appropriate actions needed to improve the form, content, use, and reporting of results of any assessment authorized by section 9622 of this title consistent with the provisions of this section and section 9622 of this title; and

(J) plan and execute the initial public release of National Assessment of Educational Progress reports.

The National Assessment of Educational Progress data shall not be released prior to the

release of the reports described in subparagraph (J).

(2) Delegation

The Assessment Board may delegate any of the Board's procedural and administrative functions to its staff.

(3) All cognitive and noncognitive assessment items

The Assessment Board shall have final authority on the appropriateness of all assessment items.

(4) Prohibition against bias

The Assessment Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias and are secular, neutral, and non-ideological.

(5) Technical

In carrying out the duties required by paragraph (1), the Assessment Board may seek technical advice, as appropriate, from the Commissioner for Education Statistics and other experts.

(6) Report

Not later than 90 days after an evaluation of the student achievement levels under section 9622(e) of this title, the Assessment Board shall make a report to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate describing the steps the Assessment Board is taking to respond to each of the recommendations contained in such evaluation.

(f) Personnel

(1) In general

In the exercise of its responsibilities, the Assessment Board shall be independent of the Secretary and the other offices and officers of the Department.

(2) Staff

(A) In general

The Secretary may appoint, at the request of the Assessment Board, such staff as will enable the Assessment Board to carry out its responsibilities.

(B) Technical employees

Such appointments may include, for terms not to exceed 3 years and without regard to the provisions of title 5 governing appointments in the competitive service, not more than six technical employees who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) Coordination

The Commissioner for Education Statistics and the Assessment Board shall meet periodically—

(1) to ensure coordination of their duties and activities relating to the National Assessment; and

(2) for the Commissioner for Education Statistics to report to the Assessment Board on the Department's actions to implement the decisions of the Assessment Board.

(h) Administration

The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Assessment Board, other than sections 10, 11, and 12 of such Act.

(Pub. L. 107–279, title III, §302, formerly Pub. L. 103–382, title IV, §412, Oct. 20, 1994, 108 Stat. 4039; Pub. L. 106–554, §1(a)(1) [title III, §307], Dec. 21, 2000, 114 Stat. 2763, 2763A–44; Pub. L. 107–110, title VI, §602(b), Jan. 8, 2002, 115 Stat. 1904; renumbered Pub. L. 107–279, title III, §302, and amended Pub. L. 107–279, title IV, §401(c), Nov. 5, 2002, 116 Stat. 1983.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (f)(2)(B), are classified to section 3301 et seq. of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (h), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was formerly classified to section 9011 of this title prior to renumbering by Pub. L. 107–279.

PRIOR PROVISIONS

A prior section 302 of Pub. L. 107–279 was renumbered section 304 and is classified to section 9623 of this title.

AMENDMENTS

2002—Pub. L. 107–110 amended section generally, restating and expanding provisions and inserting headings.

Subsec. (a). Pub. L. 107–279, §401(c)(1), substituted ''referred to as the 'Assessment Board' '' for ''referred to as the 'Board' '' and inserted ''(carried out under section 9622 of this title)'' after ''for the National Assessment''.

Subsec. (b)(1). Pub. L. 107–279, §401(c)(2), substituted ''Assessment Board'' for ''Board'' in introductory provisions.

Subsec. (b)(2). Pub. L. 107–279, §401(c)(4), substituted ''Director of the Institute of Education Sciences'' for ''Assistant Secretary for Educational Research'' in heading and ''Assistant Secretary for Educational Research and Improvement'' in text.

Pub. L. 107–279, §401(c)(2), substituted ''Assessment Board'' for ''Board''.

Subsecs. (b)(3) to (d)(1). Pub. L. 107–279, §401(c)(2), substituted ''Assessment Board'' for ''Board'' wherever appearing.

Subsec. (e)(1). Pub. L. 107–279, §401(c)(2), (5)(A)(vii), substituted ''Assessment Board'' for ''Board'' in introductory provisions and inserted concluding provisions.

Subsec. (e)(1)(A). Pub. L. 107–279, §401(c)(5)(A)(i), substituted ''section 9622(b)'' for ''section 9010(b)''.

Subsec. (e)(1)(B). Pub. L. 107–279, §401(c)(5)(A)(ii), substituted ''section 9622(e)'' for ''section 9010(e)''.

Subsec. (e)(1)(E). Pub. L. 107–279, §401(c)(5)(A)(iii), struck out '', including the Advisory Council established under section 9006 of this title'' before semicolon at end.

Subsec. (e)(1)(F), (I). Pub. L. 107–279, §401(c)(5)(A)(iv), substituted ''section 9622'' for ''section 9010'' wherever appearing.

Subsec. (e)(1)(J). Pub. L. 107–279, §401(c)(5)(A)(v)–(vii), added subpar. (J).

Subsec. (e)(2) to (4). Pub. L. 107–279, §401(c)(2), substituted ''Assessment Board'' for ''Board''.

Subsec. (e)(5). Pub. L. 107–279, § 401(c)(5)(B), struck out ''and the Advisory Council on Education Statistics'' before ''and other experts.''

Pub. L. 107–279, § 401(c)(3), substituted ''Commissioner for Education Statistics'' for ''Commissioner''.

Pub. L. 107–279, § 401(c)(2), substituted ''Assessment Board'' for ''Board''.

Subsec. (e)(6). Pub. L. 107–279, § 401(c)(5)(C), substituted ''section 9622(e)'' for ''section 9010(e)''.

Pub. L. 107–279, § 401(c)(2), substituted ''Assessment Board'' for ''Board'' in two places.

Subsec. (f). Pub. L. 107–279, § 401(c)(2), substituted ''Assessment Board'' for ''Board'' wherever appearing.

Subsec. (g). Pub. L. 107–279, § 401(c)(3), substituted ''Commissioner for Education Statistics'' for ''Commissioner'' in two places.

Pub. L. 107–279, § 401(c)(2), substituted ''Assessment Board'' for ''Board'' wherever appearing.

Subsec. (h). Pub. L. 107–279, § 401(c)(2), substituted ''Assessment Board'' for ''Board''.

2000—Subsec. (c)(1). Pub. L. 106–554, § 1(a)(1) [title III, § 307(1)], substituted ''4 years'' for ''3 years''.

Subsec. (c)(4). Pub. L. 106–554, § 1(a)(1) [title III, § 307(2)], added par. (4).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

SHORT TITLE

This subchapter known as the ''National Assessment of Educational Progress Authorization Act'', see Short Title note set out under section 9501 of this title.

§ 9622. National Assessment of Educational Progress

(a) Establishment

The Commissioner for Education Statistics shall, with the advice of the Assessment Board established under section 9621 of this title, carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress, which collectively refers to a national assessment, State assessments, and a long-term trend assessment in reading and mathematics.

(b) Purpose; State assessments

(1) Purpose

The purpose of this section is to provide, in a timely manner, a fair and accurate measurement of student academic achievement and reporting of trends in such achievement in reading, mathematics, and other subject matter as specified in this section.

(2) Measurement and reporting

The Commissioner for Education Statistics, in carrying out the measurement and reporting described in paragraph (1), shall—

(A) use a random sampling process which is consistent with relevant, widely accepted professional assessment standards and that produces data that are representative on a national and regional basis;

(B) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private elementary schools and secondary schools at least once every 2 years, in grades 4 and 8 in reading and mathematics;

(C) conduct a national assessment and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in public and private schools in reading and mathematics in grade 12 in regularly scheduled intervals, but at least as often as such assessments were conducted prior to January 8, 2002;

(D) to the extent time and resources allow, and after the requirements described in subparagraph (B) are implemented and the requirements described in subparagraph (C) are met, conduct additional national assessments and collect and report assessment data, including achievement data trends, in a valid and reliable manner on student academic achievement in grades 4, 8, and 12 in public and private elementary schools and secondary schools in regularly scheduled intervals in additional subject matter, including writing, science, history, geography, civics, economics, foreign languages, and arts, and the trend assessment described in subparagraph (F);

(E) conduct the reading and mathematics assessments described in subparagraph (B) in the same year, and every other year thereafter, to provide for 1 year in which no such assessments are conducted in between each administration of such assessments;

(F) continue to conduct the trend assessment of academic achievement at ages 9, 13, and 17 for the purpose of maintaining data on long-term trends in reading and mathematics;

(G) include information on special groups, including, whenever feasible, information collected, cross tabulated, compared, and reported by race, ethnicity, socioeconomic status, gender, disability and limited English proficiency; and

(H) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis and that includes trend lines.

(3) State assessments

(A) In general

The Commissioner for Education Statistics—

(i) shall conduct biennial State academic assessments of student achievement in reading and mathematics in grades 4 and 8 as described in paragraphs (2)(B) and (2)(E);

(ii) may conduct the State academic assessments of student achievement in reading and mathematics in grade 12 as described in paragraph (2)(C);

(iii) may conduct State academic assessments of student achievement in grades 4, 8, and 12 as described in paragraph (2)(D); and

(iv) shall conduct each such State assessment, in each subject area and at each grade level, on a developmental basis until

the Commissioner for Education Statistics determines, as the result of an evaluation required by subsection (f) of this section, that such assessment produces high quality data that are valid and reliable.

(B) Agreement

(i) In general

States participating in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(3) of this section.

(ii) Content

Such agreement shall contain information sufficient to give States full information about the process for decision-making (which shall include the consensus process used), on objectives to be tested, and the standards for random sampling, test administration, test security, data collection, validation, and reporting.

(C) Review and release

(i) In general

Except as provided in clause (ii), a participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

(ii) Special rule

A State participating in the biennial academic assessments of student achievement in reading and mathematics in grades 4 and 8 shall be deemed to have given its permission to release its data if the State has an approved plan under section 6311 of this title.

(4) Prohibited activities

(A) In general

The use of assessment items and data on any assessment authorized under this section by an agent or agents of the Federal Government to rank, compare, or otherwise evaluate individual students or teachers, or to provide rewards or sanctions for individual students, teachers, schools or local educational agencies is prohibited.

(B) Special rule

Any assessment authorized under this section shall not be used by an agent or agents of the Federal Government to establish, require, or influence the standards, assessments, curriculum, including lesson plans, textbooks, or classroom materials, or instructional practices of States or local educational agencies.

(C) Applicability to student educational decisions

Nothing in this section shall be construed to prescribe the use of any assessment authorized under this section for student promotion or graduation purposes.

(D) Applicability to home schools

Nothing in this section shall be construed to affect home schools, whether or not a home school is treated as a home school or a private school under State law, nor shall any home schooled student be required to participate in any assessment referenced or authorized under this section.

(5) Requirement

In carrying out any assessment authorized under this section, the Commissioner for Education Statistics, in a manner consistent with subsection (c)(3) of this section, shall—

(A) use widely accepted professional testing standards, objectively measure academic achievement, knowledge, and skills, and ensure that any academic assessment authorized under this section be tests that do not evaluate or assess personal or family beliefs and attitudes or publicly disclose personally identifiable information;

(B) only collect information that is directly related to the appraisal of academic achievement, and to the fair and accurate presentation of such information; and

(C) collect information on race, ethnicity, socioeconomic status, disability, limited English proficiency, and gender.

(6) Technical assistance

In carrying out any assessment authorized under this section, the Commissioner for Education Statistics may provide technical assistance to States, localities, and other parties.

(c) Access

(1) Public access

(A) In general

Except as provided in paragraph (3), parents and members of the public shall have access to all assessment data, questions, and complete and current assessment instruments of any assessment authorized under this section. The local educational agency shall make reasonable efforts to inform parents and members of the public about the access required under this paragraph.

(B) Timeline

The access described in this paragraph shall be provided within 45 days of the date the request was made, in writing, and be made available in a secure setting that is convenient to both parties.

(C) Prohibition

To protect the integrity of the assessment, no copy of the assessment items or assessment instruments shall be duplicated or taken from the secure setting.

(2) Complaints

(A) In general

Parents and members of the public may submit written complaints to the Assessment Board.

(B) Forwarding of complaints

The Assessment Board shall forward such complaints to the Commissioner for Education Statistics, the Secretary of Education, and the State and local educational agency from within which the complaint originated within 30 days of receipt of such complaint.

(C) Review

The Assessment Board, in consultation with the Commissioner for Education Statistics, shall review such complaint and determine whether revisions are necessary and appropriate. As determined by such review, the Board shall revise, as necessary and appropriate, the procedures or assessment items that have generated the complaint and respond to the individual submitting the complaint, with a copy of such response provided to the Secretary, describing any action taken, not later than 30 days after so acting.

(D) Report

The Secretary shall submit a summary report of all complaints received pursuant to subparagraph (A) and responses by the Assessment Board pursuant to subparagraph (C) to the Chairman of the House Committee on Education and the Workforce, and the Chairman of the Senate Committee on Health, Education, Labor, and Pensions.

(E) Cognitive questions

(i) In general

The Commissioner for Education Statistics may decline to make available through public means, such as posting on the Internet, distribution to the media, distribution through public agencies, or in response to a request under section 552 of title 5, for a period, not to exceed 10 years after initial use, cognitive questions that the Commissioner for Education Statistics intends to reuse in the future.

(ii) Extension

Notwithstanding clause (i), the Commissioner for Education Statistics may decline to make cognitive questions available as described in clause (i) for a period longer than 10 years if the Commissioner for Education Statistics determines such additional period is necessary to protect the security and integrity of long-term trend data.

(3) Personally identifiable information

(A) In general

The Commissioner for Education Statistics shall ensure that all personally identifiable information about students, their academic achievement, and their families, and that information with respect to individual schools, remains confidential, in accordance with section 552a of title 5.

(B) Prohibition

The Assessment Board, the Commissioner for Education Statistics, and any contractor or subcontractor shall not maintain any system of records containing a student's name, birth information, Social Security number, or parents' name or names, or any other personally identifiable information.

(4) Penalties

Any unauthorized person who knowingly discloses, publishes, or uses assessment questions, or complete and current assessment instruments of any assessment authorized under this section may be fined as specified in section 3571 of title 18 or charged with a class E felony.

(d) Participation

(1) Voluntary participation

Participation in any assessment authorized under this section shall be voluntary for students, schools, and local educational agencies.

(2) Student participation

Parents of children selected to participate in any assessment authorized under this section shall be informed before the administration of any authorized assessment, that their child may be excused from participation for any reason, is not required to finish any authorized assessment, and is not required to answer any test question.

(3) State participation

(A) Voluntary

Participation in assessments authorized under this section, other than reading and mathematics in grades 4 and 8, shall be voluntary.

(B) Agreement

For reading and mathematics assessments in grades 4 and 8, the Secretary shall enter into an agreement with any State carrying out an assessment for the State under this section. Each such agreement shall contain provisions designed to ensure that the State will participate in the assessment.

(4) Review

Representatives of State educational agencies and local educational agencies or the chief State school officer shall have the right to review any assessment item or procedure of any authorized assessment upon request in a manner consistent with subsection (c) of this section, except the review described in subparagraph (2)(C) of subsection (c) of this section shall take place in consultation with the representatives described in this paragraph.

(e) Student achievement levels

(1) Achievement levels

The Assessment Board shall develop appropriate student achievement levels for each grade or age in each subject area to be tested under assessments authorized under this section, except the trend assessment described in subsection (b)(2)(F) of this section.

(2) Determination of levels

(A) In general

Such levels shall—

(i)[1] be determined by—

(I) identifying the knowledge that can be measured and verified objectively using widely accepted professional assessment standards; and

(II) developing achievement levels that are consistent with relevant widely accepted professional assessment standards and based on the appropriate level of

[1] So in original. No cl. (ii) has been enacted.

subject matter knowledge for grade levels to be assessed, or the age of the students, as the case may be.

(B) National consensus approach

After the determinations described in subparagraph (A), devising a national consensus approach.

(C) Trial basis

The achievement levels shall be used on a trial basis until the Commissioner for Education Statistics determines, as a result of an evaluation under subsection (f) of this section, that such levels are reasonable, valid, and informative to the public.

(D) Status

The Commissioner for Education Statistics and the Board shall ensure that reports using such levels on a trial basis do so in a manner that makes clear the status of such levels.

(E) Updates

Such levels shall be updated as appropriate by the Assessment Board in consultation with the Commissioner for Education Statistics.

(3) Reporting

After determining that such levels are reasonable, valid, and informative to the public, as the result of an evaluation under subsection (f) of this section, the Commissioner for Education Statistics shall use such levels or other methods or indicators for reporting results of the National Assessment and State assessments.

(4) Review

The Assessment Board shall provide for a review of any trial student achievement levels under development by representatives of State educational agencies or the chief State school officer in a manner consistent with subsection (c) of this section, except the review described in paragraph (2)(C) of such subsection shall take place in consultation with the representatives described in this paragraph.

(f) Review of National and State assessments

(1) Review

(A) In general

The Secretary shall provide for continuing review of any assessment authorized under this section, and student achievement levels, by one or more professional assessment evaluation organizations.

(B) Issues addressed

Such continuing review shall address—

(i) whether any authorized assessment is properly administered, produces high quality data that are valid and reliable, is consistent with relevant widely accepted professional assessment standards, and produces data on student achievement that are not otherwise available to the State (other than data comparing participating States to each other and the Nation);

(ii) whether student achievement levels are reasonable, valid, reliable, and informative to the public;—[2]

(iii) whether any authorized assessment is being administered as a random sample and is reporting the trends in academic achievement in a valid and reliable manner in the subject areas being assessed;

(iv) whether any of the test questions are biased, as described in section 9621(e)(4) of this title; and

(v) whether the appropriate authorized assessments are measuring, consistent with this section, reading ability and mathematical knowledge.

(2) Report

The Secretary shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, the President, and the Nation on the findings and recommendations of such reviews.

(3) Use of findings and recommendations

The Commissioner for Education Statistics and the Assessment Board shall consider the findings and recommendations of such reviews in designing the competition to select the organization, or organizations, through which the Commissioner for Education Statistics carries out the National Assessment.

(g) Coverage agreements

(1) Department of Defense schools

The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary schools and secondary schools operated by the Department of Defense.

(2) Bureau of Indian Affairs schools

The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs.

(Pub. L. 107–279, title III, § 303, formerly Pub. L. 103–382, title IV, § 411, Oct. 20, 1994, 108 Stat. 4036; Pub. L. 107–110, title VI, § 602(a), Jan. 8, 2002, 115 Stat. 1898; renumbered Pub. L. 107–279, title III, § 303, and amended Pub. L. 107–279, title IV, § 401(d), Nov. 5, 2002, 116 Stat. 1984.)

CODIFICATION

Section was formerly classified to section 9010 of this title prior to renumbering by Pub. L. 107–279.

PRIOR PROVISIONS

A prior section 303 of Pub. L. 107–279 was renumbered section 305 and is classified to section 9624 of this title.

AMENDMENTS

2002—Pub. L. 107–110 amended section generally, restating and expanding provisions and inserting headings.

Subsec. (a). Pub. L. 107–279, § 401(d)(3), substituted ''section 9621'' for ''section 9011'' and struck out ''and with the technical assistance of the Advisory Council established under section 9006 of this title,'' before ''carry out''.

Pub. L. 107–279, § 401(d)(2), substituted ''Assessment Board'' for ''National Assessment Governing Board''.

[2] So in original.

Pub. L. 107–279, § 401(d)(1), substituted ''Commissioner for Education Statistics'' for ''Commissioner''.

Subsec. (b)(1). Pub. L. 107–279, § 401(d)(4)(A), inserted ''of'' after ''academic achievement and reporting''.

Subsec. (b)(2), (3)(A). Pub. L. 107–279, § 401(d)(1), substituted ''Commissioner for Education Statistics'' for ''Commissioner'' in introductory provisions.

Subsec. (b)(3)(A)(i). Pub. L. 107–279, § 401(d)(4)(B)(i), substituted ''paragraphs (2)(B) and (2)(E)'' for ''paragraphs (1)(B) and (1)(E)''.

Subsec. (b)(3)(A)(ii). Pub. L. 107–279, § 401(d)(4)(B)(ii), substituted ''paragraph (2)(C)'' for ''paragraph (1)(C)''.

Subsec. (b)(3)(A)(iii). Pub. L. 107–279, § 401(d)(4)(B)(iii), substituted ''paragraph (2)(D)'' for ''paragraph (1)(D)''.

Subsec. (b)(3)(A)(iv). Pub. L. 107–279, § 401(d)(1), substituted ''Commissioner for Education Statistics'' for ''Commissioner''.

Subsec. (b)(5). Pub. L. 107–279, § 401(d)(4)(C), substituted ''subsection (c)(3)'' for ''subsection (c)(2)'' in introductory provisions.

Pub. L. 107–279, § 401(d)(1), substituted ''Commissioner for Education Statistics'' for ''Commissioner'' in introductory provisions.

Subsec. (b)(6). Pub. L. 107–279, § 401(d)(1), substituted ''Commissioner for Education Statistics'' for ''Commissioner''.

Subsec. (c)(2). Pub. L. 107–279, § 401(d)(2), substituted ''Assessment Board'' for ''National Assessment Governing Board'' wherever appearing.

Pub. L. 107–279, § 401(d)(1), substituted ''Commissioner for Education Statistics'' for ''Commissioner'' wherever appearing.

Subsec. (c)(2)(D). Pub. L. 107–279, § 401(d)(5), substituted ''subparagraph (C)'' for ''subparagraph (B)''.

Subsec. (c)(3). Pub. L. 107–279, § 401(d)(1), substituted ''Commissioner for Education Statistics'' for ''Commissioner'' in subpars. (A) and (B).

Subsec. (c)(3)(B). Pub. L. 107–279, § 401(d)(2), substituted ''Assessment Board'' for ''National Board''.

Subsec. (e)(1). Pub. L. 107–279, § 401(d)(2), substituted ''Assessment Board'' for ''National Assessment Governing Board''.

Subsec. (e)(2). Pub. L. 107–279, § 401(d)(1), substituted ''Commissioner for Education Statistics'' for ''Commissioner'' wherever appearing.

Subsec. (e)(2)(E). Pub. L. 107–279, § 401(d)(2), substituted ''Assessment Board'' for ''National Assessment Governing Board''.

Subsec. (e)(3). Pub. L. 107–279, § 401(d)(1), substituted ''Commissioner for Education Statistics'' for ''Commissioner''.

Subsec. (e)(4). Pub. L. 107–279, § 401(d)(6), substituted ''paragraph (2)(C) of such subsection'' for ''subparagraph (2)(C)''.

Pub. L. 107–279, § 401(d)(2), substituted ''Assessment Board'' for ''National Assessment Governing Board''.

Subsec. (f)(1)(B)(iv). Pub. L. 107–279, § 401(d)(7), substituted ''section 9621(e)(4)'' for ''section 9011(e)(4)''.

Subsec. (f)(3). Pub. L. 107–279, § 401(d)(2), substituted ''Assessment Board'' for ''National Assessment Governing Board''.

Pub. L. 107–279, § 401(d)(1), substituted ''Commissioner for Education Statistics'' for ''Commissioner'' in two places.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

§ 9623. Definitions

In this subchapter:

(1) The term ''Director'' means the Director of the Institute of Education Sciences.

(2) The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 107–279, title III, § 304, formerly § 302, Nov. 5, 2002, 116 Stat. 1982; renumbered § 304, Pub. L. 107–279, title IV, § 401(b), Nov. 5, 2002, 116 Stat. 1983.)

§ 9624. Authorization of appropriations

(a) In general

There are authorized to be appropriated—

(1) for fiscal year 2003—

(A) $4,600,000 to carry out section 9621 of this title; and

(B) $107,500,000 to carry out section 9622 of this title; and

(2) such sums as may be necessary for each of the 5 succeeding fiscal years to carry out sections 9621 and 9622 of this title.

(b) Availability

Amounts made available under this section shall remain available until expended.

(Pub. L. 107–279, title III, § 305, formerly § 303, Nov. 5, 2002, 116 Stat. 1982; renumbered § 305, Pub. L. 107–279, title IV, § 401(b), Nov. 5, 2002, 116 Stat. 1983.)

CHAPTER 77—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

Sec.

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§ 9701. Definitions

As used in this chapter—

(1) the term ''Chairperson'' means the Chairperson of the Financial Literacy and Education Commission; and

(2) the term ''Commission'' means the Financial Literacy and Education Commission established under section 9702 of this title.

(Pub. L. 108–159, title V, § 512, Dec. 4, 2003, 117 Stat. 2003.)

EFFECTIVE DATE

Chapter subject to joint regulations establishing effective dates as prescribed by Federal Reserve Board and Federal Trade Commission, except as otherwise provided, see section 3 of Pub. L. 108–159, set out as an Effective Date of 2003 Amendment note under section 1681 of Title 15, Commerce and Trade.

SHORT TITLE

Pub. L. 108–159, title V, § 511, Dec. 4, 2003, 117 Stat. 2003, provided that: ''This title [enacting this chapter] may be cited as the 'Financial Literacy and Education Improvement Act'.''

§ 9702. Establishment of Financial Literacy and Education Commission

(a) In general

There is established a commission to be known as the ''Financial Literacy and Education Commission''.

(b) Purpose

The Commission shall serve to improve the financial literacy and education of persons in the United States through development of a national strategy to promote financial literacy and education.

(c) Membership

(1) Composition

The Commission shall be composed of—

(A) the Secretary of the Treasury;

(B) the respective head of each of the Federal banking agencies (as defined in section 1813 of title 12), the National Credit Union Administration, the Securities and Exchange Commission, each of the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs, the Federal Trade Commission, the General Services Administration, the Small Business Administration, the Social Security Administration, the Commodity Futures Trading Commission, and the Office of Personnel Management; and

(C) at the discretion of the President, not more than 5 individuals appointed by the President from among the administrative heads of any other Federal agencies, departments, or other Federal Government entities, whom the President determines to be engaged in a serious effort to improve financial literacy and education.

(2) Alternates

Each member of the Commission may designate an alternate if the member is unable to attend a meeting of the Commission. Such alternate shall be an individual who exercises significant decisionmaking authority.

(d) Chairperson

The Secretary of the Treasury shall serve as the Chairperson.

(e) Meetings

The Commission shall hold, at the call of the Chairperson, at least 1 meeting every 4 months. All such meetings shall be open to the public. The Commission may hold, at the call of the Chairperson, such other meetings as the Chairperson sees fit to carry out this chapter.

(f) Quorum

A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) Initial meeting

The Commission shall hold its first meeting not later than 60 days after December 4, 2003.

(Pub. L. 108–159, title V, § 513, Dec. 4, 2003, 117 Stat. 2003.)

§ 9703. Duties of the Commission

(a) Duties

(1) In general

The Commission, through the authority of the members referred to in section 9702(c) of this title, shall take such actions as it deems necessary to streamline, improve, or augment the financial literacy and education programs, grants, and materials of the Federal Government, including curricula for all Americans.

(2) Areas of emphasis

To improve financial literacy and education, the Commission shall emphasize, among other elements, basic personal income and household money management and planning skills, including how to—

(A) create household budgets, initiate savings plans, and make strategic investment decisions for education, retirement, home ownership, wealth building, or other savings goals;

(B) manage spending, credit, and debt, including credit card debt, effectively;

(C) increase awareness of the availability and significance of credit reports and credit scores in obtaining credit, the importance of their accuracy (and how to correct inaccuracies), their effect on credit terms, and the effect common financial decisions may have on credit scores;

(D) ascertain fair and favorable credit terms;

(E) avoid abusive, predatory, or deceptive credit offers and financial products;

(F) understand, evaluate, and compare financial products, services, and opportunities;

(G) understand resources that ought to be easily accessible and affordable, and that inform and educate investors as to their rights and avenues of recourse when an investor believes his or her rights have been violated by unprofessional conduct of market intermediaries;

(H) increase awareness of the particular financial needs and financial transactions (such as the sending of remittances) of consumers who are targeted in multilingual financial literacy and education programs and improve the development and distribution of

multilingual financial literacy and education materials;

(I) promote bringing individuals who lack basic banking services into the financial mainstream by opening and maintaining an account with a financial institution; and

(J) improve financial literacy and education through all other related skills, including personal finance and related economic education, with the primary goal of programs not simply to improve knowledge, but rather to improve consumers' financial choices and outcomes.

(b) Website

(1) In general

The Commission shall establish and maintain a website, such as the domain name ''FinancialLiteracy.gov'', or a similar domain name.

(2) Purposes

The website established under paragraph (1) shall—

(A) serve as a clearinghouse of information about Federal financial literacy and education programs;

(B) provide a coordinated entry point for accessing information about all Federal publications, grants, and materials promoting enhanced financial literacy and education;

(C) offer information on all Federal grants to promote financial literacy and education, and on how to target, apply for, and receive a grant that is most appropriate under the circumstances;

(D) as the Commission considers appropriate, feature website links to efforts that have no commercial content and that feature information about financial literacy and education programs, materials, or campaigns; and

(E) offer such other information as the Commission finds appropriate to share with the public in the fulfillment of its purpose.

(c) Toll-free hotline

The Commission shall establish a toll-free telephone number that shall be made available to members of the public seeking information about issues pertaining to financial literacy and education.

(d) Development and dissemination of materials

The Commission shall—

(1) develop materials to promote financial literacy and education; and

(2) disseminate such materials to the general public.

(e) Coordination of efforts

The Commission shall take such steps as are necessary to coordinate and promote financial literacy and education efforts at the State and local level, including promoting partnerships among Federal, State, and local governments, nonprofit organizations, and private enterprises.

(f) National strategy

(1) In general

The Commission shall—

(A) not later than 18 months after December 4, 2003, develop a national strategy to promote basic financial literacy and education among all American consumers; and

(B) coordinate Federal efforts to implement the strategy developed under subparagraph (A).

(2) Strategy

The strategy to promote basic financial literacy and education required to be developed under paragraph (1) shall provide for—

(A) participation by State and local governments and private, nonprofit, and public institutions in the creation and implementation of such strategy;

(B) the development of methods—

(i) to increase the general financial education level of current and future consumers of financial services and products; and

(ii) to enhance the general understanding of financial services and products;

(C) review of Federal activities designed to promote financial literacy and education, and development of a plan to improve coordination of such activities; and

(D) the identification of areas of overlap and duplication among Federal financial literacy and education activities and proposed means of eliminating any such overlap and duplication.

(3) National strategy review

The Commission shall, not less than annually, review the national strategy developed under this subsection and make such changes and recommendations as it deems necessary.

(g) Consultation

The Commission shall actively consult with a variety of representatives from private and nonprofit organizations and State and local agencies, as determined appropriate by the Commission.

(h) Reports

(1) In general

Not later than 18 months after the date of the first meeting of the Commission, and annually thereafter, the Commission shall issue a report, the Strategy for Assuring Financial Empowerment (''SAFE Strategy''), to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the progress of the Commission in carrying out this chapter.

(2) Contents

The report required under paragraph (1) shall include—

(A) the national strategy for financial literacy and education, as described under subsection (f);

(B) information concerning the implementation of the duties of the Commission under subsections (a) through (g);

(C) an assessment of the success of the Commission in implementing the national strategy developed under subsection (f);

(D) an assessment of the availability, utilization, and impact of Federal financial literacy and education materials;

(E) information concerning the content and public use of—

(i) the website established under subsection (b); and

(ii) the toll-free telephone number established under subsection (c);

(F) a brief survey of the financial literacy and education materials developed under subsection (d), and data regarding the dissemination and impact of such materials, as measured by improved financial decision-making;

(G) a brief summary of any hearings conducted by the Commission, including a list of witnesses who testified at such hearings;

(H) information about the activities of the Commission planned for the next fiscal year;

(I) a summary of all Federal financial literacy and education activities targeted to communities that have historically lacked access to financial literacy materials and education, and have been underserved by the mainstream financial systems; and

(J) such other materials relating to the duties of the Commission as the Commission deems appropriate.

(3) Initial report

The initial report under paragraph (1) shall include information regarding all Federal programs, materials, and grants which seek to improve financial literacy, and assess the effectiveness of such programs.

(i) Testimony

The Commission shall annually provide testimony by the Chairperson to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(Pub. L. 108–159, title V, §514, Dec. 4, 2003, 117 Stat. 2004.)

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 108–159, set out as a note under section 1681 of Title 15, Commerce and Trade.

§ 9704. Powers of the Commission

(a) Hearings

(1) In general

The Commission shall hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems appropriate to carry out this chapter.

(2) Participation

In hearings held under this subsection, the Commission shall consider inviting witnesses from, among other groups—

(A) other Federal Government officials;

(B) State and local government officials;

(C) consumer and community groups;

(D) nonprofit financial literacy and education groups (such as those involved in personal finance and economic education); and

(E) the financial services industry.

(b) Information from Federal agencies

The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this chapter. Upon request of the Chairperson, the head of such department or agency shall furnish such information to the Commission.

(c) Periodic studies

The Commission may conduct periodic studies regarding the state of financial literacy and education in the United States, as the Commission determines appropriate.

(d) Multilingual

The Commission may take any action to develop and promote financial literacy and education materials in languages other than English, as the Commission deems appropriate, including for the website established under section 9703(b) of this title, at the toll-free number established under section 9703(c) of this title, and in the materials developed and disseminated under section 9703(d) of this title.

(Pub. L. 108–159, title V, §515, Dec. 4, 2003, 117 Stat. 2007.)

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 108–159, set out as a note under section 1681 of Title 15, Commerce and Trade.

§ 9705. Commission personnel matters

(a) Compensation of members

Each member of the Commission shall serve without compensation in addition to that received for their service as an officer or employee of the United States.

(b) Travel expenses

The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Assistance

(1) In general

The Director of the Office of Financial Education of the Department of the Treasury shall provide assistance to the Commission, upon request of the Commission, without reimbursement.

(2) Detail of Government employees

Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(Pub. L. 108–159, title V, §516, Dec. 4, 2003, 117 Stat. 2008.)

§ 9706. Studies by the Comptroller General

(a) Effectiveness study

Not later than 3 years after December 4, 2003, the Comptroller General of the United States shall submit a report to Congress assessing the effectiveness of the Commission in promoting financial literacy and education.

(b) Study and report on the need and means for improving financial literacy among consumers

(1) Study required

The Comptroller General of the United States shall conduct a study to assess the extent of consumers' knowledge and awareness of credit reports, credit scores, and the dispute resolution process, and on methods for improving financial literacy among consumers.

(2) Factors to be included

The study required under paragraph (1) shall include the following issues:

(A) The number of consumers who view their credit reports.

(B) Under what conditions and for what purposes do consumers primarily obtain a copy of their consumer report (such as for the purpose of ensuring the completeness and accuracy of the contents, to protect against fraud, in response to an adverse action based on the report, or in response to suspected identity theft) and approximately what percentage of the total number of consumers who obtain a copy of their consumer report do so for each such primary purpose.

(C) The extent of consumers' knowledge of the data collection process.

(D) The extent to which consumers know how to get a copy of a consumer report.

(E) The extent to which consumers know and understand the factors that positively or negatively impact credit scores.

(3) Report required

Before the end of the 12-month period beginning on December 4, 2003, the Comptroller General shall submit a report to Congress on the findings and conclusions of the Comptroller General pursuant to the study conducted under this subsection, together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate, including recommendations on methods for improving financial literacy among consumers.

(Pub. L. 108–159, title V, § 517, Dec. 4, 2003, 117 Stat. 2008.)

DEFINITIONS

For definitions of terms used in this section, see section 2 of Pub. L. 108–159, set out as a note under section 1681 of Title 15, Commerce and Trade.

§ 9707. The national public service multimedia campaign to enhance the state of financial literacy

(a) In general

The Secretary of the Treasury (in this section referred to as the ''Secretary''), after review of the recommendations of the Commission, as part of the national strategy, shall develop, implement, and conduct a pilot national public service multimedia campaign to enhance the state of financial literacy and education in the United States.

(b) Program requirements

(1) Public service campaign

The Secretary, after review of the recommendations of the Commission, shall select and work with a nonprofit organization or organizations that are especially well-qualified in the distribution of public service campaigns, and have secured private sector funds to produce the pilot national public service multimedia campaign.

(2) Development of multimedia campaign

The Secretary, after review of the recommendations of the Commission, shall develop, in consultation with nonprofit, public, or private organizations, especially those that are well qualified by virtue of their experience in the field of financial literacy and education, to develop the financial literacy national public service multimedia campaign.

(3) Focus of campaign

The pilot national public service multimedia campaign shall be consistent with the national strategy, and shall promote the toll-free telephone number and the website developed under this chapter.

(c) Multilingual

The Secretary may develop the multimedia campaign in languages other than English, as the Secretary deems appropriate.

(d) Performance measures

The Secretary shall develop measures to evaluate the effectiveness of the pilot national public service multimedia campaign, as measured by improved financial decision making among individuals.

(e) Report

For each fiscal year for which there are appropriations pursuant to the authorization in subsection (e),[1] the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives, describing the status and implementation of the provisions of this section and the state of financial literacy and education in the United States.

(f) Authorization of appropriations

There are authorized to be appropriated to the Secretary, not to exceed $3,000,000 for fiscal years 2004, 2005, and 2006, for the development, production, and distribution of a pilot national public service multimedia campaign under this section.

(Pub. L. 108–159, title V, § 518, Dec. 4, 2003, 117 Stat. 2009.)

§ 9708. Authorization of appropriations

There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this chapter, including administrative expenses of the Commission.

(Pub. L. 108–159, title V, § 519, Dec. 4, 2003, 117 Stat. 2010.)

[1] So in original. Probably should be subsection ''(f),''.